

WSR 18-24-071
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed November 30, 2018, 10:29 a.m., effective December 31, 2018]

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

Purpose: This rule adopts legal boundary descriptions for the exterior boundary and special management area (SMA) boundaries designated in the Columbia River Gorge National Scenic Area Act. The rule also amends the legal boundary descriptions of the urban area boundaries to show coincident angle points, to reflect new angle points where the exterior and SMA boundaries touch the urban area boundaries, and to conform terms, style, abbreviations and acronyms to the newer exterior and SMA boundary descriptions. No urban area boundaries are changed as a result of these amendments to the urban areas legal boundary descriptions. The rule is, in effect, an interpretation of the National Scenic Area Act. The rule will provide greater certainty for landowners and land managers about the precise location of the national scenic area boundaries. Where a legal boundary description in this rule differs from a prior interpretation of a national scenic area boundary, the legal boundary description will supersede the prior interpretation. Existing uses based on a prior interpretation will be managed in accordance with the existing uses provisions of the commission's management plan and county land use ordinances administering the plan. The rule does not change any national scenic area boundary; changes to boundaries may only occur as specified in the National Scenic Area Act, 16 U.S.C. § 544b.

Citation of Rules Affected by this Order: New 350-10-030A and 350-10-030B; and amending 350-10-000, 350-10-010, 350-10-020, 350-10-030, 350-10-030C, 350-10-040, and 350-10-050.

Statutory Authority for Adoption: RCW 43.97.015; ORS 196.150; 16 U.S.C. § 544b (a), (b), (e).

Adopted under notice filed as WSR 18-18-008 on August 23, 2018.

Changes Other than Editing from Proposed to Adopted Version: No substantive changes.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 1, Repealed 0.

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

Date Adopted: November 30, 2018.

Nancy A. Andring
Rules Coordinator

AMENDATORY SECTION

350-10-000. Purpose.

(1) This division adopts a Legal Boundary Description of the exterior boundary, the special management areas, and each of the thirteen urban areas designated in the Columbia River Gorge National Scenic Area Act ("National Scenic Area Act" or "Act"). This division may be expanded in the future to include legal descriptions of the exterior boundary of the National Scenic Area and of the boundaries of the special management areas designated in the Act.

(2) The maps that Congress enacted as part of the National Scenic Area Act in 1986 were not drawn to cartographic or surveying standards. Congress did not provide any legal boundary description ~~of or~~ other documentation accompanying the maps. Different maps enacted in section 4(e) and sections 4(a) and 4(c) of the National Scenic Area Act differ and conflict.

Subsequently, in 1987, the U.S. Forest Service prepared new maps addressing many of the issues with the maps that Congress enacted. The U.S. Forest Service did not provide any legal boundary description, and provided only limited documentation accompanying the maps. The Commission, U.S. Forest Service, and others have used the 1987 maps almost exclusively for administration of the National Scenic Area Act.

The Commission has experienced many situations in which the maps that Congress enacted and the maps that the U.S. Forest Service prepared were drawn to a scale that is too coarse for precision decision making at a parcel level. In addition, improvements in geographic information systems and locational technology have made the identification of precise boundaries more readily available; thus landowners and others involved in land planning expect more precise identification of boundaries established by the National Scenic Area Act.

(3) This rule promotes the efficient and reasonable administration of the National Scenic Area Act and affords interested persons notice of the Commission's interpretation of the maps referenced in section 4(e) of the National Scenic Area Act. This rule shall be applied to carry out these objectives.

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

AMENDATORY SECTION

350-10-010. Authority.

Sections 4 (a)(2)(A), 4 (b)(2)(A), and 4 (e)(2) of the National Scenic Area Act specifies that the boundaries of the National Scenic Area, the special management areas, and urban areas are "generally depicted" on maps that Congress enacted as part of the National Scenic Area Act. The Columbia River Gorge Commission, U.S. Forest Service, and Gorge counties need precise legal boundary descriptions to develop and administer the Management Plan and land use ordinances for the National Scenic Area pursuant to sections 6, 7, and 8 of the National Scenic Area Act, and the U.S. Forest Service needs precise legal boundary descriptions before making

minor revisions to special management areas pursuant to section 4(c) of the National Scenic Area Act. The Commission needs precise legal boundary descriptions before making minor revisions to the urban area boundaries pursuant to section 4(f) of the National Scenic Area Act. The Commission and U.S. Forest Service therefore have inherent authority to interpret the generally depicted boundaries, consistent with congressional intent, to administer the Act.

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

AMENDATORY SECTION

350-10-020. Definitions.

In this rule, unless the context or subject matter requires otherwise:

(1) "Cities" means incorporated cities within the Columbia River Gorge National Scenic Area: Cascade Locks, Hood River, Mosier and The Dalles in Oregon; and White Salmon, Bingen, Stevenson, and North Bonneville in Washington.

(2) "Commission" means the Columbia River Gorge Commission.

(3) "Counties" means Multnomah, Hood River and Wasco counties in Oregon; and Clark, Skamania and Klickitat counties in Washington.

(4) "National Scenic Area" means the Columbia River Gorge National Scenic Area as designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544b.

(45) "Legal Boundary Description" or "Legal Boundary Descriptions," when capitalized, means the legal boundary descriptions adopted in section 030(1) below and contained in the appendix appendices to this rule. When not capitalized, the term, "legal boundary description" or "legal boundary descriptions" does not mean the Legal Boundary Descriptions adopted in section 030(1).

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

AMENDATORY SECTION

350-10-030. Adoption and Use of Legal Boundary Descriptions and Maps.

(1) The Commission adopts the Exterior Boundary, Special Management Areas, and Urban Areas Legal Boundary Descriptions contained in the appendix appendices A, B, and C to this rule.

(2) The Commission, counties, cities, landowners, and other interested persons shall use the Legal Boundary Descriptions for all planning, decisions, and other actions requiring reliance on the location of the exterior boundary of the National Scenic Area, a boundary of a special management area, or a boundary of an urban area.

(3) The Legal Boundary Descriptions have not been monumented or otherwise marked on the ground, except that specific angle points and courses may reference monuments and precise features that existed at the time the Commission adopted the Legal Boundary Descriptions. Landowners that

want to monument or otherwise mark the Legal Boundary Descriptions on their property shall use a licensed surveyor to do so. The Commission, counties, cities, landowners, and other interested persons shall ~~will~~ not rely on monuments or markings unless a licensed surveyor has placed them.

(4) The Commission shall maintain a graphic representation of the Legal Boundary Descriptions. This graphic representation is illustrative only; it is not an official map of the Legal Boundary Descriptions and shall not be relied on for locating the boundaries described in the Legal Boundary Descriptions.

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

AMENDATORY SECTION

350-10-040. Resolving Prior Interpretations.

The Commission, Commission staff, U.S. Forest Service staff, and surveyors have made prior interpretations of the maps that Congress enacted. These prior interpretations may differ from the Legal Boundary Descriptions. The Legal Boundary Descriptions shall prevail in the event of a difference. Land use claims involving any difference shall be resolved in accordance with the Existing Uses provisions in the applicable county or Commission land use ordinance corresponding to the Existing Uses provisions in Section 7 of the Management Plan.

AMENDATORY SECTION

350-10-050. Natural and Human Management Processes Do Not Affect Exterior, Special Management Area, or Urban Area Boundaries.

(1) The location of the exterior boundary, a special management area boundary or an urban area boundary does not shift in response to natural processes that occur over a long period of time, such as accretion and reliction of rivers and streams or ordinary high water, or as a result of major sudden event, such as an avulsion, flooding, landslide, or earthquake. The exterior boundary, special management area boundary or urban area boundary remains at the location described prior to the event.

(2) The location of the exterior boundary, a special management area boundary or an urban area boundary does not shift in response to management of the normal pool elevation behind Bonneville and The Dalles dams. The normal pool elevation is as defined by dam operations on November 17, 1986.

(3) The location of the exterior boundary, a special management area boundary or an urban area boundary does not shift in response to relocation or realignment of linear features, including but not limited to roads and highways, railroads, pipelines, or powerlines, or their associated rights-of-way or easements. A Legal Boundary Description that uses a linear feature means the linear feature as it existed on November 17, 1986, or as otherwise noted in the Legal Boundary Description.

(4) The location of the exterior boundary, a special management area boundary or an urban area boundary does not

shift in response to changes in land management boundaries, including, but not limited to, land use designation, zoning, special district, municipal boundaries and approved urban growth boundaries. A Legal Boundary Description that refers to a land management boundary means the land management boundary as it existed on November 17, 1986, or as otherwise described in the Legal Boundary Description.

(5) The location of the exterior boundary, a special management area boundary or an urban area boundary does not shift in response to other changes, including but not limited to, changes in land ownership, changes to, creation of new; or consolidation of tax lots, parcels, subdivisions, short plats, or short subdivisions, or changes to any other reference. A Legal Boundary Description that refers to ownership, tax lot, parcel, subdivision, short plat, or short subdivision or other reference means that reference as it existed on April 1, 2017, or as otherwise described in the Legal Boundary Description (April 1, 2017 is the date this rule first became effective).

NEW SECTION

350-10-030A. Appendix A

APPENDIX A TO COMMISSION RULE 350-10 LEGAL BOUNDARY DESCRIPTION FOR THE EXTERIOR OF THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

Exterior Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves Special Management Area (SMA) and Urban Area (UA) boundaries. Special Management Area Boundary Angle Points are shown in brackets [AP] and Urban Area Boundary Angle Points are shown in braces {AP}. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems

(GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Exterior Boundary, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(a), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 1 North, Range 3 East, and
Township 1 North, Range 4 East, of the Willamette Meridian, in Clark County, Washington,
Township 1 North, Range 5 East,
Township 2 North, Range 5 East,
Township 2 North, Range 6 East,
Township 3 North, Range 6 East,
Township 3 North, Range 7 East,
Township 3 North, Range 7.5 East,
Township 3 North, Range 8 East,
Township 3 North, Range 10 East,
Township 4 North, Range 8 East, and
Township 4 North, Range 9 East, of the Willamette Meridian, in Skamania County, Washington,
Township 2 North, Range 15 East,
Township 3 North, Range 10 East,
Township 3 North, Range 11 East,
Township 3 North, Range 12 East,
Township 3 North, Range 13 East,
Township 3 North, Range 14 East,
Township 4 North, Range 11 East, and
Township 4 North, Range 12 East, of the Willamette Meridian, in Klickitat County, Washington,
Township 1 North, Range 12 East,
Township 1 North, Range 13 East,
Township 1 North, Range 14 East,
Township 1 North, Range 15 East,
Township 2 North, Range 11 East,
Township 2 North, Range 12 East,
Township 2 North, Range 13 East,
Township 2 North, Range 14 East, and
Township 2 North, Range 15 East, of the Willamette Meridian, in Wasco County, Oregon,
Township 1 North, Range 7 East,
Township 1 North, Range 8 East,
Township 2 North, Range 7 East,
Township 2 North, Range 8 East,
Township 2 North, Range 9 East,
Township 2 North, Range 10 East, and
Township 2 North, Range 11 East, of the Willamette Meridian, in Hood River County, Oregon,
Township 1 North, Range 3 East,
Township 1 North, Range 4 East,
Township 1 North, Range 5 East,
Township 1 North, Range 6 East,
Township 1 North, Range 7 East,
Township 1 South, Range 3 East, and
Township 1 South, Range 4 East, of the Willamette Meridian, in Multnomah County, Oregon.

**T. 01 N., R. 03 E., Clark County, Wash-
ington**

- AP 1 **Beginning** at a point on the Oregon-Washington State Line in sec. 14, T. 01 N., R. 03 E., at River Mile 0 of the Sandy River; Latitude: 45°34'15.5" N., Longitude: 122°24'04.7" W.; thence on said State line, N. 62°11' E., approximately 2,700 ft. to
- AP 2 on said State line; thence on said State line N. 80°51' E., approximately 3,030 ft. to
- AP 3 on said State line; thence on said State line, S. 71°00' E., approximately 7,440 ft. to
- T. 01 N., R. 04 E.**
- AP 4 on said State line; thence on said State line, S. 35°25' E. a distance of 5,200 ft. to
- AP 5 on said State line; thence leaving said State line, N. 32°36' E., approximately 2,380 ft. to
- AP 6 at intersection with the right bank of the Columbia River at Ordinary High Water Mark (OHWM); thence along said right bank at OHWM, easterly, approximately 5,900 ft. to
- AP 7 a point from which the SE cor. of Parcel 2, as described in Quit Claim Deed 9708220225, records of Clark County, Washington; thence leaving said right bank, N. 27° W., approximately 1,010 ft. to
- AP 8 the SE cor. of said Parcel 2; thence leaving the original Columbia River Gorge National Scenic Area (CRGNSA) Exterior Boundary, on the Amended Exterior Boundary (see Footnote 1), on the easterly line of said Parcel 2, N. 00°44'31" W a distance of 406.16 ft. to
- AP 8A an angle point in said easterly line; thence continuing on said line, N. 00°46'20" W. a distance of 760.00 ft. to
- AP 8B the NE cor. of said Parcel 2; thence on the northerly line and extension thereof, N. 76°36'28" W., approximately 1,880 ft. to
- AP 9 at intersection with the southerly extension of the easterly line of the City of Washougal Sewer Lagoon property, described in Instrument No. G410909, records of Clark County, Washington, and said original CRGNSA Exterior Boundary; thence on said southerly extension, N. 02°43'41" E., approximately 1,015 ft. to
- AP 10 the SE cor. of said City of Washougal property, as shown in survey for Stevenson, Book 5 of Surveys, Page 11, records of Clark County, Washington; thence on the east line of said property, N. 02°43'41" E., approximately 685 ft. to
- AP 11 at intersection with the southerly line of the Joseph Gibbon Donation Land Claim (DLC) No. 49; thence on said southerly line, S. 56°16'24" E., approximately 490 ft. to
- AP 12 on said southerly line; thence continuing on said southerly line, S. 70°16'24" E. a distance of 1,098.53 ft. to
- AP 13 on said southerly line; thence continuing on said southerly line S. 80°16'24" E. a distance of 60.00 ft. to
- AP 14 on said southerly line; thence leaving said southerly line, N. 1°18'36" E., approximately 3,460 ft. to
- AP 15 at intersection with the southwesterly extension of the center line of Sunset View Road; thence on said extension and the center line thereof, northeasterly, approximately 3,000 ft. to
- AP 16 at intersection with the center line of Wooding Road; thence on said center line of Wooding Road, northeasterly, approximately 3,555 ft. to
- AP 17 at intersection of the thread of unnamed ravine with the crest of a ridge line; thence ascending said ridge line, northeasterly, approximately 4,700 ft. to
- AP 18 at intersection with the center line of SE 377th Avenue and SE 35th Street; thence N. 45° E. a distance of 2,100 ft. to
- AP 19 thence N. 22° E., approximately 1,100 ft. to
- AP 20 at intersection with the 1,000-ft. contour line, National Geodetic Vertical Datum of 1929 (NGVD 1929); thence along said contour line, easterly, approximately 6,570 ft. to

- AP 21 at intersection with the thread of an unnamed ravine;
thence South, approximately 1,250 ft. to
- AP 22 at intersection with the center line of Sunset View Road;
thence S. 18° E., approximately 300 ft. to
- AP 23 at intersection with the 900-ft. contour line, NGVD 1929;
thence S. 78° E., approximately 2,410 ft. to
T. 01 N., R. 05 E., Skamania County
- AP 24 at summit of a minor peak;
thence S. 83°40' E., approximately 2680 ft. to
- AP 25 at summit of a minor peak;
thence S. 43°55' E. a distance of 1,035 ft. to
- AP 26 thence S. 64°26' E. a distance of 700 ft. to
- AP 27 thence S. 75°48' E., approximately 895 ft. to
- AP 28 at intersection of the center line of Belle Center Road with the center line of an unnamed private road approaching from the North, from which the intersection of the center line of Belle Center Road with the center line of Old Lawton Creek Road bears southwesterly, on said center line of Belle Center Road, approximately 350 ft.;
thence on the center line of said Belle Center Road, southeasterly, approximately 3,385 ft. to
- AP 29 [AP 14] at intersection with the center line of Mt. Pleasant Road, identical with AP 14 of the Gates of the Columbia River, Cape Horn Special Management Area (SMA) Legal Boundary Description;
thence on said center line of Mt. Pleasant Road, on said SMA Boundary, easterly, approximately 1,930 ft. to
- AP 30 [AP 15] at intersection with the center line of Strunk Road;
thence on the center line of said Strunk Road, easterly, approximately 2,925 ft. to
- AP 31 [AP 16] at intersection with the center line of Rim Drive private road;
thence on the center line of said Rim Drive, northerly, a distance of 400 ft. to
- AP 32 [AP 17] thence East, approximately 800 ft. to
- AP 33 [AP 18] at intersection with the crest of a ridge line;
thence along said ridge line the following general courses:
N. 34°37' E., approximately 945 ft. to
- AP 34 [AP 19] N. 56°50' E., approximately of 810 ft. to
- AP 35 [AP 20] N. 36°35' E., approximately 1,110 ft. to
- AP 36 [AP 21] at intersection with the line between secs. 9 and 10;
thence on said line, North, approximately 200 ft. to
- AP 37 [AP 22] the corner of secs. 3, 4, 9, and 10;
thence on the line between said secs., 3 and 4, North, approximately 590 ft. to
- AP 38 [AP 23] at intersection with the center line of Mt. Pleasant Road;
thence on said center line, northeasterly, approximately 1,250 ft. to
- AP 39A [AP 24] at intersection with the center line of Canyon Creek Road;
thence on said center line, easterly, approximately 520 ft. to
- AP 39B [AP 25] at intersection with the N. and S. center line of the SW1/4 of said sec. 3;
thence leaving the aforementioned SMA boundary, continuing on said center line, easterly, approximately 420 ft. to
- AP 40 at intersection with the center line of Salmon Falls Road;
thence N. 2°16' E., approximately 555 ft. to
- AP 41 at intersection with the crest of a ridge line;
thence N. 65°41' E. a distance of 570 ft. to
- AP 42 thence N. 49°39' E., approximately 480 ft. to
- AP 43 [AP 10] at intersection with the N. and S. center line of the aforementioned sec. 3, identical with AP 10 of the Gates of the Columbia River, Beacon Rock SMA Legal Boundary Description;
thence on said SMA Boundary, N. 40°48' E., approximately 505 ft. to
- AP 44 [AP 11] at intersection with the thread of Canyon Creek;
thence along said thread, northeasterly, approximately 3,765 ft. to
- AP 45 [AP 12] at intersection with the line between sec. 2, T. 01 N., R. 05 E. and sec. 35, T. 02 N., R. 05 E.;
thence on said line, East, approximately 3,650 ft. to

AP 46 the E1/16 cor. of said secs. 2 and 35;
[AP 13] thence on the N. and S. center line of the SE1/4 of said sec. 35, North, approximately 1,320 ft. to

T. 02 N., R. 05 E.

AP 47 the SE1/16 corner of said sec. 35;
[AP 14] thence on the E. and W. center line of said SE1/4, East, approximately 1,328 ft. to

AP 48 the S1/16 cor. of secs. 35 and 36;
[AP 15] thence on the line between said secs., North, approximately 1,875 ft. to

AP 49 at intersection with the thread of the afore-
[AP 16] mentioned Canyon Creek;
thence along said thread, northeasterly,
approximately 3,950 ft. to

AP 50 at intersection with the line between secs. 25
[AP 17] and 36;
thence on said line, East, approximately
2,260 ft. to

AP 51A the cor. of secs. 25 and 36, T. 2 N., R. 5 E.,
[AP 18] on the west line of sec. 31, T. 2 N., R. 6 E.;
thence on the line between said secs. 25 and
31, N. 00°59' W. a distance of 68.64 ft. to

AP 51B the cor. of secs. 30 and 31, T. 2 N., R. 6 E.,
[AP 19] on the east line of said sec. 25;
thence on the line between said secs. 25 and
30, N. 00°30' W., approximately 2, 020 ft. to

T. 02 N., R. 06 E.

AP 52 at intersection with the center line of the
[AP 20] Bonneville Power Administration (BPA)
North Bonneville - Troutdale No. 1 Trans-
mission Line;
thence on said center line, northeasterly,
approximately 5,870 ft. to

AP 53 at intersection with the line between secs. 29
[AP 21] and 30;
thence on said line, N. 00°32' E., approxi-
mately 985 ft. to

AP 54 the cor. of secs. 19, 20, 29, and 30;
[AP 22] thence on the line between said secs. 19 and
20, North, approximately 5,280 ft. to

AP 55 the cor. of secs. 17, 18, 19, and 20;
[AP 23] thence on the line between said secs. 17 and
20, East, approximately 5,310 ft. to

AP 56 the cor. of secs. 16, 17, 20, and 21;
[AP 24] thence on the line between said secs. 16 and
17, North, approximately 5,280 ft. to

AP 57 the cor. of secs. 8, 9, 16, and 17;
[AP 25] thence on the line between said secs. 8 and
9, North, approximately 2,670 ft. to

AP 58 at intersection with the center line of the
[AP 26] BPA McNary - Ross No. 1 Transmission
Line;
thence on said line, northeasterly, approxi-
mately 22,660 ft. to

T. 03 N., R. 06 E.

AP 59 at intersection with the line between sec. 36,
[AP 27] T. 03 N., R. 06 E., and sec. 31, T. 03 N., R.
07 E.;
thence on said line, North, approximately
7,405 ft. to

AP 60 not used
[AP 28]

AP 61 at intersection with the crest of a ridge line;
[AP 29] thence along said ridge line, northeasterly,
approximately 3,000 ft. to

T. 03 N., R. 07 E.

AP 62 the summit of a minor peak;
[AP 30] thence descending along the crest of a ridge
line, easterly, approximately 3,900 ft. to

AP 63 at a four-way intersection of unnamed prim-
[AP 31] itive roads;
thence ascending along said ridge line, east-
erly, 2,030 ft. to

AP 64 at intersection with the center line of the
[AP 32] BPA McNary - Ross No. 1 Transmission
Line;
thence on said center line, easterly, approxi-
mately 11,295 ft. to

AP 65 at intersection with the N. and S. center line
[AP 33] of sec. 27;
thence leaving the aforementioned SMA
Boundary, continuing on center line of said
transmission line, easterly, approximately
5,480 ft. to

AP 66 at intersection with the N. and S. center line
of sec. 26;
thence on said center line, North, approxi-
mately 790 ft. to

AP 67 the 1/4 cor. of secs. 23 and 26;
thence on the N. and S. center line of said
sec. 23, North, approximately 5,280 ft. to

AP 68 the 1/4 cor. of secs. 14 and 23;
thence on the N. and S. center line of said
sec. 14, North, approximately 765 ft. to

AP 69 at intersection with the northeasterly ridge
line descending from a minor peak;
thence along said ridge line, northeasterly,
approximately 4,320 ft. to

- AP 70 at intersection with the 2,400-ft. contour line, NGVD 1929;
thence N. 76°19' E. a distance of 1,295 ft. to
- AP 71 thence S. 67°51' E. a distance of 1,780 ft. to
- AP 72 thence S. 84°28' E., approximately 1,415 ft. to
- AP 73 the summit of a minor peak;
thence S. 84°09' E., approximately 700 ft. to
- T. 03 N., R. 07.5 E.**
- AP 74 at intersection with the 2,400-ft. contour line, NGVD 1929;
thence easterly, approximately 1,795 ft. to
- AP 75 at intersection of the 2,000-ft. contour line, NGVD 1929 with the thread of Carson Creek;
thence on said contour, easterly, approximately 3,990 ft. to
- AP 76 at intersection with the line between sec. 13, T. 03 N., R. 07.5 E., and sec. 18, T. 03 N., R. 08 E.;;
thence on the line between said secs., N. 01°25' E. a distance of 2,655 ft. to
- AP 77 thence East a distance of 2,280 ft. to
- T. 03 N., R. 08 E.**
- AP 78 thence N. 72°16' E., approximately 1,130 ft. to
- AP 79 at intersection with the right bank of the Wind River at OHWM;
thence along said right bank at intersection with OHWM, northeasterly, a distance of 795 ft. to
- AP 80 thence leaving said right bank, N. 78°48' E., approximately 1,125 ft. to
- AP 81A the cor. of secs. 7, 8, 17, and 18, identical
{AP 1} with the Carson, Washington, Urban Area (UA) Boundary Description, identical with AP 1 of said UA Legal Boundary Description;
thence on the line between said secs. 8 and 17, identical with said UAB, S. 88°24' E., approximately 2,120 ft. to
- AP 81B at intersection with the 560-ft contour line,
{AP 2} NGVD 1929, identical with AP 2 of said
[AP 1] UA Boundary Description and AP 1 of the Wind Mountain Special Management Area (SMA) Legal Boundary Description; thence leaving said UA Boundary, continuing on the line between said secs. 8 and 17, S. 88°24' E., approximately 469 ft. to
- AP 82A the S1/4 cor. of said sec. 8;
thence continuing on the line between said secs. 8 and 17, S. 87°02' E., approximately 2,928 ft. to
- AP 82B the SE cor. of said sec. 8;
thence on the east line of said sec. 8, N. 00°05' W., approximately 4,871 ft. to
- AP 83 the cor. of secs. 5 and 8;
thence on the east line of said sec. 5, N. 00°14' W., approximately 600 ft. to
- AP 84 at intersection with the crest of a ridge line;
thence ascending along said ridge line, easterly, approximately 1,700 ft. to
- AP 85 the summit of a minor peak;
thence continuing along said ridge line, easterly, approximately 1,735 ft. to
- AP 86 the summit of a minor peak;
thence continuing along said ridge line, easterly, approximately 1,080 ft. to
- AP 87 the summit of a minor peak;
thence S. 42°38' E., approximately 750 ft. to
- AP 88 at intersection with the center line of National Forest (N.F.) Road 6808;
thence on said center line, easterly, approximately 3,000 ft. to
- AP 89 at intersection with the center line of N.F. Road 016;
thence ascending N. 52°45' E., approximately 830 ft. to
- AP 90 at intersection with the crest of a ridge line;
thence descending along ridge line, easterly, approximately 1,380 ft. to
- AP 91 a saddle in said ridge line;
thence ascending along said ridge line, easterly, approximately 1,435 ft. to
- AP 92 the summit of a minor peak;
thence descending along the crest of a ridge line, easterly, approximately 1,070 ft. to
- AP 93 a saddle in said ridge line;
thence ascending along said ridge line, easterly, approximately 610 ft. to
- AP 94 the summit of a minor peak;
thence descending along the crest of a ridge line, easterly, approximately 1,000 ft. to
- AP 95 a saddle in said ridge line;
thence ascending along said ridge line, easterly, approximately 1,110 ft. to
- AP 96 the summit of a minor peak;
thence descending along the crest of a ridge line, northeasterly, approximately 930 ft. to

- AP 97 a saddle in said ridge line;
thence ascending along said ridge line,
northeasterly, approximately 730 ft. to
- AP 98 the summit of a minor peak;
thence descending along the crest of a ridge
line, easterly, approximately 590 ft. to
- AP 99 a saddle in said ridge line;
thence N. 12°24' E., approximately 740 ft.
to
- AP 100 at intersection with center line of an
unnamed primitive road;
thence N. 18°49' E., approximately 510 ft.
to
- AP 101 at intersection with center line of an
unnamed primitive road;
thence ascending N. 38°36' E., approxi-
mately 725 ft. to
- AP 102 at intersection with the crest of a ridge line;
thence ascending along said ridge line,
northeasterly, approximately 2,550 ft. to
- AP 103 the summit of a minor peak;
thence descending along the crest of a ridge
line, northeasterly, approximately 1,650 ft.
to
- T. 04 N., R. 08 E.**
- AP 104 at intersection with N.F. Road 6808, identi-
cal with Triangle Pass;
thence ascending along said ridge line, east-
erly, approximately 1,475 ft. to
- T. 04 N., R. 09 E.**
- AP 105 the summit of a minor peak;
thence along the crest of a ridge line, east-
erly, approximately 3,090 ft. to
- AP 106 the summit of a minor peak;
thence descending along the crest of a ridge
line, southeasterly, approximately 1,375 ft.
to
- AP 107 at intersection with the north line of sec. 6,
T. 03 N., R. 09 E.;
thence on the north line of said sec. 6, East,
approximately 610 ft. to
- AP 108 the cor. of secs. 5 and 6;
thence on the north line of said sec. 5, East,
approximately 1,313 ft. to
- AP 109 the W1/16 cor. on the north line of said sec.
5;
thence on the N. and S. center line of the
W1/2 of said sec. 5, S. 00°01' E., approxi-
mately 5,275 ft. to
- T. 03 N., R. 09 E.**
- AP 110 the W1/16 cor. between secs. 5 and 8;
thence on the line between said secs., West,
approximately 1,320 ft. to
- AP 111 the cor. of secs. 5, 6, 7, and 8;
thence on the line between said secs. 7 and
8, S. 00°01' E., approximately 5,280 ft. to
- AP 112 the cor. of secs. 7, 8, 17, and 18;
thence on the line between secs. 8 and 17,
N. 89°43' E., approximately, 775 ft. to
- AP 113 at intersection with the crest of a ridge line;
thence ascending along said ridge line,
southeasterly, approximately 440 ft. to
- AP 114 the summit of Augspurgen Mountain;
thence along the crest of a ridge line easterly
and southeasterly, approximately 14,160 ft.
to
- AP 115 the summit of Cook Hill;
thence descending along the crest of a ridge
line, northeasterly, approximately 1,665 ft.
to
- AP 116 at intersection of the center line of Bunker
Keys Road with the thread of an unnamed
ravine to the southeast;
thence along said ridge line, easterly,
approximately 3,850 ft. to
- AP 117 at thread of an unnamed ravine;
thence N. 60°16' E., approximately 1,190 ft.
to
- AP 118 at intersection with the crest of a ridge line;
thence along said ridge line, northeasterly,
approximately 1,125 ft. to
- AP 119 at intersection with the 1,400-ft. contour
line, NGVD 1929;
thence N. 24°47'E., approximately 860 ft. to
- AP 120 at intersection of the center line of Cook-
Underwood Road with the line between
secs. 14 and 23;
thence northeasterly, approximately 640 ft.
to
- AP 121 at intersection of the thread of Bunker Creek
with the crest line of the break of the Little
White Salmon River, as shown on survey
for Broughton Lumber Company, Auditor's
File Number (AFN) 2009173545, records of
Skamania County, Washington, from which
the 1/4 cor. of said secs. 14 and 23 bears S.
14°29'31" W. a distance of 179.61 ft.;
thence along said break line, identical with
said survey line, northerly, approximately
1,840 ft. to

- AP 122 at intersection with the N. and S. center line of sec. 14;
thence leaving said survey line, continuing along said break, northerly, approximately 2,335 ft. to
- AP 123 at intersection with the E. and W. center line of the NW1/4 of said sec. 14;
thence continuing along said break, identical with the aforementioned survey line, northerly, approximately 4,590 ft. to
- AP 124 at intersection with the southerly extension of the westerly boundary of the Willard National Fish Hatchery as described in Book 33 of Deeds, page 429, records of Skamania County, Washington;
thence on said southerly extension, N. 04°31'17" E. a distance of 445.24 ft. to
- AP 125 the SW cor. of said hatchery, a brass disc in concrete, as shown in the aforementioned survey;
thence on the westerly boundary of said hatchery, N. 04°31'17" E., approximately 250 ft. to
- AP 126 at intersection with the center line of Willard Road;
thence on said center line, northerly, approximately 2,805 ft. to
- AP 127 at intersection with the line between secs. 2 and 11;
thence on the line between said secs., easterly, approximately 1,160 ft. to
- AP 128 the cor. of secs. 1, 2, 11, and 12;
thence on the line between said secs. 11 and 12, S. 08°19'14" W. a distance of 1,665.96 ft. to
- AP 129 the intersection with the center line of Cook-Underwood Road;
thence on said center line, identical with the aforementioned survey, southerly, approximately 2,240 ft. to
- AP 130 at intersection with the aforementioned break;
thence along said break, southerly, approximately 7,815 ft. to
- AP 131 a 5/8-in. iron rod with red plastic cap inscribed Klein and Associates WA 42690, as shown in the aforementioned survey;
thence S. 11°26'03" E. a distance of 48.13 ft. to
- AP 132 thence leaving said break S. 39°58' E., approximately 485 ft. to
- AP 133A at intersection with the center line of Cook - Underwood Road;
thence S. 62°52' E. a distance of 1,060 ft. to
- AP 133B at intersection with the crest of the ridge line of Chemawa Hill;
thence along said ridge line, easterly, approximately 1,040 ft. to
- AP 134 at a 6-ft. fiberglass post as established in survey for Saddleback Wind Mountain Power Project, AFN 2007167932, records of Skamania County, Washington;
thence along said ridge line, identical with said survey, the following courses:
S. 86°56'03" E. a distance of 179.61 ft. to
S. 76°36'14" E. a distance of 187.84 ft. to
N. 84°46'00" E. a distance of 2,539.88 ft. to
N. 82°26'54" E. a distance of 460.18 ft. to
N. 75°56'05" E. a distance of 683.90 ft. to
N. 59°35'54" E. a distance of 404.10 ft. to
- T. 03 N., R. 10 E.**
- AP 140 N. 29°06'37" E. a distance of 535.56 ft. to
- AP 141 N. 42°03'58" E. a distance of 1,321.37 ft. to
- AP 142 at intersection with the thread of an unnamed ravine;
thence across the westerly slope of Underwood Mountain, identical with the aforementioned survey, N. 32°26'15" E. a distance of 1,026.33 ft. to
- AP 143 thence continuing across said westerly slope, identical with said survey, N. 15°00'52" E. a distance of 761.43 ft. to
- AP 144 at intersection with the center line of an unnamed primitive road;
thence continuing across said westerly slope, identical with said survey, N. 02°47'01" W. a distance of 599.14 ft. to
- AP 145 at intersection with the center line of an unnamed primitive road;
thence continuing across said westerly slope, identical with said survey, along the following courses:
N. 30°07'03" E. a distance of 680.51 ft. to
N. 50°55'05" E. a distance of 1,094.10 ft. to
N. 32°58'21" E. a distance of 725.04 ft. to
N. 25°12'38" W. a distance of 546.42 ft. to
N. 25°50'55" E. a distance of 737.50 ft. to
N. 50°40'20" E. a distance of 1,007.69 ft. to

- AP 151 at intersection with the center line of an unnamed primitive road; thence continuing across said westerly slope, identical with said survey, along the following courses:
S. 78°22'50" E. a distance of 503.70 ft. to
- AP 152 N. 67°07'32" E. a distance of 388.70 ft. to
- AP 153 at intersection with the center line of an unnamed primitive road; thence across the northerly slope, identical with said survey, along the following courses:
S. 87°34'48" E. a distance of 887.73 ft. to
- AP 154 S. 44°06'22" E. a distance of 425.31 ft. to
- AP 155 S. 59°55'31" E. a distance of 1,289.76 ft. to
- AP 156 from which the 1/4 cor. of secs. 7 and 8 bears S. 84°19'41" W. a distance of 2,264.58 ft.;
thence leaving said survey, ascending easterly slope of Underwood Mountain, S. 64°27' E., approximately 540 ft. to
- AP 157 thence S. 23°04' E., approximately 1,860 ft. to
- AP 158 thence descending easterly slope of Underwood Mountain, S. 76°59' E., approximately 900 ft. to
- AP 159 thence S. 58°57' E., approximately 970 ft. to
- AP 160 at intersection with the center line of forest road CG3010;
thence continuing to descending, S. 70°20' E., approximately 1,145 ft. to
- AP 161 thence S. 58°27' E., approximately 1,330 ft. to
- AP 162 thence S. 80°10' E., approximately 550 ft. to
- AP 163 at intersection with the center line of Little Buck Creek County Road;
thence ascending, S. 80°23' E., approximately 1,125 ft. to
- AP 164 thence N. 56°12' E., approximately 1,310 ft. to
- AP 165 the summit of a minor peak;
thence descending, N. 73°56' E., approximately 845 ft. to
- AP 166 at intersection with the center line of Lacock-Kelchner County Road;
thence N. 66°56' E., approximately 525 ft. to
- AP 167 thence N. 49°55' E., approximately 750 ft. to
- AP 168 at intersection with the thread of an unnamed creek;
thence N. 06°08' W., approximately 1,410 ft. to
- AP 169 the summit of Green Mountain;
thence descending the crest of a ridge line, northerly, approximately 4,230 ft. to
- AP 170 from which the line between secs. 3 and 10 bears S. a distance of 485 ft.;
thence N. 81°18' E., approximately 370 ft. to
- AP 171 thence S 34°17' E., approximately 190 ft. to
- AP 172 at intersection with the right bank of the former Northwestern Lake, at Normal Pool Elevation 294 ft., NGVD 1929;
thence S. 77°00' E., approximately 610 ft. to
- T. 03 N., R. 10 E., Klickitat County**
- AP 173 at intersection of the left bank of said lake at Normal Pool Elevation with the thread of an unnamed creek;
thence S. 43°59' E., approximately 320 ft. to
- AP 174 at intersection with the line between secs. 3 and 10, from which the 1/4 cor. of said secs. bears N. 88°40'06" W. a distance of 509.36 ft., a 5/8-in. iron rod as shown in Short Plat No. SP-93-11 for SDS Lumber Company, AFN 238784, records of Klickitat County, Washington;
thence on the line established by said survey, S. 55°12'25" E. a distance of 1,259.80 ft. to
- AP 175 thence S. 70°08'16" E. a distance of 214.73 ft. to
- AP 176 thence S. 82°02'23" E., approximately 683 ft. to
- AP 177 at intersection with the center line of Washington State Highway 141;
thence S. 65°01' E., approximately 535 ft. to
- AP 178 at intersection with the thread of an unnamed ravine;
thence along said thread, southeasterly, approximately 1,760 ft. to
- AP 179 at intersection with the 800-ft. contour, NGVD 1929;
thence ascending westerly slope of Bald Mountain along the following courses:
N. 67°15' E., approximately 545 ft. to
- AP 180 N. 34°36' E., approximately 310 ft. to
- AP 181 N. 65°51' E., approximately 1,210 ft. to
- AP 182 N. 88°03' E., approximately 350 ft. to
- AP 183 N. 66°00' E., approximately 615 ft. to

- AP 184 at saddle of a ridge line;
thence continuing ascent of Bald Mountain
along the following courses:
S. 81°42' E., approximately 535 ft. to
- AP 185 S. 49°29' E., approximately 520 ft. to
- AP 186 S. 32°19' E., approximately 1,285 ft. to
- AP 187 at intersection with the crest of a ridge line
of Bald Mountain;
thence along said ridge line, N. 86°08' E.,
approximately 225 ft. to
- AP 188 thence N. 29°16' E. a distance of 520 ft. to
- AP 189 on westerly slope of Bald Mountain;
thence ascending, N. 27°22' E., approxi-
mately 745 ft. to
- AP 190 the summit of a minor peak;
thence descending, along the following
courses:
S. 61°19' E., approximately 1,805 ft. to
- AP 191 S. 45°17' E., approximately 700 ft. to
- AP 192 S. 70°40' E., approximately 125 ft. to
- AP 193 S. 33°38' E., approximately 455 ft. to
- AP 194 S. 32°37' E., approximately 890 ft. to
- AP 195 S. 71°52' E., approximately 515 ft. to
- AP 196 at intersection of the center line of Wnuk
County Road with the line between sec. 12,
T. 03 N., R. 10 E. and sec. 7, T. 03 N., R. 11
E.;
thence on the line between said secs., South,
approximately 1,460 ft. to
- AP 197 the cor. of secs. 12 and 13, T. 03 N., R. 10 E.
and secs. 7 and 18, T. 03 N., R. 11 E.;
thence on the line between said secs. 13 and
18, southerly, approximately 2,385 ft. to
- AP 198 at intersection with the White Salmon and
{AP 29} Bingen, Washington, Urban Area (UA)
Boundary, identical with AP 29 of said UA
Legal Boundary Description;
thence on with said Boundary, N. 90° E. a
distance of 1,189.0 ft. to
- T. 03 N., R. 11 E.**
- AP 199 thence across the easterly slope of Cemetery
{AP 30} Hill, South a distance of 773.0 ft. to
- AP 200 thence descending, N. 90° E., approxi-
{AP 31} mately 1,430 ft. to
- AP 201 at intersection with the N. and S. center line
{AP 32} of sec. 18;
thence on said N. and S. center line, S.
0°29'38" E., approximately 2,055 ft. to
- AP 202 the 1/4 cor. of secs. 18 and 19, perpetuated
{AP 33} with a 5/8-in. iron rod with aluminum cap
driven into a 1-in iron pipe as shown in
Short Plat SP 97-16, AFN 1003866, records
of Klickitat County, Washington;
thence leaving the aforementioned UA
Boundary, on the line between said secs.,
East, approximately 2,640 ft. to
- AP 203 the cor. of secs. 17, 18, 19, and 20;
thence on the line between said secs. 17 and
20, East, approximately 5,280 ft. to
- AP 204 the cor. of secs. 16, 17, 20, and 21;
thence on the line between said secs. 20 and
21, South, approximately 5,280 ft. to
- AP 205 the cor. of secs. 20, 21, 28, and 29;
thence on the line between said secs. 21 and
28, East, approximately 2,645 ft. to
- AP 206 the 1/4 cor. of said secs. 21 and 28;
thence on the N. and S. center line of said
sec. 28, South, approximately 1,320 ft. to
- AP 207 the N1/16 cor. of said sec. 28, identical with
[AP 1] AP 1 of the Burdoin Mountain SMA Legal
Boundary Description;
thence on the E. and W. center line of the
NE1/4 of said sec., on said SMA Boundary,
East, approximately 2,643 ft. to
- AP 208 the N1/16 cor. between secs. 27 and 28;
[AP 2] thence on the E. and W. center line of the
NW1/4 of said sec. 27, East, approximately
2,631 ft. to
- AP 209 the N1/16 cor. of said sec. 27;
[AP 3] thence on the N. and S. center line of said
sec., North, approximately 1,320 ft. to
- AP 210 the 1/4 cor. of secs. 22 and 27;
[AP 4] thence on the line between said secs., East,
approximately 2,628 ft. to
- AP 211 the cor. of secs. 22, 23, 26, and 27;
[AP 5] thence on the line between said secs. 22 and
23, North, approximately 5,280 ft. to
- AP 212 the cor. of secs. 14, 15, 22, and 23;
[AP 6] thence on the line between said secs. 15 and
22, N. 89°49' W., approximately 2,631 ft. to
- AP 213 the 1/4 cor. of said secs.;
[AP 7] thence on the N. and S. center line of said
sec. 15, North, approximately 2,640 ft. to
- AP 214 the C1/4 cor. of said sec. 15;
[AP 8] thence on the E. and W. center line of said
sec., S. 89°54'30" E., approximately 2,633
ft. to

- AP 215 the 1/4 cor. of secs. 14 and 15;
[AP 9] thence on the E. and W. center line of said sec. 14, N. 89°44' E., approximately 5,276 ft. to
- AP 216 the 1/4 cor. of secs. 13 and 14;
[AP 10] thence on the line between said secs., North, approximately 2,640 ft. to
- AP 217 the cor. of secs. 11, 12, 13, and 14;
[AP 11] thence on the line between said secs. 11 and 12, North, approximately 1,320 ft. to
- AP 218 the S1/16 cor. between secs. 11 and 12;
[AP 12] thence on the E. and W. center line of the SE1/4 of said sec. 11, S. 89°47'15" W., approximately 2,639 ft. to
- AP 219 the S1/16 cor. of said sec. 11;
[AP 13] thence on the N. and S. center line of said sec., North, approximately 1,320 ft. to
- AP 220 the C1/4 cor. of said sec. 11;
[AP 14] thence on the E. and W. center line of said sec., S. 89°51'30" W., approximately 2,641 ft. to
- AP 221 the 1/4 cor. of secs. 10 and 11;
[AP 15] thence on the E. and W. center line of said sec. 10, N. 89°56' W., approximately 275 ft. to
- AP 222 at intersection with the center line of Bates County Road;
[AP 16] thence on said center line, northwesterly, approximately 3,255 ft. to
- AP 223 at intersection with the N. and S. center line of said sec. 10;
[AP 17] thence on said center line, North, approximately 1,045 ft. to
- AP 224 the 1/4 cor. of secs. 3 and 10;
[AP 18] thence on the N. and S. center line of said sec. 3, North a distance of 1,000 ft. to
- AP 225 thence East, approximately 1,330 ft. to
[AP 19]
- AP 226 at intersection with the N. and S. center line of the E1/2 of said sec. 3;
[AP 20] thence on said center line, North, approximately 4,360 ft. to
- AP 227 the E1/16 cor. between said sec. 3 and sec. 34, T. 4 N., R. 11 E.;
[AP 21] thence on the N. and S. center line of the SE1/4 of said sec. 34, North, approximately 2,160 ft. to (see Footnote 2)
- AP 228 the NW cor. of Parcel 13, as described in
[AP 22] Corrected Warranty Deed, AFN 1086793, records of Klickitat County, Washington; thence on the northerly line of said parcel, easterly, approximately 1,315 ft. to
- AP 229 the NE cor. of said Parcel 13, on the line
[AP 23] between secs. 34 and 35; thence on the line between said secs., South, approximately 2,160 ft. to
- AP 230 the cor. of secs. 34 and 35, T. 04 N., R. 11 E., and secs. 2 and 3, T. 03 N., R. 11 E.;
[AP 24] thence on the line between said secs. 2 and 35, East, approximately 1,320 ft. to
- AP 231 the W1/16 cor. between said secs.;
[AP 25] thence S. 26°28' E., approximately 3,165 ft. to
- T. 03 N., R. 11 E.**
- AP 232 at intersection with the N. and S. center line
[AP 26] of said sec. 2; thence on said N. and S. center line as shown on Survey, AFN 1100614, records of Klickitat County, Washington, S. 00°37'41" W. a distance of 1,175 ft. to
- AP 233 the S1/16 cor. of said sec. 2;
[AP 27] thence on the E. and W. center line of the SE1/4 of said sec., as shown on said survey, S. 89°24'10" E. a distance of 2,648.36 ft. to
- AP 234 the S1/16 cor. between secs. 1 and 2;
[AP 28] thence on the line between said secs., as shown on said survey, N. 00°55'04" E. a distance of 666.50 ft. to
- AP 235 the N-S1/64 cor. between said secs.;
[AP 29] thence on the E. and W. center line of the NW1/4 SW1/4 of said sec. 1, East, approximately 660 ft. to
- AP 236 the NW-SW1/64 cor. of said sec.;
[AP 30] thence on the N. and S. center line of the NW1/4 SW1/4 of said sec. North, approximately 660 ft. to
- AP 237 the W-W1/64 cor. of said sec.;
[AP 31] thence on the E. and W. center line of said sec., East, approximately 660 ft. to
- AP 238 the W1/16 cor. of said sec.;
[AP 32] thence on the N. and S. center line of the NW1/4 of said sec., North, approximately 2,640 ft. to

T. 04 N., R. 11 E.

- AP 239 [AP 33] the W1/16 cor. between said sec. 1 and sec. 36, T. 04 N., R. 11 E.; thence on the N. and S. center line of the SW1/4 of said sec. 36, North, approximately 650 ft. to
T. 04 N., R. 11 E.
- AP 240 [AP 34] at intersection with the 2,200-ft. contour line, NGVD 1929; thence along said contour line, northeasterly, approximately 9,920 ft. to
T. 04 N., R. 12 E.
- AP 241 [AP 35] at intersection with a line from which the N. and S. center line of the SW1/4 of sec. 30 bears westerly a distance of 740 ft. when measured perpendicular therefrom; thence on said line, parallel with said N. and S. center line, North, approximately 1,520 ft. to
- AP 242 [AP 36] at intersection with the E. and W. center line of said sec. 30; thence on said center line, East, approximately 3,210 ft. to
- AP 243 [AP 37] the 1/4 cor. of secs. 29 and 30; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 244 [AP 38] the cor. of secs. 29, 30, 31, and 32; thence on the line between said secs. 31 and 32, South, approximately 2,400 ft. to
- AP 245 [AP 39] at intersection with the center line of the BPA North Bonneville-Midway No. 1 Transmission Line; thence on said center line, S. 74°08' W., approximately 5,430 ft. to
- AP 246 [AP 40] at intersection with the line between sec. 36, T. 04 N., R. 11 E., and sec. 31, T. 04 N., R. 12 E.; thence on the line between said secs., South, approximately 1,600 ft. to
- AP 247A [AP 41A] the cor. of sec. 36, T. 04 N., R. 11 E. and sec. 31, T. 04 N., R. 12 E.; thence on the line between said sec. 31, and sec. 1, T. 03 N., R. 11 E., S. 89° 35' 40" E. a distance of 196.36 ft. to
- AP 247B [AP 41B] the NE cor. of said sec. 1; thence on the line between Rs. 11 and 12 E., southerly, approximately 5,551 ft. to
T. 03 N., R. 12 E.
- AP 248 [AP 42] the cor. of secs. 1 and 12, T. 03 N., R. 11 E., and secs. 6 and 7, T. 03 N., R. 12 E.; thence on the line between said secs. 12 and 7, South, approximately 2,640 ft. to
- AP 249 [AP 43] the 1/4 cor. of said secs.; thence on the E. and W. center line of said sec. 7, East, approximately 2,630 ft. to
- AP 250 [AP 44] the C1/4 of said sec. 7; thence leaving the aforementioned Burdoin Mountain SMA Boundary, continuing on said center line, East, approximately 2,630 ft. to
- AP 251 the 1/4 cor. of secs. 7 and 8; thence on the line between said secs., North, approximately 2,640 ft. to
- AP 252 the cor. of secs. 5, 6, 7, and 8; thence on the line between said secs. 5 and 8, S. 89°49' E., approximately 5,293 ft. to
- AP 253 the cor. of secs. 4, 5, 8, and 9; thence on the line between said secs. 4 and 9, S. 89°51' E., approximately 5,265 ft. to
- AP 254 the cor. of secs. 3, 4, 9, and 10; thence on the line between said secs. 9 and 10, South, approximately 5,280 ft. to
- AP 255 the cor. of secs. 9, 10, 15, and 16; thence on the line between said secs. 10 and 15, easterly, approximately 5,478 ft. to
- AP 256 the cor. of secs. 10, 11, 14, and 15; thence on the line between said secs. 14 and 15, South, approximately 1,105 ft. to
- AP 257 at intersection with the crest of a ridge line; thence descending said ridge line along the following general courses:
S. 35°35' E., approximately 150 ft. to
- AP 258 S. 84°59' E., approximately 175 ft. to
- AP 259 S. 56°00' E., approximately 255 ft. to
- AP 260 at intersection with the thread of an unnamed ravine; thence along the crest of a broad ridge line the following general courses:
S. 70°45' E., approximately 555 ft. to
- AP 261 S. 25°51' E., approximately 465 ft. to
- AP 262 S. 40°59' E., approximately 400 ft. to
- AP 263 S. 73°27' E., approximately 830 ft. to
- AP 264 S. 13°10' E., approximately 200 ft. to
- AP 265 S. 24°40' W., approximately 2,100 ft. to
- AP 266 at intersection with the center line of Silva Ridge Road; thence descending the crest of a ridge line, S. 50°32' W., approximately 690 ft. to
- AP 267 at intersection with a saddle in said ridge line; thence ascending said ridge line S. 08°20' W., approximately 495 ft. to

- AP 268 at summit of a minor peak; thence descending said ridge line, S. 56°34' W., approximately 350 ft. to
- AP 269 a 1-1/4-in. iron pipe with 2-1/2-in. aluminum cap, as established in Short Plat SP 98-17, AFN 1005796, records of Klickitat County, Washington; thence along said ridge line as shown on said Short Plat, S. 08°40'36" W. a distance of 1,889.80 ft. to
- AP 270 a 1-1/4-in. iron pipe with 2-1/2-in. aluminum cap, as established in said Short Plat; thence descending along said ridge line, S. 08°48' W., approximately 1,195 ft. to
- AP 271 at intersection of the line between secs. 22 and 23 with center line of an unnamed road; thence on said center line, southerly, approximately 1,085 ft. to
- AP 272 at intersection with an unnamed road approaching from the northwest; thence continuing on said center line, southerly, approximately 2,845 ft. to
- AP 273 the summit of a minor peak; thence descending said ridge line along the following general courses:
S. 55°19' E., approximately 785 ft. to
- AP 274 S. 25°11' E., approximately 1,925 ft. to
- AP 275 S. 63°18' E., approximately 1,435 ft. to
- AP 276 S. 47°55' E., approximately 265 ft. to
- AP 277 at intersection with the thread of the Klickitat River; thence ascending, S. 45°47' E. a distance of 490 ft. to
- AP 278 thence S. 64°04' E., approximately 1,845 ft. to
- AP 279 the summit of a minor peak; thence along the crest of a ridge line the following general courses:
N. 64°49' E., approximately 720 ft. to
- AP 280 S. 55°13' E., approximately 1,710 ft. to
- AP 281 S. 33°38' E., approximately 265 ft. to
- AP 282 S. 31°26' E., approximately 350 ft. to
- AP 283 S. 13°26' E., approximately 490 ft. to
- AP 284 S. 32°47' E., approximately 280 ft. to
- AP 285 S. 61°16' E., approximately 330 ft. to
- AP 286 the summit of a minor peak; thence continuing along said ridge line the following general courses:
N. 45°51' E., approximately 635 ft. to
- AP 287 N. 58°28' E., approximately 865 ft. to
- AP 288 S. 61°21' E., approximately 1,560 ft. to
T. 03 N., R. 13 E.
- AP 289 S. 66°58' E., approximately 865 ft. to
- AP 290 S. 53°03' E., approximately 325 ft. to
- AP 291 the intersection of the center line of the Lyle-Centerville Highway with the northerly extension of the easterly line of the land shown on survey for Lauterbach, at AFN 1033283, records of Klickitat County, Washington; thence on said extension and the easterly line thereof, S. 29°17'25" E., approximately 410 ft. to
- AP 292 at intersection with the northerly right-of-way of Rowland Road, identical with a 5/8-in. iron rod with red plastic cap as shown on said survey; thence across said Rowland Road, S. 30° E., approximately 100 ft. to
- AP 293 at intersection with the southerly right-of-way of said Rowland Road, identical with a 5/8-in. iron rod with red plastic cap, the northerly cor. between Lots 1 and 2, Short Plat SP-99-38, at AFN 1015179, records of Klickitat County, Washington; thence along the crest of a ridge line, as established on said Short Plat, S. 30°45'00" E. a distance of 968.13 ft. to
- AP 294 a 5/8-in. iron rod with red plastic cap as shown on said Short Plat; thence S. 20°35'31" E. a distance of 493.44 ft. to
- AP 295 at intersection with the line between sec. 31, T. 03 N., R. 13 E. and sec. 6, T. 02 N., R. 13 E., an iron pipe with brass cap, as shown on said Short Plat; thence on the line between said secs., S. 89°41'38" E. a distance of 486.63 ft. to
- AP 296 the 1/4 cor. of said secs.; thence continuing on said sec. line, East, approximately 2,640 ft. to
- AP 297 the cor. of secs. 31 and 32, T. 03 N., R. 13 E., and secs. 5 and 6, T. 02 N., R. 13 E.; thence on the line between said secs. 5 and 32, East, approximately 5,280 ft. to
- AP 298 the cor. of secs. 32 and 33, T. 03 N., R. 13 E., and secs. 4 and 5, T. 02 N., R. 13 E.; thence on the line between said secs. 4 and 33, East, approximately 5,280 ft. to

- AP 299 the cor. of secs. 33 and 34, T. 03 N., R. 13 E., and secs. 3 and 4, T. 02 N., R. 13 E.; thence on the line between said secs. 33 and 34, North, approximately 2,640 ft. to
- AP 300 the 1/4 cor. of said secs. 33 and 34; thence on the E. and W. center line of said sec. 34, East, approximately 5,304 ft. to
- AP 301 the 1/4 cor. of secs. 34 and 35; thence on the E. and W. center line of said sec. 35, East, approximately 2,632 ft. to
- AP 302 the C1/4 cor. of said sec. 35; thence on the N. and S. center line of said sec., North, approximately 2,640 ft. to
- AP 303 the 1/4 cor. of secs. 26 and 35; thence on the line between said secs., East, approximately 2,624 ft. to
- AP 304 the cor. of secs. 25, 26, 35, and 36; thence on the line between said secs. 25 and 36, East, approximately 2,640 ft. to
- AP 305 the 1/4 cor. of said secs.; thence on the N. and S. center line of said sec. 25, North, approximately 2,640 ft. to
- AP 306 the C1/4 cor. of said sec.; thence on the E. and W. center line of said sec., East, approximately 2,633 ft. to
- AP 307 the 1/4 cor. of sec. 25, and sec. 30, T. 03 N., R. 14 E.; thence on the E. and W. center line of said sec. 30, East, approximately 5,439 ft. to
T. 03 N., R. 14 E.
- AP 308 the 1/4 cor. of secs. 29 and 30; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 309 the cor. of secs. 29, 30, 31, and 32; thence on the line between said secs. 29 and 32, S. 89°36' E., approximately 5,247 ft. to
- AP 310 the cor. of secs. 28, 29, 32, and 33; thence on the line between said secs. 32 and 33, South approximately 2,640 ft. to
- AP 311 the 1/4 cor. of said secs. 32 and 33; thence on the E. and W. center line of said sec. 33, East, approximately 5,280 ft. to
- AP 312 the 1/4 cor. of secs. 33 and 34; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 313 the cor. of said secs. 33 and 34, and secs. 3 and 4, T. 02 N., R. 14 E.; thence on the line between said secs. 3 and 34, East, approximately 5,280 ft. to
- AP 314 the cor. of secs. 34 and 35, T. 03 N., R. 14 E., and secs. 2 and 3, T. 02 N., R. 14 E.; thence on the line between said secs. 2 and 35, East, approximately 5,280 ft. to
- AP 315 the cor. of secs. 35 and 36, T. 03 N., R. 14 E., and secs. 1 and 2, T. 02 N., R. 14 E.; thence on the line between said secs. 35 and 36, North, approximately 1,320 ft. to
- AP 316 the S1/16 cor. between said secs.; thence on the E. and W. center line of the S1/2 of said sec. 36, S. 89°56'30" E., approximately 5,283 ft. to
- AP 317 the S1/16 cor. between sec. 36, T. 03 N., R. 14 E., and sec. 31, T. 03 N., R. 15 E.; thence on the line between said secs., South, approximately, 1,320 ft. to
- AP 318 the cor. of sec. 36, T. 03 N., R. 14 E., sec. 31, T. 03 N., R. 15 E., sec. 1, T. 02 N., R. 14 E., and sec. 6, T. 02 N., R. 15 E.; thence on the line between said secs. 31 and 6, S. 89°43' E., approximately 5,390 ft. to
T. 02 N., R. 15 E.
- AP 319 the cor. of secs. 31 and 32, T. 03 N., R. 15 E., and secs. 5 and 6, T. 02 N., R. 15 E.; thence on the line between said secs. 32 and 5, S. 89°43' E., approximately 2,640 ft. to
- AP 320 the 1/4 cor. of said secs.; thence on the N. and S. center line of said sec. 5, South, approximately 2,640 ft. to
- AP 321 the C1/4 cor. of said sec.; thence on the E. and W. center line of said sec., East, approximately 2,653 ft. to
- AP 322 the 1/4 cor. of secs. 4 and 5; thence on the E. and W. center line of said sec. 4, N. 89°55'30" E., approximately 5,300 ft. to
- AP 323 the 1/4 cor. of secs. 3 and 4; thence on the E. and W. center line of said sec. 3, East, approximately 5,297 ft. to
- AP 324 the 1/4 cor. of secs. 2 and 3; thence on the E. and W. center line of said sec. 2, East, approximately 2,648 ft. to
- AP 325 the C1/4 cor. of said sec.; thence on the N. and S. center line of said sec., North, approximately 2,640 ft. to
- AP 326 the 1/4 cor. of said sec. 2, and sec. 35, T. 03 N., R. 15 E.; thence on the line between said secs. 35 and 2, S. 89°43' E., approximately 2,640 ft. to

- AP 327 the cor. of secs. 35 and 36, T. 03 N., R. 15 E., and secs. 1 and 2, T. 02 N., R. 15 E.; thence on the line between said secs. 1 and 2, South, approximately 5,280 ft. to
- AP 328 the cor. of secs. 1, 2, 11, and 12; thence on the line between said secs. 11 and 12, South a distance of 5,280 ft. to
- AP 329 the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 13 and 14, South a distance of 880 ft. to
- AP 330 thence East a distance of 3,700 ft. to
- AP 331 thence South, approximately 635 ft. to
- AP 332 at intersection with the Oregon-Washington State Line in said sec. 13, T. 02 N., R. 15 E.; thence on said State line, S. 42°59' W., approximately 9,115 ft. to
- AP 333 on said State line; thence S. 74°51' W., approximately 4,595 ft. to
- AP 334 on said State line; thence N. 56°10' W., approximately 850 ft. to
- AP 335 at intersection with the line between Wasco County and Sherman County, Oregon, identical with "a point on the boundary of the State opposite the mouth of the Deschutes River", as described in Oregon Revised Statutes (O.R.S.) 201.330, amended 1967; thence along said county line, S. 11°31' E., approximately 2,260 ft. to
- T. 02 N., R. 15 E., Wasco County, Oregon**
- AP 336 the main channel at the mouth of the Deschutes River; thence continuing along said county line, identical with said main channel, upstream, southerly, approximately 8,920 ft. to
- AP 337 from which the intersection of said main channel with the thread of Ferry Springs Canyon bears N. 48°16' E. a distance of 155 ft.; thence ascending N. 74°14' W., approximately 1,605 ft. to
- AP 338 thence N. 42°07' W., approximately 665 ft. to
- AP 339 at intersection with the crest of a ridge line; thence ascending said ridge line the following general courses:
S. 37°05' W., approximately 2,145 ft. to
- AP 340 S. 21°21' W., approximately 905 ft. to
- AP 341 S. 05°49' E., approximately 870 ft. to
- AP 342 S. 36°32' W., approximately 765 ft. to
T. 01 N., R. 15 E.
- AP 343 S. 61°23' W., approximately 1,490 ft. to
- AP 344 at intersection with the crest of Fulton Ridge line; thence along the crest of Fulton Ridge line the following general courses:
N. 59°33' W., approximately 1,315 ft. to
N. 37°03' W., approximately 1,485 ft. to
- AP 345
T. 02 N., R. 15 E.
- AP 346 N. 39°06' W., approximately 1,330 ft. to
- AP 347 N. 29°24' W., approximately 1,635 ft. to
- AP 348 N. 21°51' W., approximately 1,635 ft. to
- AP 349 N. 51°45' W., approximately 925 ft. to
- AP 350 N. 71°20' W., approximately 700 ft. to
- AP 351 N. 64°49' W., approximately 3,150 ft. to
- AP 352 N. 85°43' W., approximately 1,210 ft. to
- AP 353 N. 57°04' W., approximately 1,010 ft. to
- AP 354 N. 23°42' W., approximately 520 ft. to
- AP 355 N. 41°55' W., approximately 2,160 ft. to
- AP 356 N. 73°49' W., approximately 2,460 ft. to
- AP 357 N. 82°45' W., approximately 4,529 ft. to
- AP 358 N. 79°05' W., approximately 715 ft. to
- T. 02 N., R. 14 E.**
- AP 359 N. 50°28' W., approximately 1,535 ft. to
- AP 360 thence descending, N. 86°35' W., approximately 650 ft. to
- AP 361 at intersection with saddle between Fulton Ridge line and Kaser Ridge line; thence ascending, N. 87°38' W., approximately 1,655 ft. to
- AP 362 the crest of Kaser Ridge line; thence along the crest of Kaser Ridge line the following general courses:
S. 69°14' W., approximately 1,520 ft. to
- AP 363 N. 86°56' W., approximately 1,120 ft. to
- AP 364 S. 78°19' W., approximately 1,900 ft. to
- AP 365 S. 86°29' W., approximately 1,480 ft. to
- AP 366 N. 80°45' W., approximately 1,660 ft. to
- AP 367 N. 84°43' W., approximately 1,885 ft. to
- AP 368 thence descending, S. 85°07' W., approximately 2,510 ft. to
- AP 369 on the crest of the divide between the Columbia River and Fifteenmile Creek; thence along said divide the following general courses:
S. 76°14' W., approximately 1,210 ft. to

- AP 370 S. 79°33' W., approximately 1,040 ft. to
- AP 371 S. 69°48' W., approximately 510 ft. to
- AP 372 S. 85°34' W., approximately 820 ft. to
- AP 373 S. 46°12' W., approximately 520 ft. to
- AP 374 S. 22°58' W., approximately 505 ft. to
- AP 375 thence ascending, S. 08°06' W., approximately 465 ft. to
- AP 376 the crest of Signal Hill;
thence along the crest of Signal Hill the following general courses:
S. 74°44' W., approximately 1,050 ft. to
- AP 377 S. 58°41' W., approximately 745 ft. to
- AP 378 S. 37°31' W., approximately 1,310 ft. to
- AP 379 S. 10°12' W., approximately 1,965 ft. to
- AP 380 S. 31°19' W., approximately 690 ft. to
- AP 381 the summit of Signal Hill;
thence descending, S. 27°55' E., approximately 945 ft. to
- AP 382 thence S. 02°53' E., approximately 820 ft. to
- AP 383 at intersection with the thread of an unnamed ravine;
thence along said thread, southwesterly, approximately 3,405 ft. to
- AP 384 at intersection with the thread of Fifteenmile Creek;
thence along said thread, southeasterly, approximately 3,155 ft. to
- AP 385 thence leaving said thread, S. 25°53' E., approximately 345 ft. to
- T. 01 N., R. 14 E.**
- AP 386 at intersection with the center line of Lower Eightmile County Road;
thence ascending, S. 10°51' E., approximately 1,725 ft. to
- AP 387 at intersection with the crest of a ridge line;
thence descending, S. 29°36' W., approximately 320 ft. to
- AP 388 thence descending, S. 51°45' W., approximately 440 ft. to
- AP 389 at intersection with the thread of an unnamed ravine;
thence ascending, S. 51°12' W. a distance of 1,325 ft. to
- AP 390 at intersection with the crest of a ridge line;
thence along said ridge line the following general courses:
S. 59°57' W., approximately 660 ft. to
- AP 391 S. 28°52' W., approximately 3,340 ft. to
- AP 392 at intersection with the summit of a ridge line;
thence descending along said ridge line the following general courses:
S. 57°41' W., approximately 860 ft. to
- AP 393 S. 53°21' W., approximately 1,080 ft. to
- AP 394 N. 84°38' W., approximately 845 ft. to
- AP 395 N. 16°34' W., approximately 710 ft. to
- AP 396 N. 72°35' W., approximately 595 ft. to
- AP 397 S. 54°50' W., approximately 640 ft. to
- AP 398 S. 75°10' W., approximately 1,245 ft. to
- AP 399 at intersection with the center line of U.S. Highway 197;
thence S. 75°05' W., approximately 360 ft. to
- AP 400 thence S. 85°14' W., approximately 2,115 ft. to
- T. 01 N., R. 13 E.**
- AP 401 thence S. 49°06' W., approximately 325 ft. to
- AP 402 at intersection with the 400-ft. contour line, NGVD 1929;
thence along said contour line, southwesterly, a distance of 1,905 ft. to
- AP 403 on said contour line;
thence, N. 75°54' W., approximately 495 ft. to
- AP 404 at intersection with the center line of an unimproved road;
thence ascending N. 36°00' W., approximately 1,405 ft. to
- AP 405 the summit of a minor peak;
thence N. 22°59' W., approximately 830 ft. to
- AP 406 on the crest of a ridge line between Threemile Creek and City of The Dalles;
thence along said ridge line the following general courses:
S. 64°22' W., approximately 1,810 ft. to
- AP 407 S. 53°02' W., approximately 1,070 ft. to
- AP 408 S. 68°15' W., approximately 300 ft. to
- AP 409 N. 70°29' W., approximately 785 ft. to
- AP 410 S. 51°56' W., approximately 1,025 ft. to
- AP 411 S. 66°20' W., approximately 935 ft. to
- AP 412 S. 36°36' W., approximately 910 ft. to
- AP 413 S. 61°59' W., approximately 990 ft. to
- AP 414 S. 71°56' W., approximately 475 ft. to
- AP 415 N. 88°49' W., approximately 380 ft. to

- AP 416 at intersection with the center line of BPA Big Eddy - Troutdale No. 1 Transmission Line;
thence on said center line, S. 56°21' W., approximately 1,740 ft. to
- AP 417 at intersection with the center line of the Northern Wasco County People's Utility District (P.U.D.) Transmission Line;
thence on the center line of said P.U.D. Transmission Line, S. 02°44' E., approximately 440 ft. to
- AP 418 on said center line;
thence on said center line, S. 35°04' W., approximately 3,690 ft. to
- AP 419 at intersection with the crest of the divide between Threemile Creek and Dry Hollow;
thence along said divide the following general courses:
S. 20°07' W., approximately 900 ft. to
- AP 420 S. 35°46' W., approximately 1,965 ft. to
- AP 421 S. 47°41' W., approximately 785 ft. to
- AP 422 S. 53°23' W., approximately 1,705 ft. to
- AP 423 S. 38°25' W., approximately 1,425 ft. to
- AP 424 S. 34°22' W., approximately 715 ft. to
- AP 425 S. 15°45' W., approximately 1,125 ft. to
- AP 426 S. 11°50' W., approximately 1,645 ft. to
- AP 427 S. 40°56' W., approximately 1,275 ft. to
- AP 428 S. 54°31' W., approximately 995 ft. to
- AP 429 N. 77°14' W., approximately 495 ft. to
- AP 430 the summit of a minor peak;
thence descending along the crest of a broad ridge line, N. 02°19' W., approximately 3,015 ft. to
- AP 431 on a pronounced ridge line;
thence descending along said ridge line the following general courses:
N. 29°22' W., approximately 1,465 ft. to
- AP 432 N. 11°19' W., approximately 1,950 ft. to
- AP 433 N. 34°10' W., approximately 890 ft. to
- AP 434 N. 22°33' W., approximately of 905 ft. to
- AP 435 at intersection with the 800-ft. contour line, NGVD 1929;
thence along said contour line, southerly, approximately 1,725 ft. to
- AP 436 at intersection with the thread of Whisky Gulch;
thence continuing along on said contour line, northerly, approximately 6,385 ft. to
- AP 437 thence continuing along on said contour line, southwesterly, approximately 2,355 ft. to
- AP 438 at intersection with the thread of an unnamed ravine;
thence along said thread, northerly, approximately 640 ft. to
- AP 439 at intersection with the 600-ft. contour line, NGVD 1929;
thence N. 79°57' W., approximately 780 ft. to
- AP 440 thence S. 54°10' W., approximately 985 ft. to
- AP 441 thence S. 58°05' W., approximately 1,270 ft. to
- AP 442 thence N. 48°22' W., approximately 210 ft. to
- AP 443 at intersection with the thread of Mill Creek;
thence along said thread, northeasterly, approximately 1,305 ft. to
- AP 444 at intersection with the northerly line of the Theodor Mesplie DLC No. 44;
thence N. 43°03' E., approximately 315 ft. to
- AP 445 at intersection with the center line of an unimproved road;
thence N. 12°47' E., approximately 385 ft. to
- AP 446 at intersection with the thread of an unnamed ravine;
thence on said thread, northerly, approximately 1,535 ft. to
- AP 447 at intersection with the line between secs. 7 and 18;
thence leaving said ravine, N. 14°16' W., approximately 900 ft. to
- AP 448 at intersection with the thread of another unnamed ravine;
thence northwesterly, along said thread, approximately 1,585 ft. to
- T. 01 N., R. 12 E.:**
- AP 449 at confluence of the threads of two unnamed ravines;
thence S. 86°30' W., approximately 2,090 ft. to
- AP 450 thence N. 43°00' W., approximately 205 ft. to
- AP 451 at intersection with the crest of a ridge line;
thence along said ridge line the following general courses:
N. 40°55' E., approximately 2,570 ft. to

- AP 452 N. 23°35' E., approximately 1,215 ft. to
T. 01 N., R. 13 E.
- AP 453 N. 43°45' E., approximately 540 ft. to
- AP 454 N. 53°25' E., approximately 900 ft. to
- AP 455 N. 37°51' E., approximately 1,355 ft. to
- AP 456 N. 20°35' E., approximately 840 ft. to
- AP 457 at intersection with the 1,360-ft. contour line, NGVD 1929, as shown on County Survey (C.S.) Book 11 Page 193, records of Wasco County, Oregon;
thence on line established in said survey, N. 04°59'11" E. a distance of 1,388.45 ft. to
- AP 458 thence continuing on said line, N. 02°05'51" E. a distance of 4,784.54 ft. to
T. 02 N., R. 13 E.
- AP 459 the summit of a minor peak;
thence descending the crest of a broad ridge line, N. 21°05' W., approximately 710 ft. to
- AP 460 thence continuing descent, N. 37°50' W., approximately 1,900 ft. to
- AP 461 thence N. 86°40' W., approximately 1,025 ft. to
- AP 462 at intersection of the center line of McDonald Way with the line between secs. 30 and 31;
thence N. 52°13' W., approximately 780 ft. to
T. 02 N., R. 12 E.
- AP 463 at intersection with the center line of Chenoweth Creek County Road;
thence ascending, on the following courses: N. 50°43' W. a distance of 1,735 ft. to
- AP 464 N. 75°10' W. a distance of 1,680 ft. to
- AP 465 N. 60°02' W., approximately 875 ft. to
- AP 466 the summit of a minor peak, identical with the divide between Badger Creek and Chenoweth Creek;
thence along said divide the following general courses:
N. 81°59' W., approximately 275 ft. to
- AP 467 S. 59°58' W., approximately 1,695 ft. to
- AP 468 S. 86°43' W., approximately 460 ft. to
- AP 469 at intersection with the center line of an unnamed primitive road;
thence along said center line, westerly, approximately 6,925 ft. to
- AP 470 at intersection with the crest of a ridge line;
thence ascending along said ridge line the following general courses:
N. 22°34' W., approximately 1,160 ft. to
- AP 471 N. 38°40' W., approximately 650 ft. to
- AP 472 N. 30°43' W., approximately 335 ft. to
- AP 473 N. 46°12' W., approximately 310 ft. to
- AP 474 at intersection of the 2,000-ft. contour line, NGVD 1929, with the crest of the divide between Badger Creek and Rowena Creek;
thence along said divide the following general courses:
N. 42°18' E., approximately 1,185 ft. to
- AP 475 N. 67°23' E., approximately 900 ft. to
- AP 476 N. 36°04' E., approximately 775 ft. to
- AP 477 N. 25°55' E., approximately 1,500 ft. to
- AP 478 N. 45°09' E., approximately 1,460 ft. to
- AP 479 N. 40°52' E., approximately 685 ft. to
- AP 480 N. 65°43' E., approximately 600 ft. to
- AP 481 N. 55°05' E., approximately 830 ft. to
- AP 482 at intersection with the 1,840-ft. contour line, NGVD 1929;
thence N. 35°39' E. a distance of 465 ft. to
- AP 483 thence N. 18°34' E. a distance of 665 ft. to
- AP 484 thence N. 30°01' E. a distance of 780 ft. to
- AP 485 thence N. 62°59' E., approximately 365 ft. to
- AP 486 at intersection of the center line of Ortle private road with the center line of an unnamed primitive road;
thence on the center line of said primitive road, easterly, approximately 2,315 ft. to
- AP 487 at intersection with the southwesterly extension of the thread of an unnamed ravine;
thence along said southwesterly extension and the thread thereof, northeasterly, approximately 2,695 ft. to
- AP 488 at intersection with the E. and W. center line of sec. 13, identical with AP 44 of the Rowena SMA Legal Boundary Description;
thence on said center line, on said SMA Boundary, West, approximately 1,075 ft. to
- [AP 44] the 1/4 cor. of secs. 13 and 14;
thence on the line between said secs., North, approximately 2,640 ft. to
- AP 489 the cor. of secs. 11, 12, 13, and 14;
thence on the line between said secs. 11 and 14, N. 89°46' W., approximately 5,244 ft. to
- [AP 2]

- AP 491 the cor. of secs. 10, 11, 14, and 15;
[AP 3] thence on the line between said secs. 10 and 15, N 89°30' W., approximately 5,264 ft. to
- AP 492 the cor. of secs. 9, 10, 15, and 16;
[AP 4] thence leaving said SMA Boundary, on the line between said secs. 9 and 16, N. 89°35' W., approximately 5,282 ft. to
- AP 493 the cor. of secs. 8, 9, 16, and 17;
thence on the line between said secs. 8 and 17, N. 89°57' W., approximately 3,130 ft. to
- AP 494 at intersection with the thread of an unnamed ravine;
thence along said thread, westerly, approximately 6,640 ft. to
- AP 495 at intersection with the thread of Dry Creek;
thence along said thread, northwesterly, approximately 3,850 ft. to
- AP 496 at intersection with the northerly right-of-way line of Dry Creek County Road;
thence along said right-of-way line, northwesterly, approximately 2,690 ft. to
- T. 02 N., R. 11 E.**
- AP 497 at intersection with the line between secs. 1 and 12;
thence on the line between said secs., S. 88°22' W., approximately 290 ft. to
- AP 498 at intersection with the thread of Mosier Creek, identical with AP 8, Mosier UA Legal Boundary Legal Description;
{AP 8} thence continuing on the line between said secs., on said UA Boundary, S. 88°22' W., approximately 150 ft. to
- AP 499 thence leaving said UA Boundary, S. 48°25' W., approximately 195 ft. to
{AP 7B}
- AP 500 thence S. 34°19' W. a distance of 980 ft. to
- AP 501 thence S. 41°24' W. a distance of 1,085 ft. to
- AP 502 thence S. 36°37' W. a distance of 770 ft. to
- AP 503 thence S. 04°03' W., approximately 180 ft. to
- AP 504 at intersection with the crest of the divide between Mosier Creek and Rock Creek at the 800-ft. contour line, NGVD 1929;
thence along said divide the following general courses:
S. 33°04' W., approximately 825 ft. to
- AP 505 S. 52°04' W., approximately 730 ft. to
- AP 506 S. 03°28' E., approximately 675 ft. to
- AP 507 S. 15°38' E., approximately 680 ft. to
- AP 508 S. 19°35' E., approximately 520 ft. to
- AP 509 S. 33°50' W., approximately 1,825 ft. to
- AP 510 S. 21°59' W., approximately 1,755 ft. to
- AP 511 S. 45°25' W., approximately 285 ft. to
- AP 512 S. 19°25' W., approximately 515 ft. to
- AP 513 S. 66°12' W., approximately 540 ft. to
- AP 514 N. 89°10' W., approximately 1,110 ft. to
- AP 515 S. 34°20' W., approximately 1,705 ft. to
- AP 516 S. 59°52' W., approximately 1,615 ft. to
- AP 517 S. 56°15' W., approximately 865 ft. to
- AP 518 S. 48°03' W., approximately 910 ft. to
- AP 519 S. 17°19' W., approximately 465 ft. to
- AP 520 S. 75°31' W., approximately 450 ft. to
- AP 521 S. 32°54' W., approximately 265 ft. to
- AP 522 S. 60°48' W., approximately 280 ft. to
- AP 523 S. 44°45' W., approximately 765 ft. to
- AP 524 S. 53°12' W., approximately 740 ft. to
- AP 525 S. 60°30' W., approximately 1,080 ft. to
- AP 526 S. 17°21' E., approximately 685 ft. to
- AP 527 S. 22°00' E., approximately 1,135 ft. to
- AP 528 S. 61°10' W., approximately 730 ft. to
- AP 529 S. 17°01' W., approximately 1,285 ft. to
- AP 530 S. 01°44' E., approximately 1,005 ft. to
- AP 531 S. 49°51' W., approximately 260 ft. to
- AP 532 at intersection with the line between secs. 27 and 28, identical with the line between Hood River County and Wasco County, Oregon;
thence along said line, N. 00°28'32" E., as shown on C.S. 451, records of Wasco County, Oregon, approximately 290 ft. to
- AP 533 at intersection with the thread of an unnamed ravine;
thence along said thread, northwesterly, approximately 1,485 ft. to
- T. 02 N., R. 11 E., Hood River County**
- AP 534 at intersection with the thread of Rock Creek;
thence ascending along the following courses:
N. 59°49' W. a distance of 325 ft. to
- AP 535 S. 86°24' W. a distance of 505 ft. to
- AP 536 S. 27°25' W. a distance of 285 ft. to
- AP 537 S. 20°58' W., approximately 625 ft. to
- AP 538 the summit of a minor peak;
thence along the crest of a ridge line the following general courses:
S. 67°17' W., approximately 310 ft. to
- AP 539 N. 88°40' W., approximately 1,030 ft. to

- AP 540 S. 58°53' W., approximately 735 ft. to
- AP 541 thence descending, leaving said ridge line,
S. 39°52' W., approximately 825 ft. to
- AP 542 at intersection with the thread of an
unnamed ravine;
thence ascending, S. 75°21' W., approxi-
mately 630 ft. to
- AP 543 at intersection with the crest of a ridge line;
thence along said ridge line the following
general courses:
N. 51°36' W., approximately 525 ft. to
- AP 544 N. 35°02' W., approximately 345 ft. to
- AP 545 N. 17°06' W., approximately 655 ft. to
- AP 546 thence leaving said ridge line, ascending, N.
75°13' W., approximately 620 ft. to
- AP 547 thence N. 52°14' W. a distance of 505 ft. to
- AP 548 thence N. 04°43' W., approximately 345 ft.
to
- AP 549 at intersection with the easterly edge of a
primitive road (see Footnote 3);
thence along said easterly edge the follow-
ing general courses:
N. 14°37' E., approximately 690 ft. to
- AP 550 N. 03°33' E., approximately 1,755 ft. to
- AP 551 N. 07°48' W., approximately 935 ft. to
- AP 552 N. 23°21' E., approximately 725 ft. to
- AP 553 N. 33°48' W., approximately 525 ft. to
- AP 554 N. 10°33' W., approximately 585 ft. to
- AP 555 at intersection with the crest of divide
between Rock Creek and the Hood River;
thence along said divide the following gen-
eral courses:
N. 11°59' W., approximately 1,160 ft. to
- AP 556 N. 07°30' W., approximately 1,350 ft. to
- AP 557 N. 21°00' E., approximately 1,005 ft. to
- AP 558 N. 16°00' W., approximately 870 ft. to
- AP 559 N. 41°48' W., approximately 620 ft. to
- AP 560 N. 05°17' W., approximately 600 ft. to
- AP 561 N. 03°28' E., approximately 2,200 ft. to
- AP 562 N. 14°26' W., approximately 1,090 ft. to
- AP 563 N. 28°15' W., approximately 465 ft. to
- AP 564 N. 29°46' W., approximately 660 ft. to
- AP 565 N. 02°04' E., approximately 595 ft. to
- AP 566 N. 46°40' E., approximately 645 ft. to
- AP 567 at intersection with the 2,000-ft. contour
line, NGVD 1929;
thence descending the following courses:
N. 68°33' E. a distance of 880 ft. to
- AP 568 N. 52°02' E. a distance of 575 ft. to
- AP 569 N. 71°50' E. a distance of 1,100 ft. to
- AP 570 N. 45°58' E. a distance of 320 ft. to
- AP 571 N. 08°36' E., approximately 455 ft. to
- AP 572 at intersection of the line between secs. 8
and 9 and the center line of Old Dalles
Drive;
thence ascending the following courses:
N. 01°05' W. a distance of 375 ft. to
- AP 573 N. 33°43' W. a distance of 485 ft. to
- AP 574 N. 15°08' W. a distance of 880 ft. to
- AP 575 N. 16°18' W., approximately 1,105 ft. to
- AP 576 at intersection with the crest of the divide
between the Columbia River and Whiskey
Creek;
thence along said divide the following gen-
eral courses:
S. 76°10' W., approximately 645 ft. to
- AP 577 S. 70°12' W., approximately 375 ft. to
- AP 578 S. 56°23' W., approximately 895 ft. to
- AP 579 S. 75°33' W., approximately 570 ft. to
- AP 580 N. 53°52' W., approximately 715 ft. to
- AP 581 the summit of a minor peak;
thence leaving said divide, N. 56°20' W. a
distance of 740 ft. to
- AP 582 thence N. 69°17' W., approximately 825 ft.
to
- AP 583 a 5/8-in. iron rod established by LS 1815 as
noted on the Plat of Pine Crest P.U.D. Phase
2, Instrument No. 20163382, records of
Hood River County, Oregon, and concurred
with by the United States Forest Service
(U.S.F.S), Hood River County, and the
Columbia River Gorge Commission as
noted in Minor Amendment of Zone Bound-
ary Adjustment #06-331, records of Hood
River County Planning and Building Ser-
vices;
thence on the line established by said LS
1815 and shown on said plat, N. 82°21'19"
W., approximately 2,675 ft. to
- AP 584 at intersection with the center line of the
BPA Hood River - The Dalles Transmission
Line;
thence on said center line, northwesterly,
approximately 1,975 ft. to
- AP 585 on said center line;
thence continuing on said center line, west-
erly, approximately 3,460 ft. to

T. 02 N., R. 10 E.

- AP 586 at intersection with the westerly crest of the break line of the Hood River; thence along said break line, northerly, approximately 2,880 ft. to
- AP 587 at intersection with the line between Tps. 02 N. and 03 N.; thence on said line, N. 89°27'48" W., approximately 245 ft. to
- AP 588 {AP 20} identical with AP 20, Hood River UA Legal Boundary Description; thence on said line, on said UA Boundary, N. 89°27'48" W., approximately 4,660 ft. to
- AP 589 {AP 21} at intersection with the southerly (right) bank of Indian Creek at OHWM; thence along said southerly (right) bank at OHWM, westerly, approximately 3,800 ft. to
- AP 590 {AP 22} at intersection with the easterly right-of-way line of Indian Creek Road; thence continuing along the aforementioned southerly (right) bank, S. 48°37' W., approximately 800 ft. to
- AP 591 {AP 23} at intersection with the line between secs. 2 and 3; thence leaving said southerly (right) bank on said line, N. 00°24' W., approximately 1,720 ft. to
- AP 592 {AP 24} the cor. of secs. 2 and 3, T. 02 N., R. 10 E., and secs. 34 and 35, T. 03 N., R. 10 E.; thence leaving the aforementioned UA Boundary, on the line between said secs. 3 and 34, West, approximately 5,280 ft. to
- AP 593 the cor. of secs. 3 and 4, T. 02 N., R. 10 E., and secs. 33 and 34, T. 03 N., R. 10 E.; thence on the line between said secs. 4 and 33, West, approximately 5,280 ft. to
- AP 594A the cor. of secs. 4 and 5, T. 02 N., R. 10 E., and secs. 32 and 33, T. 03 N., R. 10 E.; thence on the line between said secs. 5 and 32, West, approximately 2,640 ft. to
- AP 594B {AP 6} the 1/4 cor. of said secs. 5 and 32, identical with AP 6 of the Gates of the Columbia River Gorge, Oregon Falls SMA Legal Boundary Description; thence on said SMA Boundary, continuing on the line between said secs., West, approximately 2,640 ft. to
- AP 595 [AP 7] the cor. of secs. 5 and 6, T. 02 N., R. 10 E., and secs. 31 and 32, T. 03 N., R. 10 E.; thence on the line between said secs. 5 and 6, as shown on Survey of Columbia Gorge National Scenic Area Boundary, C.S. 99099, records of Hood River County, Oregon, S. 01°39'55" W. a distance of 1,334.12 ft. to
- AP 596 [AP 8] the N1/16 cor. between said secs. 5 and 6, a 5/8-in. iron rod with plastic cap inscribed "County Surveyor", as shown on said survey; thence on the E. and W. center line of the NE1/4 of said sec. 6, N. 89°35'34" W. a distance of 1,681.96 ft. to
- AP 597 [AP 9] at intersection with the crest of a ridge line, as shown on said survey; thence along said ridge line, as shown on said survey, southwesterly, approximately 5,055 ft. to
- AP 598 [AP 10] at intersection with the line between sec. 1, T. 02 N., R. 09 E., and sec. 6, T. 02 N., R. 10 E.; thence continuing along said ridge line, as shown on said survey, southwesterly, approximately 8,160 ft. to
- T. 02 N., R. 09 E.**
- AP 599 [AP 11] at intersection with line between secs. 12 and 13; thence on the line between said secs., N. 89°43' W., approximately 260 ft. to
- AP 600 [AP 12] the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 11 and 14, S. 89°51' W., approximately 5,247 ft. to
- AP 601 [AP 13] the cor. of secs. 10, 11, 14, and 15; thence on the line between said secs. 10 and 15, S. 89°48' W., approximately 5,258 ft. to
- AP 602 [AP 14] the cor. of secs. 9, 10, 15, and 16; thence on the line between said secs. 9 and 16, S. 89°48' W., approximately 100 ft. to
- AP 603 [AP 15] at intersection with the 3,600-ft. contour line, NGVD 1929; thence along said contour line, westerly, approximately 22,700 ft. to
- AP 604 [AP 16] at intersection with the line between Rs. 08 and 09 E.; thence continuing along said contour line, westerly and northerly, approximately 1,365 ft. to
- T. 02 N., R. 08 E.**

- AP 605 [AP 17] at intersection with the line between Rs. 08 and 09 E.;
thence continuing along said contour line, northerly, westerly, and southerly, approximately 10,010 ft. to
- T. 02 N., R. 09 E.**
- AP 606 [AP 18] at intersection with the line between Rs. 08 and 09 E.;
thence continuing along said contour line, westerly, approximately 16,895 ft. to
- T. 02 N., R. 08 E.**
- AP 607 [AP 19] at intersection with the crest of Nick Eaton Ridge line;
thence along said ridge line the following general courses:
N. 38°49' W., approximately 695 ft. to
- AP 608 [AP 20] N. 26°53' W., approximately 510 ft. to
- AP 609 [AP 21] N. 33°00' W., approximately 730 ft. to
- AP 610 [AP 22] N. 00°51' W., approximately 345 ft. to
- AP 611 [AP 23] N. 21°30' W., approximately 405 ft. to
- AP 612 [AP 24] N. 38°17' W., approximately 910 ft. to
- AP 613 [AP 25] N. 48°16' W., approximately 460 ft. to
- AP 614 [AP 26] N. 68°10' W., approximately 395 ft. to
- AP 615 [AP 27] the summit of a minor peak;
thence descending along the crest of a ridge line, S. 87°39' W., approximately 835 ft. to
- AP 616 [AP 28] a saddle in said ridge line;
thence ascending along said ridge line, N. 85°43' W., approximately 430 ft. to
- AP 617 [AP 29] the summit of a minor peak;
thence descending the crest of the divide line between Falls Creek and Camp Creek along the following general courses:
S. 02°44' W., approximately 615 ft. to
- AP 618 [AP 30] S. 32°17' W., approximately 940 ft. to
- AP 619 [AP 31] S. 52°08' W., approximately 865 ft. to
- AP 620 [AP 32] S. 70°25' W., approximately 645 ft. to
- AP 621 [AP 33] S. 63°06' W., approximately 1,110 ft. to
- AP 622 [AP 34] S. 77°51' W., approximately 225 ft. to
- AP 623 [AP 35] at intersection with the center line of the Herman Creek Trail;
thence S. 85°22' W., approximately 3,475 ft. to
- AP 624 [AP 36] at intersection with the crest of a ridge line;
thence ascending, S. 17°44' W. a distance of 775 ft. to
- AP 625 [AP 37] thence ascending, S. 19°51' W., approximately 835 ft. to
- AP 626 [AP 38] at intersection with the center line of the Pacific Crest National Scenic Trail;
thence along said center line, southwesterly, approximately 3,890 ft. to
- AP 627 [AP 39] at intersection with the 3,600-ft. contour line, NGVD 1929;
thence along said contour line, southwest-erly, approximately 18,400 ft. to
- AP 628 [AP 40] at intersection with the thread of Ruckel Creek;
thence continuing along said contour line, southwesterly, 1,125 ft. to
- AP 629 [AP 41] at intersection with the crest of a ridge line;
thence descending along said ridge line the following general courses:
S. 72°40' W., approximately 730 ft. to
- AP 630 [AP 42] S. 70°50' W., approximately 1,440 ft. to
- AP 631 [AP 43] S. 78°32' W., approximately 1,805 ft. to
- T. 02 N., R. 07 E.**
- AP 632 [AP 44] S. 65°15' W., approximately 215 ft. to
- AP 633 [AP 45] N. 80°47' W., approximately 380 ft. to
- AP 634 [AP 46] S. 87°21' W., approximately 675 ft. to
- AP 635 [AP 47] thence leaving said ridge line, descending, S. 80°34' W. a distance of 435 ft. to
- AP 636 [AP 48] thence descending, S. 55°02' W., approxi-mately 905 ft. to
- AP 637 [AP 49] at intersection with the 1,600-ft. contour line, NGVD 1929;
thence descending, S. 33°13' W., approxi-mately 550 ft. to
- AP 638 [AP 50] at intersection with the 1,200-ft. contour line, NGVD 1929;
thence along said contour line, easterly, approximately 405 ft. to

- AP 639 [AP 51] at intersection with the thread of an unnamed ravine; thence along said thread, southwesterly, approximately 565 ft. to
- AP 640 [AP 52] at intersection with the 800-ft. contour line, NGVD 1929; thence along said contour line, southerly, approximately 13,810 ft. to
- AP 641 [AP 53] at intersection with the line between Rs. 07 and 08 E.; thence continuing along said contour line, southeasterly, approximately 1,050 ft. to
T. 02 N., R. 08 E.
- AP 642 [AP 54] at intersection with the S. line of T. 02 N., R. 08 E.; thence continuing along said contour line, southerly, approximately 1,270 ft. to
T. 02 N., R. 07 E.
- AP 643 [AP 55] at intersection with the line between Tps. 02 and 01 N. as depicted on Amended Protraction Diagram Unit 7 Index, September 23, 1994, records of BLM; thence continuing along said contour line, southerly, approximately 2,350 ft. to
- AP 644 [AP 56] from which the intersection of the thread of Eagle Creek with the center line of the 4-1/2-Mile Bridge bears northwesterly a distance of 540 ft.; thence across Eagle Creek, S. 17°08' W., approximately 200 ft. to
- AP 645 [AP 57] at intersection with the 800-ft. contour line, NGVD 1929; thence along said contour line, northwesterly, approximately 3,050 ft. to
T. 01 N., R. 07 E.
- AP 646 [AP 58] at intersection with the line between Tps. 01 and 02 N.; thence continuing along said contour line, northwesterly, approximately 18,500 ft. to
T. 02 N., R. 07 E.
- AP 647 [AP 59] at intersection with the crest of a ridge line; thence ascending said ridge line along the following general courses:
S. 66°36' W., approximately 670 ft. to
- AP 648 [AP 60] S. 37°32' W., approximately 830 ft. to
- AP 649 [AP 61] S. 30°52' W., approximately 635 ft. to
- AP 650 [AP 62] S. 56°24' W., approximately 200 ft. to
- AP 651 [AP 63] S. 00°03' E., approximately 440 ft. to
- AP 652 [AP 64] S. 27°58' W., approximately 195 ft. to
- AP 653 [AP 65] S. 66°26' W., approximately 410 ft. to
- AP 654 [AP 66] S. 74°29' W., approximately 645 ft. to
- AP 655 [AP 67] S. 68°48' W., approximately 550 ft. to
- AP 656 [AP 68] at intersection with the line between Hood River County and Multnomah County, identical with the line extending "due south of the SE cor. of the northeast quarter of sec. 22," as described in O.R.S. 201.140, amended 1967; thence continuing along said ridge line, S. 70°19' W., approximately 830 ft. to
T. 02 N., R. 07 E., Multnomah County
- AP 657 [AP 69] at intersection with the center line of the Tanner Butte Trail; thence along said center line, southerly, approximately 2,410 ft. to
- AP 658 [AP 70] at intersection with the crest of a ridge line; thence descending along said ridge line the following general courses:
S. 84°59' W., approximately 1,845 ft. to
S. 77°37' W., approximately 1,195 ft. to
- AP 659 [AP 71] N. 75°54' W., approximately 750 ft. to
- AP 660 [AP 72] N. 67°09' W., approximately 1,190 ft. to
- AP 661 [AP 73] at intersection with the center line of Forest Road 777; thence on said center line, southerly, approximately 4,700 ft. to
- AP 662 [AP 74] at intersection with the line between Tps. 01 and 02 N.; thence continuing on said center line, southerly, approximately 5,275 ft. to
T. 01 N., R. 07 E.
- AP 663 [AP 75] at intersection with the thread of an unnamed ravine, adjacent to the Tanner Creek Trailhead; thence along said thread, westerly, approximately 620 ft. to

- AP 665 [AP 77] at intersection with the thread of Tanner Creek;
thence ascending on the following courses:
S. 72°47' W. a distance of 1,410 ft. to
- AP 666 [AP 78] S. 78°47' W a distance of 1,960 ft. to
- AP 667 [AP 79] S. 04°11' W. a distance of 1,150 ft. to
- AP 668 [AP 80] S. 39°18' W. a distance of 850 ft. to
- AP 669 [AP 81] the intersection of the 3,200-ft. contour line, NGVD 1929 with the center line of the BPA Wautoma - Ostrander No. 1 Transmission Line;
thence on said contour line, westerly and southerly, approximately 13,585 ft. to
- AP 670 [AP 82] at intersection with a line extending East from the cor. of secs. 12 and 13, T. 01 N., R. 06 E.;
thence on said line, West, approximately 3,835 ft. to
- AP 671 [AP 83] the cor. of said secs. 12 and 13
thence on the line between said secs., N. 89°49' W., approximately 5,293 ft. to
T. 01 N., R. 06 E.
- AP 672 [AP 84] the cor. of secs. 11, 12, 13, and 14;
thence on the line between said secs. 13 and 14, S. 00°01' E., approximately 5,280 ft. to
- AP 673 [AP 85] the cor. of secs. 13, 14, 23, and 24;
thence on the line between said secs. 14 and 23, S. 89°56' W., approximately 2,653 ft. to
- AP 674 [AP 86] the 1/4 cor. of said secs.;
thence on the N. and S. center line of said sec. 23, S. 00°01'30" E., approximately 3,960 ft. to
- AP 675 [AP 87] the S1/16 cor. of said sec.;
thence on the E. and W. center line of the SW1/4 of said sec., S. 89°56' W., approximately 2,666 ft. to
- AP 676 [AP 88] the S1/16 cor. of secs. 22 and 23;
thence on the E. and W. center line of the SE1/4 of said sec. 22, N. 89°42'30" W., approximately 2,647 ft. to
- AP 677 [AP 89] the S1/16 cor. of said sec.;
thence on the N. and S. center line of said sec., S. 00°02'30" E., approximately 1,320 ft. to
- AP 678 [AP 90] the 1/4 cor. of secs. 22 and 27;
thence on the N. and S. center line of said sec. 27, S. 00°02'30" E., approximately 2,640 ft. to
- AP 679 [AP 91] the C1/4 cor. of said sec.;
thence S. 64°22' W., approximately 2,990 ft. to
- AP 680 [AP 92] the intersection of the line between secs. 27 and 28 with the crest of a ridge line;
thence ascending said ridge line, southwesterly, approximately 5,415 ft. to
- AP 681 [AP 93] at intersection with the center line of East Larch Mountain Road;
thence on said center line, westerly and northerly, approximately 6,355 ft. to
- AP 682 [AP 94] at intersection with the thread of an unnamed ravine (see Footnote 4);
thence along said thread, westerly, approximately 4,185 ft. to
- AP 683 [AP 95] at intersection with the N. and S. center line of sec. 30;
thence on said center line, N. 00°02'15" W., approximately 1,115 ft. to
- AP 684 [AP 96] the C1/4 cor. of said sec.;
thence on the E. and W. center line of said sec., N. 89°27' W., approximately 2,652 ft. to
- AP 685 [AP 97] the 1/4 cor. of said sec. 30, and sec. 25, T. 01 N., R. 05 E.;
thence on the line between said secs., North, approximately 2,643 ft. to
- AP 686 [AP 98] the cor. of secs. 19 and 30, T. 01 N., R. 06 E., and secs. 24 and 25, T. 01 N., R. 05 E.;
thence on the line between said secs. 19 and 24, North, approximately 2,640 ft. to
- AP 687 [AP 99] the 1/4 cor. of said secs. 19 and 24;
thence on the E. and W. center line of said sec. 24, N. 89°54'30" W., approximately 2,662 ft. to
T. 01 N., R. 05 E.
- AP 688 [AP 100] the C1/4 cor. of said sec.;
thence on the N. and S. center line of said sec., South, approximately 1,320 ft. to
- AP 689 [AP 101] the S1/16 cor. of said sec.;
thence on the E. and W. center line of the SW1/4 of said sec., S. 89°59'45" W., approximately 1,330 ft. to
- AP 690 [AP 102] the SW1/16 cor. of said sec.;
thence on the N. and S. center line of the SW1/4 of said sec., South, approximately 1,320 ft. to
- AP 691 [AP 103] the W1/16 cor. of secs. 24 and 25;
thence on the line between said secs. S. 89°54' W., approximately 1,330 ft. to

- AP 692 the cor. of secs. 23, 24, 25, and 26;
[AP 104] thence on the line between said secs. 25 and 26, South, approximately 5,280 ft. to
- AP 693 the cor. of secs. 25, 26, 35, and 36;
[AP 105] thence on the line between said secs. 26 and 35, West, approximately 2,644 ft. to
- AP 694 the 1/4 cor. of said secs.;
[AP 106] thence on the N. and S. center line of said sec. 35, South, approximately 2,640 ft. to
- AP 695 the C1/4 cor. of said sec.;
[AP 107] thence on the E. and W. center line of said sec., West, approximately 2,642 ft. to
- AP 696 the 1/4 cor. of secs. 34 and 35;
[AP 108] thence on the E. and W. center line of said sec. 34, S. 89°50'30" W., approximately 5,302 ft. to
- AP 697 the 1/4 cor. of secs. 33 and 34;
[AP 109] thence on the E. and W. center line of said sec. 33, West, approximately 5,260 ft. to
- AP 698 the 1/4 cor. of secs. 32 and 33;
[AP 110] thence on the E. and W. center line of said sec. 32, S. 89°38'30" W., approximately 5,294 ft. to
- AP 699A the 1/4 cor. of secs. 31 and 32;
[AP 111] thence on the E. and W. center line of said sec. 31, S. 89°55'30" W., approximately 450 ft. to
- AP 699B at intersection with the center line of Larch
[AP 112] Mountain Road;
thence leaving said SMA Boundary, continuing on said center line, S. 89°55'30" W., approximately 4,838 ft. to
- AP 700 the 1/4 cor. of sec. 31, T. 01 N., R. 05 E., and
sec. 36, T. 01 N., R. 04 E.;
thence on the E. and W. center line of said sec. 36, West, approximately 5,289 ft. to
T. 01 N., R. 04 E.
- AP 701 the 1/4 cor. of secs. 35 and 36;
thence on the E. and W. center line of said sec. 35, West, approximately 5,289 ft. to
- AP 702 the 1/4 cor. of secs. 34 and 35;
thence on the E. and W. center line of said sec. 34, N. 89°50' W., approximately 5,273 ft. to
- AP 703 the 1/4 cor. of secs. 33 and 34;
thence on the E. and W. center line of said sec. 33, West, approximately 5,262 ft. to
- AP 704 the 1/4 cor. of secs. 32 and 33;
thence on the E. and W. center line of said sec. 32, West, approximately 5,283 ft. to
- AP 705 the 1/4 cor. of secs. 31 and 32;
thence on the E. and W. center line of said sec. 31, West, approximately 4,780 ft. to
- AP 706 at intersection with the center line of the
Historic Columbia River Highway;
thence on said center line, southerly,
approximately 2,935 ft. to
- AP 707 at intersection with the line between said
sec. 31 and sec. 6, T. 01 S., R. 04 E.;
thence continuing on said center line, south-
erly and easterly, approximately 5,905 ft. to
T. 01 S., R. 04 E.
- AP 708 at intersection with the westerly boundary
of Dabney State Park;
thence on said westerly boundary and the
southerly extension thereof, southerly,
approximately 525 ft. to
- AP 709 at intersection with the OHWM on the left
bank of the Sandy River;
thence along said left bank at intersection
with OHWM, westerly, approximately
4,755 ft. to
- AP 710 at intersection with the line between Rs. 03
and 04 E.;
thence continuing along said left bank,
northerly, approximately 1,570 ft. to
T. 01 S., R. 03 E.
- AP 711 at intersection with the line between Rs. 03
and 04 E.;
thence continuing along said left bank,
northerly, approximately 1,160 ft. to
T. 01 S., R. 04 E.
- AP 712 at intersection with the line between Tps. 01
S. and 01 N.;
thence continuing along said left bank,
northerly, approximately 2,325 ft. to
T. 01 N., R. 04 E.
- AP 713 at intersection with the line between Rs. 03
and 04 E.;
thence continuing along said left bank,
northerly, approximately 1,950 ft. to
T. 01 N., R. 03 E.
- AP 714 at intersection with the line between Rs. 03
and 04 E.;
thence continuing along said left bank,
northerly, approximately 720 ft. to
T. 01 N., R. 04 E.

- AP 715 thence continuing along said left bank, northerly, approximately 820 ft. to
- T. 01 N., R. 03 E.**
- AP 716 at intersection with the E. and W. center line
[AP 10] of the SE1/4 of sec. 25, identical with AP 10 of the Gates of the Columbia River Gorge, Sandy River Delta, SMA Legal Boundary Description;
thence continuing along said left bank at OHWM and the northerly extension thereof, along said SMA Boundary, northerly, approximately 17,510 ft. to
- AP 717 at intersection with the left bank of the
[AP 11] Columbia River at MLW;
thence along said left bank at MLW, easterly, approximately, 1,100 ft. to
- AP 718 at intersection with a line perpendicular to
[AP 12] the Oregon-Washington State Line at River Mile 0 of the Sandy River;
thence leaving said SMA Boundary, on said perpendicular line, N. 27°49' W., approximately 1,000 ft. to

AP 1 the **Point of Beginning**

the Area being 292,786 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:
 - a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
 - b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
 - c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986)

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. Angle Point 8 refers to the Amended Exterior Boundary. The amendment was made by Pub. L. 105-277, § 354, 112 Stat. 2681-303 (1998).
2. Angle Points 228 and 229 were located with deference given to the 1986 Congressional Maps. The 1986 maps

clearly show the Exterior Boundary of the NSA extending farther north than the 1987 USFS Maps (Sheet 16). The 1986 map location follows the line between public and private ownership as it existed at the creation of the NSA. This location remains the line between public and private ownership. Utilizing the 1987 location would create a split zoned tract of USFS land.

3. Angle Points 549 through 555 were located at the intersection with the easterly edge of the driven roadway prism, consistent with the Hood River County Planning Department Decision for the Appleton Conditional Use Permit # 91-310, as concurred with by the Columbia River Gorge Commission in a letter of August 2, 1991.

4. Angle Points 682 through 685 were located with deference given to the 1986 Congressional Maps. The 1986 maps clearly depict the Exterior Boundary of the NSA following Larch Mountain Road to an unnamed ravine, downstream along the ravine and then subdivision of sec. lines. The 1987 USFS Map (Sheet 4) does not clearly depict these locations and appears to be random in its location of the NSA line. Utilizing the 1986 map location is consistent with line location throughout the boundary.

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

NEW SECTION

350-10-030B. Appendix B

APPENDIX B TO COMMISSION RULE 350-10 LEGAL BOUNDARY DESCRIPTIONS FOR THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA SPECIAL MANAGEMENT AREAS

Columbia River Gorge National Scenic Area Burdoin Mountain Special Management Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary and Urban Area (UA) boundaries of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP) and Urban Area Boundary Angle Points are shown in braces {AP}. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be

junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Burdoin Mountain Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 3 North, Range 11 East,

Township 3 North, Range 12 East,

Township 4 North, Range 11 East, and

Township 4 North, Range 12 East, of the Willamette Meridian, in Klickitat County, Washington.

T. 03 N., R. 11 E.

- AP 1 (AP 207) **Beginning** at the N1/16 cor. of sec. 28, identical with AP 207 of the Exterior Legal Boundary Description; Latitude 45°43'15.2" N. Longitude 121°26'05.9" W. thence on the E. and W. center line of the NE1/4 of said sec., on said Exterior Boundary, East, approximately 2,643 ft. to
- AP 2 (AP 208) the N1/16 cor. between secs. 27 and 28; thence on the E. and W. center line of the NW1/4 of said sec. 27, East, approximately 2,631 ft. to
- AP 3 (AP 209) the N1/16 cor. of said sec.; thence on the N. and S. center line of said sec., North, approximately 1,320 ft. to
- AP 4 (AP 210) the 1/4 cor. of secs. 22 and 27; thence on the line between said secs., East, approximately 2,628 ft. to
- AP 5 (AP 211) the cor. of secs. 22, 23, 26, and 27; thence on the line between said secs. 22 and 23, North, approximately 5,280 ft. to

- AP 6 (AP 212) the cor. of secs. 14, 15, 22, and 23; thence on the line between said secs. 15 and 22, N. 89°49' W., approximately 2,631 ft. to
- AP 7 (AP 213) the 1/4 cor. of said secs.; thence on the N. and S. center line of said sec. 15, North, approximately 2,640 ft. to
- AP 8 (AP 214) the C1/4 cor. of said sec. 15; thence on the E. and W. center line of said sec., S. 89°54'30" E., approximately 2,633 ft. to
- AP 9 (AP 215) the 1/4 cor. of said secs. 14 and 15; thence on the E. and W. center line of said sec. 14, N. 89°44' E., approximately 5,276 ft. to
- AP 10 (AP 216) the 1/4 cor. of secs. 13 and 14; thence on the line between said secs., North, approximately 2,640 ft. to
- AP 11 (AP 217) the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 11 and 12, North, approximately 1,320 ft. to
- AP 12 (AP 218) the S1/16 cor. between said secs. 11 and 12; thence on the E. and W. center line of the SE1/4 of said sec. 11, S. 89°47'15" W., approximately 2,639 ft. to
- AP 13 (AP 219) the S1/16 cor. of said sec. 11; thence on the N. and S. center line of said sec., North, approximately 1,320 ft. to
- AP 14 (AP 220) the C1/4 cor. of said sec. 11; thence on the E. and W. center line of said sec., S. 89°51'30" W., approximately 2,641 ft. to
- AP 15 (AP 221) the 1/4 cor. of secs. 10 and 11; thence on the E. and W. center line of said sec. 10, N. 89°56' W., approximately 275 ft. to
- AP 16 (AP 222) at intersection with the center line of Bates County Road; thence on said center line, northwesterly, approximately 3,255 ft. to
- AP 17 (AP 223) at intersection with the N. and S. center line of said sec. 10; thence on said center line, North, approximately 1,045 ft. to
- AP 18 (AP 224) the 1/4 cor. of secs. 3 and 10; thence on the N. and S. center line of said sec. 3, North a distance of 1,000 ft. to
- AP 19 (AP 225) thence East, approximately 1,330 ft. to

- AP 20 (AP 226) at intersection with the N. and S. center line of the E1/2 of said sec. 3; thence on said center line, North, approximately 4,360 ft. to
- AP 21 (AP 227) the E1/16 cor. between said sec. 3 and sec. 34, T. 4 N., R. 11 E.; thence on the N. and S. center line of the SE1/4 of said sec. 34, North, approximately 2,160 ft. to (see Footnote 1)
- T. 04 N., R. 11 E.**
- AP 22 (AP 228) the NW cor. of Parcel 13, as described in Corrected Warranty Deed, Auditor's File No. (AFN) 1086793, records of Klickitat County, Washington; thence on the northerly line of said parcel, easterly, approximately 1,315 ft. to
- AP 23 (AP 229) the NE cor. of said Parcel 13, on the line between secs. 34 and 35; thence on the line between said secs., South, approximately 2,160 ft. to
- AP 24 (AP 230) the cor. of secs. 34 and 35, T. 04 N., R. 11 E., and secs. 2 and 3, T. 03 N., R. 11 E.; thence on the line between said secs. 2 and 35, East, approximately 1,320 ft. to
- AP 25 (AP 231) the W1/16 cor. between said secs.; thence S. 26°28' E., approximately 3,165 ft. to
- T. 03 N., R. 11 E.**
- AP 26 (AP 232) at intersection with the N. and S. center line of said sec. 2; thence on said N. and S. center line as shown on Survey, AFN 1100614, records of Klickitat County, Washington, S. 00°37'41" W. a distance of 1,175 ft. to
- AP 27 (AP 233) the S1/16 cor. of said sec. 2; thence on the E. and W. center line of the SE1/4 of said sec., as shown on said survey, S. 89°24'10" E. a distance of 2,648.36 ft. to
- AP 28 (AP 234) the S1/16 cor. between secs. 1 and 2; thence on the line between said secs., as shown on said survey, N. 00°55'04 E. a distance of 666.50 ft. to
- AP 29 (AP 235) the N-S1/64 cor. between said secs.; thence on the E. and W. center line of the NW1/4 SW1/4 of said sec. 1, East, approximately 660 ft. to
- AP 30 (AP 236) the NW-SW1/64 cor. of said sec.; thence on the N. and S. center line of the NW1/4 SW1/4 of said sec. North, approximately 660 ft. to
- AP 31 (AP 237) the W-W1/64 cor. of said sec.; thence on the E. and W. center line of said sec., East, approximately 660 ft. to
- AP 32 (AP 238) the W1/16 cor. of said sec.; thence on the N. and S. center line of the NW1/4 of said sec., North, approximately 2,640 ft. to
- AP 33 (AP 239) the W1/16 cor. between said sec. 1 and sec. 36, T. 04 N., R. 11 E.; thence on the N. and S. center line of the SW1/4 of said sec. 36, North, approximately 650 ft. to
- T. 04 N., R. 11 E.**
- AP 34 (AP 240) at intersection with the 2,200-ft. contour line, National Geodetic Vertical Datum (NGVD) 1929; thence along said contour line, northeasterly, approximately 9,920 ft. to
- T. 04 N., R. 12 E.**
- AP 35 (AP 241) at intersection with a line from which the N. and S. center line of the SW1/4 of sec. 30 bears westerly a distance of 740 ft. when measured perpendicular therefrom; thence on said line, parallel with said N. and S. center line, North, approximately 1,520 ft. to
- AP 36 (AP 242) at intersection with the E. and W. center line of said sec. 30; thence on said center line, East, approximately 3,210 ft. to
- AP 37 (AP 243) the 1/4 cor. of secs. 29 and 30; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 38 (AP 244) the cor. of secs. 29, 30, 31, and 32; thence on the line between said secs. 31 and 32, South, approximately 2,400 ft. to
- AP 39 (AP 245) at intersection with the center line of the Bonneville Power Administration (BPA) North Bonneville-Midway No. 1 Transmission Line; thence on said center line, S. 74°08' W., approximately 5,430 ft. to
- AP 40 (AP 246) at intersection with the line between sec. 36, T. 04 N., R. 11 E., and sec. 31, T. 04 N., R. 12 E.; thence on the line between said secs., South, approximately 1,600 ft. to

- AP 41A (AP 247A) the cor. of sec. 36, T. 04 N., R. 11 E. and sec. 31, T. 04 N., R. 12 E.; thence on the line between said sec. 31, and sec. 1, T. 03 N., R. 11 E., S. 89°35'40" E. a distance of 196.36 ft. to
- AP 41B (AP 247B) the NE cor. of said sec. 1; thence on the line between Rs. 11 and 12 E., southerly, approximately 5,551 ft. to
- T. 03 N., R. 12 E.**
- AP 42 (AP 248) the cor. of secs. 1 and 12, T. 03 N., R. 11 E., and secs. 6 and 7, T. 03 N., R. 12 E.; thence on the line between said secs. 12 and 7, South, approximately 2,640 ft. to
- AP 43 (AP 249) the 1/4 cor. of said secs.; thence on the E. and W. center line of said sec. 7, East, approximately 2,630 ft. to
- AP 44 (AP 250) the C1/4 cor. of said sec. 7; thence leaving the aforementioned Exterior Boundary, on the N. and S. center line of said sec., South, approximately 2,640 ft. to
- AP 45 the 1/4 cor. of said sec. 7 and sec. 18; thence on the N. and S. center line of said sec. 18, South, approximately 5,280 ft. to
- AP 46 the 1/4 cor. of said sec. 18 and sec. 19; thence on the N. and S. center line of said sec. 19, South, approximately 2,640 ft. to
- AP 47 the C1/4 cor. of said sec.; thence on the E. and W. center line of said sec., S. 89°59' E., approximately 2,629 ft. to
- AP 48 the 1/4 cor. of said sec. 19 and sec. 20; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 49 the cor. of secs. 19, 20, 29, and 30; thence on the line between said secs. 29 and 30, South, approximately 4,255 ft. to
- AP 50 at intersection with the center line of Old Highway 8 County Road; thence S. 26° E., approximately 1,700 ft. to
- AP 51 at intersection with the right bank of the Columbia River at Bonneville Normal Pool Elevation 72 ft., National Geodetic Vertical Datum of 1929 (NGVD 1929) (BNPE) (See Footnote 2); thence along said right bank at BNPE, westerly, approximately 24,350 ft. to
- T. 03 N., R. 11 E.**
- AP 52 {AP 45} identical with AP 45 of the White Salmon - Bingen UA Legal Boundary Description; thence on said UA Boundary, N. 01°07'34" E., approximately 1,206 ft. to

- AP 53 {AP 44} the center E-E1/64 cor. of sec. 33; thence on the N. and S. center line of the SE1/4 NE1/4 of said sec., N. 01°11'20" E. a distance of 1,321.01 ft. to
- AP 54 {AP 43} the center E-NE1/64 cor. of said sec.; thence on the E. and W. center line of the NE1/4 of said sec., N. 88°34'53" W. a distance of 1,933.17 ft. to
- AP 55 {AP 42} the N1/16 cor. of said sec.; thence leaving said UA Boundary, on the N. and S. center line of said sec., N. 01°12'04" E. a distance of 1,321.02 ft. to
- AP 56 the 1/4 cor. of said sec. 33 and sec. 28; thence on the N. and S. center line of said sec. 28, N. 00°21'27" W. a distance of 3,959.55 ft. to

AP 1 the **Point of Beginning**

the Area being 10,744 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:

- a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
- b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
- c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 15
- b. USFS Map 16
- c. USFS Map 18
- d. USFS Map 19

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. AP 22 and AP 23 were located with deference given to the 1986 Congressional Maps. The 1986 maps clearly show the Exterior Boundary of the NSA extending farther north than the 1987 USFS Maps (Sheet 16). The 1986 map location follows the line between public and private ownership as it existed at the creation of the NSA. This location remains the line between public and private ownership. Utilizing the 1987 location would create a split zoned tract of USFS land.

2. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

Columbia River Gorge National Scenic Area
 Gates of the Columbia River, Beacon Rock
 Special Management Area
 Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary and Urban Area (UA) boundaries of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP) and Urban Area Boundary Angle Points are shown in braces {AP}. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as Gates of the Columbia River, Beacon Rock Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

- Township 1 North, Range 5 East,
- Township 1 North, Range 6 East,
- Township 2 North, Range 5 East,
- Township 2 North, Range 6 East,
- Township 2 North, Range 7 East,
- Township 3 North, Range 6 East, and

Township 3 North, Range 7 East, of the Willamette Meridian, in Skamania County, Washington.

T. 01 N., R. 05 E., Skamania County

- AP 1 **Beginning** at the point of intersection of the right bank of the Columbia River at Ordinary High Water Mark (OHWM); with a line parallel with and 1,100 ft. easterly of the line between secs. 11 and 12, when measured perpendicular therefrom; Latitude 45°35'24.0" N. Longitude 122°08'30.9" W. thence on said line, North, approximately 395 ft. to
- AP 2 at intersection with the center line of the Burlington Northern - Santa Fe Railroad right-of-way; thence on said center line, northeasterly, approximately 2,970 ft. to
- AP 3 a point from which the intersection of the center line of an unnamed primitive road with the center line of Washington State Route 14 bears North, approximately 550 ft.; thence North, approximately 550 ft. to
- AP 4 at said intersection; thence continuing North, approximately 400 ft. to
- AP 5 at intersection with the E. and W. center line of the S1/2 of sec. 1; thence on said center line, westerly, approximately 2,360 ft. to
- AP 6 at intersection with the center line of the Bonneville Power Administration (BPA) PH. 1 - North Camas No.1 Transmission Line; thence on said center line, southwesterly, approximately 7,980 ft. to
- AP 7 at intersection with the N. and S. center line of the SE1/4 of sec. 3; thence on said center line, northerly, approximately 1,195 ft. to
- AP 8 the SE1/16 cor. of said sec. 3; thence on the E. and W. center line of said SE1/4, westerly, approximately 1,320 ft. to
- AP 9 the C-S1/16 cor. of said sec.; thence on the N. and S. center line of said sec., N. 01°19'07" E., approximately 1,200 ft. to
- AP 10 (AP 43) identical with AP 43 of the Exterior Legal Boundary Description; thence identical with said Exterior Boundary, N. 40°48' E., approximately 505 ft. to

- AP 11 (AP 44) at intersection with the thread of Canyon Creek;
thence along said thread, northeasterly, approximately 3,765 ft. to
- AP 12 (AP 45) at intersection with the line between sec. 2, T. 01 N., R. 05 E. and sec. 35, T. 02 N., R. 05 E.;
thence on said line, East, approximately 3,650 ft. to
- AP 13 (AP 46) the E1/16 cor. of said secs. 2 and 35;
thence on the N. and S. center line of the SE1/4 of said sec. 35, North, approximately 1,320 ft. to
T. 02 N., R. 05 E.
- AP 14 (AP 47) the SE1/16 cor. of said sec. 35;
thence on the E. and W. center line of said SE1/4, East, approximately 1,328 ft. to
- AP 15 (AP 48) the S1/16 cor. of secs. 35 and 36;
thence on the line between said secs., North, approximately 1,875 ft. to
- AP 16 (AP 49) at intersection with the thread of the aforementioned Canyon Creek;
thence along said thread, northeasterly, approximately 3,950 ft. to
- AP 17 (AP 50) at intersection with the line between secs. 25 and 36;
thence on said line, East, approximately 2,260 ft. to
- AP 18 (AP 51A) the cor. of secs. 25 and 36, T. 2 N., R. 5 E., on the west line of sec. 31, T. 2 N., R. 6 E.;
thence on the line between said secs. 25 and 31, N. 00°59' W. a distance of 68.64 ft. to
- AP 19 (AP 51B) the cor. of secs. 30 and 31, T. 2 N., R. 6 E., on the east line of said sec. 25;
thence on the line between said secs. 25 and 30, N. 00°30' W., approximately 2,020 ft. to
T. 02 N., R. 06 E.
- AP 20 (AP 52) at intersection with the center line of the BPA North Bonneville - Troutdale No. 1 Transmission Line;
thence on said center line, northeasterly, approximately 5,870 ft. to
- AP 21 (AP 53) at intersection with the line between secs. 29 and 30;
thence on said line, N. 00°32' E., approximately 985 ft. to
- AP 22 (AP 54) the cor. of secs. 19, 20, 29, and 30;
thence on the line between said secs. 19 and 20, North, approximately 5,280 ft. to
- AP 23 (AP 55) the cor. of secs. 17, 18, 19, and 20;
thence on the line between said secs. 17 and 20, East, approximately 5,310 ft. to
- AP 24 (AP 56) the cor. of secs. 16, 17, 20, and 21;
thence on the line between said secs. 16 and 17, North, approximately 5,280 ft. to
- AP 25 (AP 57) the cor. of secs. 8, 9, 16, and 17;
thence on the line between said secs. 8 and 9, North, approximately 2,670 ft. to
- AP 26 (AP 58) at intersection with the center line of the BPA McNary - Ross No. 1 Transmission Line;
thence on said line, northeasterly, approximately 22,660 ft. to
T. 03 N., R. 06 E.
- AP 27 (AP 59) at intersection with the line between sec. 36, T. 03 N., R. 06 E., and sec. 31, T. 03 N., R. 07 E.;
thence on said line, North, approximately 7,405 ft. to
- AP 28 (AP 60) not used
- AP 29 (AP 61) at intersection with the crest of a ridge line;
thence along said ridge line, northeasterly, approximately 3,000 ft. to
T. 03 N., R. 07 E.
- AP 30 (AP 62) the summit of a minor peak;
thence descending along the crest of a ridge line, easterly, approximately 3,900 ft. to
- AP 31 (AP 63) at a four-way intersection of unnamed primitive roads;
thence ascending along said ridge line, easterly, 2,030 ft. to
- AP 32 (AP 64) at intersection with the center line of the BPA McNary - Ross No. 1 Transmission Line;
thence on said center line, easterly, approximately 11,295 ft. to
- AP 33 (AP 65) at intersection with the N. and S. center line of sec. 27;
thence leaving the aforementioned Exterior Boundary, on said center line, South, approximately 3,020 ft. to
- AP 34 the 1/4 cor. of said sec. 27 and sec. 34;
thence on the line between said secs., West, approximately of 1,205 ft. to
- AP 35 at intersection with the center line of an unnamed primitive road;
thence South, approximately 5,280 ft. to

- AP 36 at intersection with the line between sec. 34, and sec. 3, T. 2 N., R. 7 E.; thence on the line between said secs., West, approximately 500 ft. to
- AP 37 the cor. of said sec. 3, and sec. 4; thence on the line between said secs. 4 and 34, West, approximately 300 ft. to
- AP 38 the cor. of said sec. 34, and sec. 33; thence on the line between said secs. 4 and 33, West, approximately 2,430 ft. to
- AP 39 the N1/4 cor. of said sec. 4;
T. 02 N., R. 07 E.
thence on the N. and S. center line of said sec., South, approximately 2,640 ft. to
- AP 40 the C1/4 cor. of said sec.; thence on the E. and W. center line of said sec., West, approximately 2,640 ft. to
- AP 41 the 1/4 cor. of said sec. 4, and sec. 5; thence on the line between said secs., South, approximately 2,640 ft. to
- AP 42 the cor. of said secs. 4 and 5, and secs. 8 and 9; thence on the line between said secs. 8 and 9, South, approximately 5,280 ft. to
- AP 43 the SE cor. of said sec. 8; thence southerly, approximately 3,620 ft. to
- AP 44 {AP 20} at intersection of the center line of a natural gas pipe line easement with the north line of the B. B. Bishop Donation Land Claim (DLC) No. 39, identical with AP 20 of the North Bonneville Urban Area (UA) Legal Boundary Description; thence on the north line of said DLC, on said UA Boundary and North Bonneville city limits line, S. 86°20'39" W., approximately 666 ft. to
- AP 45 {AP 19} the NW cor. of said DLC; thence on the westerly boundary of said D.L.C, S. 02°12'16" W., approximately 1,347 ft. to
- AP 46 {AP 18} at intersection with the northerly boundary of the G.W. Johnson DLC No. 38; thence on said northerly boundary, S. 84°22'12" W., approximately 550 ft. to
- AP 47 {AP 17} at intersection with the northerly right-of-way line of BPA Bonneville-Vancouver transmission line easement; thence leaving said northerly DLC line and said city limits line, on said northerly right-of-way line, N. 57°28' W., approximately 1,050 ft. to
- AP 48 {AP 16} the most northerly point thereof; thence continuing on said northerly right-of-way line, S. 57°56' W., approximately 1,450 ft. to
- AP 49 {AP 15} at intersection with the aforementioned northerly line of the Johnson DLC and said city limits line; thence leaving said northerly right-of-way line, on said northerly DLC line and said city limits line, S. 84°22'12" W., approximately 350 ft. to
- AP 50 {AP 14} the NW cor. of said Johnson DLC; thence on the westerly boundary thereof, S. 16°46'08" E., approximately 160 ft. to
- AP 51 {AP 13} at intersection with the aforementioned northerly right-of-way line; thence leaving said northerly DLC line and city limits line, on said northerly right-of-way line, S. 57°56' W., approximately 4,490 ft. to
- AP 52 {AP 12} at intersection with the E. and W. center line of sec. 19 and said city limits line; thence on said center line, N. 89°59' W., approximately 505 ft. to
- AP 53 {AP 11} the C1/4 cor. of said sec. 19; Latitude: 45°38'36.6" N., Longitude: 121°59'31.6" W.; thence on the N. and S. center line of said sec., S. 0°29' E., approximately 1,890 ft. to
- AP 54 {AP 10} at intersection with the southeasterly right-of-way line of the Burlington Northern - Santa Fe Railroad right-of-way; thence leaving said city limits line, S. 43°21' E., approximately 1,045 ft. to
- AP 55 {AP 9} the NW cor. of the plat of Relocated North Bonneville, identical with the line between secs. 19 and 30; thence on the southwesterly boundary thereof, S. 29°58'55" W. a distance of 119.59 ft. to
- AP 56 {AP 8} thence continuing on said southwesterly boundary, S. 18°27'10" E. a distance of 1,452.91 ft. to
- AP 57 {AP 7} thence continuing on said southwesterly boundary and southeasterly extension thereof, crossing Hamilton Creek, S. 67°00'00" E., approximately 760 ft. to
- AP 58 {AP 6} at intersection with the left bank of Hamilton Creek at OHWM; thence along said left bank at OHWM, southwesterly, approximately 3,030 ft. to

- AP 59 at intersection with the right bank of the
{AP 5} Columbia River at OHWM;
thence leaving said city limits line, along
said right bank at OHWM, southeasterly, a
distance of 1,500 ft. to
- AP 60 thence leaving the aforementioned UA
{AP 4B} Boundary and said right bank at OHWM,
southeasterly, approximately 740 ft. to
- AP 61 the most easterly extremity of Ives Island at
OHWM;
thence along the southerly shore of said
island at OHWM, southwesterly, approxi-
mately 3,000 ft. to
- AP 62 the southwesterly extremity of Ives Island at
OHWM;
thence leaving Ives Island, southwesterly,
approximately 800 ft. to
- AP 63 the southeasterly extremity of Pierce Island
at OHWM;
T. 02 N., R. 06 E.
thence along the southerly shore of said
island at OHWM, southwesterly, approxi-
mately 2,820 ft. to
- AP 64 an interior southwesterly shore line cor. of
said island at OHWM;
thence crossing an inlet of said southerly
shore, N. 50° W., approximately 545 ft. to
- AP 65 at intersection with said southerly shore at
OHWM;
thence continuing along the southerly shore
of said island at OHWM, southwesterly,
approximately 1,910 ft. to
- AP 66 the most southwesterly extremity of said
island at OHWM;
thence leaving said island, West, approxi-
mately 540 ft. to
- AP 67 at intersection with the right bank of the
Columbia River at OHWM;
thence along said right bank at OHWM,
southwesterly, approximately 3,560 ft. to
- AP 68 from which the intersection of the center
line of the BPA Bonneville Ph. 1 North
Camas No. 1 transmission line with the cen-
ter line of Woodward Road bears North,
approximately 2,900 ft.;
thence North, approximately 2,900 ft. to
- AP 69 at said intersection;
thence on said centerline of said transmis-
sion line, N. 66°25' E., approximately 2,400
ft. to
- AP 70 at intersection with the line between secs. 25
and 26;
thence on said line, North, a distance of
1,000 ft. to
- AP 71 thence West, approximately 400 ft. to
- AP 72 at intersection with the center line of Kuffler
Road;
thence North, approximately 500 ft. to
- AP 73 at intersection with the E. and W. center line
of said sec. 26;
thence on said center line, West, approxi-
mately 400 ft. to
- AP 74 the NE cor. of that tract of land described in
Deed Record Y Page 530, records of Ska-
mania County, Washington;
thence on the easterly line of said tract and
southerly extension thereof, South a dis-
tance of 300 ft. to
- AP 75 thence West, approximately 500 ft. to
- AP 76 at intersection with the N. and S. center line
of the SE1/4 of said sec.;
thence on said center line, North, approxi-
mately 300 ft. to
- AP 77 the E1/16 cor. of said sec.;
thence on the E. and W. center line of said
sec., approximately 3,960 ft. to
- AP 78 the 1/4 cor. of secs. 26 and 27;
thence on the E. and W. center line of said
sec. 27, N. 89°08'44" W. a distance of
5228.09 ft. to
- AP 79 the 1/4 cor. of secs. 27 and 28;
thence on the E. and W. center line of said
sec. 28, West, approximately 5,271 ft. to
- AP 80 the 1/4 cor. of secs. 28 and 29;
thence on the line between said secs., S.
02°24'28" W. a distance of 2,631.84 ft. to
- AP 81 the cor. of secs. 28, 29, 32, and 33;
thence on the line between said secs. 29 and
32, N. 88°48'42" W., approximately
1,321.28 ft. to
- AP 82 the E1/16 cor. of said secs.;
thence on the N. and S. center line of the
NE1/4 of said sec. 32, S. 02°37'43" W.,
approximately 2,630.44 ft. to
- AP 83 the E1/16 cor. of said sec.;
thence on the N. and S. center line of the
SE1/4 of said sec., S. 01°11'10" W., approx-
imately 2,620.72 ft. to

AP 84 the E1/16 cor. of said sec. 32 and sec. 5, T. 1 N., R. 6 E.;

T. 01 N., R. 06 E.

thence on the E. and W. center line of the NE1/4 of said sec. 5, South, approximately 700 ft. to

AP 85 at intersection with the center line of the Burlington Northern - Santa Fe Railroad right-of-way;

T. 02 N., R. 06 E.

thence on said center line, easterly, approximately 9,350 ft. to

AP 86 at intersection with the center line of Skamania Landing Road; thence on said road center line, southeasterly, approximately 1,435 ft. to

AP 87 at intersection with the northerly extension of the westerly line of Lot 2, Hazard Short Plat No. 1, recorded in Book 3 of Short Plats, Page 20, records of Skamania County, Washington; thence on said extension, S. 17°32'40" E., approximately 280 ft. to

AP 88 the northwesterly cor. of said Lot 2; thence on the westerly line thereof, S. 17°32'40" E., approximately 220 ft. to

AP 89 at intersection with the right bank of the Columbia River at OHWM; thence along said right bank, westerly, approximately 27,000 ft. to

T. 01 N., R. 06 E.

T. 01 N., R. 05 E.

AP 1 the **Point of Beginning**

the Area being 24,742 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:

a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);

b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);

c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary descrip-

tion. The USFS Maps are generally the basis for this description.

a. USFS Map 3

b. USFS Map 4

c. USFS Map 5

d. USFS Map 6

e. USFS Map 7

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

Columbia River Gorge National Scenic Area

Gates of the Columbia River, Cape Horn

Special Management Area

Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP). The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

Gates of the Columbia River, Cape Horn Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 1 North, Range 4 East, of the Willamette Meridian, in Clark County, Washington,

Township 1 North, Range 5 East, of the Willamette Meridian, in Skamania County, Washington.

T. 01 N., R. 04 E., Clark County

- AP 1 **Beginning** at the point of intersection of the right bank of the Columbia River at Ordinary High Water Mark (OHWM) with the thread of Lawton Creek;
Latitude 45°33'18.0" N. Longitude 122°16'01.3" W.
thence along said thread, northerly, approximately 4,615 ft. to
- AP 2 at intersection with the thread of Walton Creek;
thence leaving said thread, N. 51° E., approximately 215 ft. to
- AP 3 at intersection with the crest of a ridge line;
thence ascending along said ridge line, northerly, approximately 835 ft. to
- AP 4 at intersection with the 400-ft. contour line, National Geodetic Vertical Datum (NGVD) 1929;
thence leaving said crest, N. 19°18' E. a distance of 430 ft. to
- AP 5 thence N. 35°06' E., approximately 380 ft. to
- AP 6 at intersection with the E. and W. center line of sec. 13;
thence on said center line, East, approximately 2,835 ft. to
- AP 7 the 1/4 cor. of said sec. 13, and sec. 18, T. 1 N. R. 5 E.;

T. 01 N., R. 05 E., Skamania County

- thence on the line between said secs., South, approximately 660 ft. to
- AP 8 the N-S1/64 cor. between said secs.;
thence on the E. and W. center line of the N1/2 SW1/4 of said sec. 18, East., approximately 2,640 ft. to
- AP 9 the C-N-S1/64 cor. of said sec.;
thence on the N. and S. center line of said sec., North, approximately 1,980 ft. to
- AP 10 the C-N1/16 cor. of said sec.;
thence N. 22°35' E., approximately 535 ft. to
- AP 11 at the confluence of the threads of Lawton Creek and an unnamed ravine;
thence along the thread of said unnamed ravine, northeasterly, approximately 4,695 ft. to

- AP 12 at intersection with the E. and W. center line of sec. 8;
thence along said center line, East, approximately 2,600 ft. to
- AP 13 at intersection with the center line of Belle Center Road;
thence on said center line, northeasterly, approximately 475 ft. to
- AP 14 (AP 29) at intersection with the center line of Mt. Pleasant Road, identical with AP 29 of the Exterior Legal Boundary Description;
thence on said center line, on said Exterior Boundary, easterly, approximately 1,930 ft. to
- AP 15 (AP 30) at intersection with the center line of Strunk Road;
thence on the center line of said Strunk Road, easterly, approximately 2,925 ft. to
- AP 16 (AP 31) at intersection with the center line of Rim Drive private road;
thence on the center line of said Rim Drive, northerly, a distance of 400 ft. to
thence East, approximately 800 ft. to
- AP 17 (AP 32)
- AP 18 (AP 33) at intersection with the crest of a ridge line;
thence along said ridge line the following general courses:
N. 34°37' E., approximately 945 ft. to
N. 56°50' E., approximately of 810 ft. to
N. 36°35' E., approximately 1,110 ft. to
- AP 19 (AP 34)
- AP 20 (AP 35)
- AP 21 (AP 36) at intersection with the line between secs. 9 and 10;
thence on said line, North, approximately 95 ft. to
- AP 22 (AP 37) the cor. of secs. 3, 4, 9, and 10;
thence on the line between said secs. 3 and 4, North, approximately 590 ft. to
- AP 23 (AP 38) at intersection with the center line of Mt. Pleasant Road;
thence on said center line, northeasterly, approximately 1,250 ft. to
- AP 24 (AP 39A) at intersection with the center line of Canyon Creek Road;
thence on said center line, easterly, approximately 520 ft. to
- AP 25 (AP 39B) at intersection with the N. and S. center line of the SW1/4 of said sec. 3;
thence leaving the aforementioned Exterior Boundary, on said center line, South, approximately 1,300 ft. to

- AP 26 the W1/16 cor. between said secs. 3 and 10; thence on the N. and S. center line of the NW1/4 of said sec. 10, S. 02°12'08" W., approximately 1,440 ft. to
- AP 27 at intersection with the center line of Washington State Route 14; thence on said center line, easterly, approximately 3,310 ft. to
- AP 28 at intersection with the N. and S. center line of the SE1/4 NE1/4 of said sec. 10; thence on said N. and S. center line, South, approximately 460 ft. to
- AP 29 at intersection with the center line of Riverside Drive; thence on said center line, southerly and easterly, approximately 1,055 ft. to
- AP 30 at intersection with the line between secs. 10 and 11; thence on said line, S. 01°12'36" W., approximately 1,025 ft. to
- AP 31 at intersection with the right bank of the Columbia River at OHWM; thence along said right bank at intersection with OHWM, westerly, approximately 29,990 ft. to

T. 01 N., R. 04 E., Clark County

AP 1 the Point of Beginning

the Area being 3,473 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:

- a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
- b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
- c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 2
- b. USFS Map 3

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

Columbia River Gorge National Scenic Area
Gates of the Columbia River, Oregon Falls
Special Management Area
Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary and Urban Area (UA) boundaries of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP) and Urban Area Boundary Angle Points are shown in braces {AP}. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as Gates of the Columbia River, Oregon Falls Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 1 North, Range 7 East,
Township 1 North, Range 8 East,
Township 2 North, Range 7 East,
Township 2 North, Range 8 East,
Township 2 North, Range 9 East,
Township 2 North, Range 10 East,
Township 3 North, Range 8 East,
Township 3 North, Range 9 East, and
Township 3 North, Range 10 East, of the Willamette Meridian, in Hood River County, Oregon,
Township 1 North, Range 4 East,
Township 1 North, Range 5 East,
Township 1 North, Range 6 East,
Township 1 North, Range 7 East, and

Township 2 North, Range 7 East, of the Willamette Meridian, in Multnomah County, Oregon.

T. 03 N., R. 10 E., Hood River County

- AP 1 **Beginning** at the point of intersection of the left bank of the Columbia River at Bonneville Normal Pool Elevation 72 ft., National Geodetic Vertical Datum of 1929 (NGVD 1929) (BNPE) (See Footnote 1) with the line between lots 3 and 4 of sec. 28; Latitude 45°42'30.6" N. Longitude 121°34'50.2" W. thence on said line, South, approximately 285 ft. to
- AP 2 the W1/16 cor. between secs. 28 and 33; thence on the N. and S. center line of the NW1/4 of said sec. 33, South a distance of 1,100 ft. to
- AP 3 thence southwesterly, approximately 1,400 ft. to
- AP 4 at intersection of the line between said sec. 33 and sec. 32 with the crest of a ridge line; thence ascending along said ridge line, southwesterly, approximately 3,100 ft. to
- AP 5 at intersection with the N. and S. center line of said sec. 32; thence on said center line, South, approximately 1,500 ft. to
- AP 6 (AP 594B) the 1/4 cor. of said sec. 32 and sec. 5, T. 2 N., R. 10 E., identical with AP 594B of the Exterior Legal Boundary Description;
- T. 02 N., R. 10 E.**
- thence on the line between said secs., on said Exterior Boundary, West, approximately 2,640 ft. to
- AP 7 (AP 595) the cor. of secs. 5 and 6, T. 02 N., R. 10 E., and secs. 31 and 32, T. 03 N., R. 10 E.; thence on the line between said secs. 5 and 6, as shown on Survey of Columbia Gorge National Scenic Area Boundary, C.S. 99099, records of Hood River County, Oregon, S. 01°39'55" W. a distance of 1,334.12 ft. to
- AP 8 (AP 596) the N1/16 cor. between said secs., a 5/8-in. iron rod with plastic cap inscribed "County Surveyor", as shown on said survey; thence on the E. and W. center line of the NE1/4 of said sec. 6, N. 89°35'34" W. a distance of 1,681.96 ft. to

AP 9 (AP 597) at intersection with the crest of a ridge line, as shown on said survey; thence along said ridge line, southwesterly, approximately 5,055 ft. to

AP 10 (AP 598) at intersection with the line between said sec. 6 and sec. 1, T. 02 N., R. 09 E.; thence continuing along said ridge line, as shown on said survey, southwesterly, approximately 8,160 ft. to

T. 02 N., R. 09 E.

AP 11 (AP 599) at intersection with line between secs. 12 and 13;

thence on the line between said secs., N. 89°43' W., approximately 260 ft. to

AP 12 (AP 600) the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 11 and 14, S. 89°51' W., approximately 5,247 ft. to

AP 13 (AP 601) the cor. of secs. 10, 11, 14, and 15; thence on the line between said secs. 10 and 15, S. 89°48' W., approximately 5,258 ft. to

AP 14 (AP 602) the cor. of secs. 9, 10, 15, and 16; thence on the line between said secs. 9 and 16, S. 89°48' W., approximately 100 ft. to

AP 15 (AP 603) at intersection with the 3,600-ft. contour line, National Geodetic Vertical Datum (NGVD) 1929; thence along said contour line, westerly, approximately 22,700 ft. to

AP 16 (AP 604) at intersection with the line between Rs. 08 and 09 E.; thence continuing along said contour line, westerly and northerly, approximately 1,365 ft. to

T. 02 N., R. 08 E.

AP 17 (AP 605) at intersection with the line between said Rs. 08 and 09 E.; thence continuing along said contour line, northerly, westerly, and southerly, approximately 10,010 ft. to

T. 02 N., R. 09 E.

AP 18 (AP 606) at intersection with the line between said Rs. 08 and 09 E.; thence continuing along said contour line, westerly, approximately 16,895 ft. to

T. 02 N., R. 08 E.

AP 19 (AP 607) at intersection with the crest of Mick Eaton Ridge line; thence along said ridge line the following general courses: N. 38°49' W., approximately 695 ft. to

- AP 20 (AP 608) N. 26°53' W., approximately 510 ft. to
- AP 21 (AP 609) N. 33°00' W., approximately 730 ft. to
- AP 22 (AP 610) N. 00°51' W., approximately 345 ft. to
- AP 23 (AP 611) N. 21°30' W., approximately 405 ft. to
- AP 24 (AP 612) N. 38°17' W., approximately 910 ft. to
- AP 25 (AP 613) N. 48°16' W., approximately 460 ft. to
- AP 26 (AP 614) N. 68°10' W., approximately 395 ft. to
- AP 27 (AP 615) the summit of a minor peak;
thence descending along the crest of a ridge line, S. 87°39' W., approximately 835 ft. to
- AP 28 (AP 616) a saddle in said ridge line;
thence ascending along said ridge line, N. 85°43' W., approximately 430 ft. to
- AP 29 (AP 617) the summit of a minor peak;
thence descending the crest of the divide line between Falls Creek and Camp Creek along the following general courses:
S. 02°44' W., approximately 615 ft. to
- AP 30 (AP 618) S. 32°17' W., approximately 940 ft. to
- AP 31 (AP 619) S. 52°08' W., approximately 865 ft. to
- AP 32 (AP 620) S. 70°25' W., approximately 645 ft. to
- AP 33 (AP 621) S. 63°06' W., approximately 1,110 ft. to
- AP 34 (AP 622) S. 77°51' W., approximately 225 ft. to
- AP 35 (AP 623) at intersection with the center line of the Herman Creek Trail;
thence S. 85°22' W., approximately 3,475 ft. to
- AP 36 (AP 624) at intersection with the crest of a ridge line;
thence ascending, S. 17°44' W. a distance of 775 ft. to
- AP 37 (AP 625) thence ascending, S. 19°51' W., approximately 835 ft. to
- AP 38 (AP 626) at intersection with the center line of the Pacific Crest National Scenic Trail;
thence along said center line, southwesterly, approximately 3,890 ft. to
- AP 39 (AP 627) at intersection with the 3,600-ft. contour line, NGVD 1929;
thence along said contour line, southwest-erly, approximately 18,400 ft. to
- AP 40 (AP 628) at intersection with the thread of Ruckel Creek;
thence continuing along said contour line, southwesterly, 1,125 ft. to
- AP 41 (AP 629) at intersection with the crest of a ridge line;
thence descending along said ridge line the following general courses:
S. 72°40' W., approximately 730 ft. to
- AP 42 (AP 630) S. 70°50' W., approximately 1,440 ft. to
- AP 43 (AP 631) S. 78°32' W., approximately 1,805 ft. to
T. 02 N., R. 07 E.
- AP 44 (AP 632) S. 65°15' W., approximately 215 ft. to
- AP 45 (AP 633) N. 80°47' W., approximately 380 ft. to
- AP 46 (AP 634) S. 87°21' W., approximately 675 ft. to
- AP 47 (AP 635) thence leaving said ridge line, descending, S. 80°34' W. a distance of 435 ft. to
- AP 48 (AP 636) thence descending, S. 55°02' W., approxi-mately 905 ft. to
- AP 49 (AP 637) at intersection with the 1,600-ft. contour line, NGVD 1929;
thence descending, S. 33°13' W., approxi-mately 550 ft. to
- AP 50 (AP 638) at intersection with the 1,200-ft. contour line, NGVD 1929;
thence along said contour line, easterly, approximately 405 ft. to
- AP 51 (AP 639) at intersection with the thread of an unnamed ravine;
thence along said thread, southwesterly, approximately 565 ft. to
- AP 52 (AP 640) at intersection with the 800-ft. contour line, NGVD 1929;
thence along said contour line, southerly, approximately 13,810 ft. to
- AP 53 (AP 641) at intersection with the line between Rs. 07 and 08 E.;
thence continuing along said contour line, southeasterly, approximately 1,050 ft. to
T. 02 N., R. 08 E.

AP 54 at intersection with the S. line of T. 02 N., R.
(AP 642) 08 E.;

thence continuing along said contour line,
southerly, approximately 1,270 ft. to

T. 02 N., R. 07 E.

AP 55 at intersection with the line between Tps. 02
(AP 643) and 01 N., as depicted on Amended Protraction
Diagram Unit 7 Index, September 23,
1994, records of BLM;

thence continuing along said contour line,
southerly, approximately 2,350 ft. to

AP 56 from which the intersection of the thread of
(AP 644) Eagle Creek with the center line of the 4-
1/2-Mile Bridge bears northwesterly a dis-
tance of 540 ft.;

thence across Eagle Creek, S. 17°08' W.,
approximately 200 ft. to

AP 57 at intersection with the 800-ft. contour line,
(AP 645) NGVD 1929;

thence along said contour line, northwest-
erly, approximately 3,050 ft. to

T. 01 N., R. 07 E.

AP 58 at intersection with the line between Tps. 01
(AP 646) and 02 N.;

thence continuing along said contour line,
northwesterly, approximately 18,500 ft. to

T. 02 N., R. 07 E.

AP 59 at intersection with the crest of a ridge line;
(AP 647) thence ascending said ridge line along the
following general courses;

S. 66°36' W., approximately 670 ft. to

AP 60 S. 37°32' W., approximately 830 ft. to
(AP 648)

AP 61 S. 30°52' W., approximately 635 ft. to
(AP 649)

AP 62 S. 56°24' W., approximately 200 ft. to
(AP 650)

AP 63 S. 00°03' E., approximately 440 ft. to
(AP 651)

AP 64 S. 27°58' W., approximately 195 ft. to
(AP 652)

AP 65 S. 66°26' W., approximately 410 ft. to
(AP 653)

AP 66 S. 74°29' W., approximately 645 ft. to
(AP 654)

AP 67 S. 68°48' W., approximately 550 ft. to
(AP 655)

AP 68 at intersection with the line between Hood
(AP 656) River County and Multnomah County, iden-
tical with the line extending "due south of
the SE cor. of the northeast quarter of sec.
22," as described in O.R.S. 201.140,
amended 1967;

T. 02 N., R. 07 E., Multnomah County

thence continuing along said ridge line, S.
70°19' W., approximately 830 ft. to

AP 69 at intersection with the center line of the
(AP 657) Tanner Butte Trail;

thence along said center line, southerly,
approximately 2,410 ft. to

AP 70 at intersection with the crest of a ridge line;
(AP 658) thence descending along said ridge line the
following general courses:

S. 84°59' W., approximately 1,845 ft. to

AP 71 S. 77°37' W., approximately 1,195 ft. to
(AP 659)

AP 72 N. 75°54' W., approximately 750 ft. to
(AP 660)

AP 73 N. 67°09' W., approximately 1,190 ft. to
(AP 661)

AP 74 at intersection with the center line of Forest
(AP 662) Road 777;

thence on said center line, southerly,
approximately 4,700 ft. to

AP 75 at intersection with the line between Tps. 01
(AP 663) and 02 N.;

thence continuing on said center line, south-
erly, approximately 5,275 ft. to

T. 01 N., R. 07 E.

AP 76 at intersection with the thread of an
(AP 664) unnamed ravine, adjacent to the Tanner
Creek Trailhead;

thence along said thread, westerly, approxi-
mately 620 ft. to

AP 77 at intersection with the thread of Tanner
(AP 665) Creek;

thence ascending on the following courses:
S. 72°47' W. a distance of 1,410 ft. to

AP 78 S. 78°47' W a distance of 1,960 ft. to
(AP 666)

AP 79 S. 04°11' W. a distance of 1,150 ft. to
(AP 667)

AP 80 S. 39°18' W. a distance of 850 ft. to
(AP 668)

- AP 81 (AP 669) the intersection of the 3,200-ft. contour line, NGVD 1929 with the center line of the Bonneville Power Administration (BPA) Wautoma - Ostrander No. 1 Transmission Line; thence on said contour line, westerly and southerly, approximately 13,585 ft. to
- AP 82 (AP 670) at intersection with the easterly extension of the line between secs. 12 and 13, T. 01 N., R. 06 E.; thence on said extension, N. 89°49' W., approximately 3,835 ft. to
- AP 83 (AP 671) the cor. of said secs. 12 and 13 thence on the line between said secs., N. 89°49' W., approximately 5,293 ft. to
- T. 01 N., R. 06 E.**
- AP 84 (AP 672) the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 13 and 14, S. 00°01' E., approximately 5,280 ft. to
- AP 85 (AP 673) the cor. of secs. 13, 14, 23, and 24; thence on the line between said secs. 14 and 23, S. 89°56' W., approximately 2,653 ft. to
- AP 86 (AP 674) the 1/4 cor. of said secs.; thence on the N. and S. center line of said sec. 23, S. 00°01'30" E., approximately 3,960 ft. to
- AP 87 (AP 675) the S1/16 cor. of said sec.; thence on the E. and W. center line of the SW1/4 of said sec., S. 89°56' W., approximately 2,666 ft. to
- AP 88 (AP 676) the S1/16 cor. of secs. 22 and 23; thence on the E. and W. center line of the SE1/4 of said sec. 22, N. 89°42'30" W., approximately 2,647 ft. to
- AP 89 (AP 677) the S1/16 cor. of said sec.; thence on the N. and S. center line of said sec., S. 00°02'30" E., approximately 1,320 ft. to
- AP 90 (AP 678) the 1/4 cor. of secs. 22 and 27; thence on the N. and S. center line of said sec. 27, S. 00°02'30" E., approximately 2,640 ft. to
- AP 91 (AP 679) the C1/4 cor. of said sec.; thence S. 64°22' W., approximately 2,990 ft. to
- AP 92 (AP 680) the intersection of the line between secs. 27 and 28 with the crest of a ridge line; thence ascending said ridge line, southwest-erly, approximately 5,415 ft. to
- AP 93 (AP 681) at intersection with the center line of East Larch Mountain Road; thence on said center line, westerly and northerly, approximately 6,355 ft. to
- AP 94 (AP 682) at intersection with the thread of an unnamed ravine (see Footnote 2); thence along said thread, westerly, approximately 4,185 ft. to
- AP 95 (AP 683) at intersection with the N. and S. center line of sec. 30; thence on said center line, N. 00°02'15" W., approximately 1,115 ft. to
- AP 96 (AP 684) the C1/4 cor. of said sec.; thence on the E. and W. center line of said sec., N. 89°27' W., approximately 2,652 ft. to
- AP 97 (AP 685) the 1/4 cor. of said sec. 30, and sec. 25, T. 01 N., R. 05 E.; thence on the line between said secs., North, approximately 2,643 ft. to
- AP 98 (AP 686) the cor. of secs. 19 and 30, T. 01 N., R. 06 E., and secs. 24 and 25, T. 01 N., R. 05 E.; thence on the line between said secs. 19 and 24, North, approximately 2,640 ft. to
- AP 99 (AP 687) the 1/4 cor. of said secs. 19 and 24; thence on the E. and W. center line of said sec. 24, N. 89°54'30" W., approximately 2,662 ft. to
- T. 01 N., R. 05 E.**
- AP 100 (AP 688) the C1/4 cor. of said sec.; thence on the N. and S. center line of said sec., South, approximately 1,320 ft. to
- AP 101 (AP 689) the S1/16 cor. of said sec.; thence on the E. and W. center line of the SW1/4 of said sec., S. 89°59'45" W., approximately 1,330 ft. to
- AP 102 (AP 690) the SW1/16 cor. of said sec.; thence on the N. and S. center line of the SW1/4 of said sec., South, approximately 1,320 ft. to
- AP 103 (AP 691) the W1/16 cor. of secs. 24 and 25; thence on the line between said secs. S. 89°54' W., approximately 1,330 ft. to
- AP 104 (AP 692) the cor. of secs. 23, 24, 25, and 26; thence on the line between said secs. 25 and 26, South, approximately 5,280 ft. to
- AP 105 (AP 693) the cor. of secs. 25, 26, 35, and 36; thence on the line between said secs. 26 and 35, West, approximately 2,644 ft. to

- AP 106 (AP 694) the 1/4 cor. of said secs.;
thence on the N. and S. center line of said sec. 35, South, approximately 2,640 ft. to
- AP 107 (AP 695) the C1/4 cor. of said sec.;
thence on the E. and W. center line of said sec., West, approximately 2,642 ft. to
- AP 108 (AP 696) the 1/4 cor. of secs. 34 and 35;
thence on the E. and W. center line of said sec. 34, S. 89°50'30" W., approximately 5,302 ft. to
- AP 109 (AP 697) the 1/4 cor. of secs. 33 and 34;
thence on the E. and W. center line of said sec. 33, West, approximately 5,260 ft. to
- AP 110 (AP 698) the 1/4 cor. of secs. 32 and 33;
thence on the E. and W. center line of said sec. 32, S. 89°38'30" W., approximately 5,294 ft. to
- AP 111 (AP 699A) the 1/4 cor. of secs. 31 and 32;
thence on the E. and W. center line of said sec. 31, S. 89°55'30" W., approximately 450 ft. to
- AP 112 (AP 699B) at intersection with the center line of Larch Mountain Road;
thence leaving the aforementioned Exterior Boundary, on said center line, northerly and westerly, approximately 2,325 ft. to
- AP 113 at intersection with the N. and S. center line of the NE1/4 cor. of said sec.;
thence on said center line, North, approximately 1,400 ft. to
- AP 114 at intersection with the line between sec. 30 and said sec. 31;
thence on said line, N. 89°51' W., approximately 3,977 ft. to
- AP 115 the cor. of said secs. 30 and 31, and secs. 25 and 36, T. 1 N., R. 4 E.;
T. 01 N., R. 04 E.
thence on the line between said secs. 25 and 36, West, approximately 100 ft. to
- AP 116 at intersection with the center line of the Historic Columbia River Highway;
thence on said center line, westerly, approximately 4,125 ft. to
- AP 117 at intersection with the center line of the Menucha Retreat Center private access road;
thence on said center line, N. 03°57' E., approximately 895 ft. to
- AP 118 at intersection with the southerly line of that tract of land described in Book 1415 Page 135, records of Multnomah County, Oregon;
thence on said line and westerly extension thereof, westerly, approximately 2,450 ft. to
- AP 119 at intersection with the southerly extension of the westerly line of Parcel 3, Partition Plat 1997-208, records of Multnomah County, Oregon;
thence on said extension and westerly line, N. 04°53'00" E., approximately 1,270 ft. to
- AP 120 the westerly NW cor. of said Parcel;
thence continuing on said Parcel line, N. 89°28'08" E. a distance of 7.6 ft. to
- AP 121 the interior cor. of said Parcel;
thence continuing on said Parcel line and northerly extension thereof, N. 04°53'00" E., approximately 1,100 ft. to
- AP 122 at intersection with the left bank of the Columbia River at Mean Low Water (MLW), the waterward limit of the sand or mud beach or foreshore as depicted in the United States Geological Survey, Washougal, Wash. - Oreg. map, dated 1961, Photorevised 1970 and 1975;
thence along said left bank at MLW, easterly, approximately 6,050 ft. to
- AP 123 at intersection with the line of 122°15' W. longitude as depicted on said map;
thence on said line of longitude, South, approximately 150 ft. to
- AP 124 at intersection with the left bank of the Columbia River at Ordinary High Water Mark (OHWM) as depicted in the United States Geological Survey, Bridal Veil, Oreg. - Wash. map, Provisional Edition 1986;
thence along said left bank at OHWM, easterly, approximately 22,000 ft. to
T. 01 N., R. 05 E.
- AP 125 at intersection with the northwesterly extension of the line between Lots 6 and 7, First Addition to Bridal Veil, records of Multnomah County, Oregon;
thence along said extension and lot line, S. 36°40'12" E., approximately 580 ft. to
- AP 126 at intersection with the northwesterly right-of-way line of the Historic Columbia River Highway;
thence on said right-of-way line, northeasterly, approximately 1,055 ft. to

- AP 127 at intersection with the northwesterly extension of the southwesterly line of that tract of land described in Document 2015-030618, records of Multnomah County, Oregon; thence on said extension and southwesterly line, S. 41°29'08" E., approximately 210 ft. to
- AP 128 the southwesterly cor. of said tract, an interior cor. of Shepperd's Dell State Park, as shown on C.S. 48720, records of Multnomah County, Oregon; thence on the northwesterly line of said park the following courses:
N. 48°30'52" E. a distance of 306.74 ft. to,
- AP 129 S. 41°52'28" E. a distance of 84.85 ft. to
- AP 130 N. 49°08'13" E. a distance of 99.96 ft. to
- AP 131 S. 44°44'40" E. a distance of 153.82 ft. to
- AP 132 N. 55°58'59" E. a distance of 121.03 ft. to
- AP 133 N. 46°53'03" E. a distance of 64.52 ft. to
- AP 134 N. 57°55'56" E. a distance of 218.96 ft. to
- AP 135 S. 87°42'02" E. a distance of 53.31 ft. to
- AP 136 S. 74°47'43" E. a distance of 64.82 ft. to
- AP 137 S. 61°16'14" E. a distance of 43.46 ft. to
- AP 138 S. 64°37'08" E. a distance of 50.41 ft. to
- AP 139 at intersection with a line 20 ft. westerly from, and parallel with, the thread of Coopey Creek, when measured perpendicular thereto; thence along said line, northwesterly, approximately 610 ft. to
- AP 140 at intersection with the line between secs. 14 and 15; thence N. 00°16'29" W., approximately 1,365 ft. to
- AP 141 at intersection with the left bank of the Columbia River at OHWM; thence along said left bank at OHWM, easterly, approximately 34,560 ft. to
T. 01 N., R. 06 E.
- AP 142 from which the cor. of secs. 2 and 3, and secs. 34 and 35, T. 2 N., R. 6. E. bears northeasterly a distance of 1,280 ft.; thence leaving said left bank, S. 41°30' E., approximately 1,545 ft. to
- AP 143 at intersection with the southeasterly right-of-way line of the Columbia River Highway; thence on said right-of-way line, northeasterly, approximately 1,785 ft. to
- AP 144 from which the line between said secs. 2 and 35 bears northerly a distance of 265 ft., when measured perpendicular thereto; thence parallel with said sec. line, S. 89°02'05" E., approximately 855 ft. to
- AP 145 at intersection with the westerly line of that tract of land described in Document No. 2002-026477, and shown in Partition Plat No. 2006-11, records of Multnomah County, Oregon; thence on the westerly line thereof, S. 00°56'38" W., approximately 365 ft. to
- AP 146 the SW cor. of said tract as shown on said plat; thence on the southerly line thereof, S. 89°06'19" E. a distance of 692.18 ft. to
- AP 147 the SE cor. of said tract at intersection with the N. and S. center line of said sec. 2, as shown on said plat; thence on said center line, N. 00°43'02" E., approximately 507 ft. to
- AP 148 at intersection with the southeasterly line of that tract of land described in Book 1,013 Page 446, records of Multnomah County, Oregon; thence on said southeasterly line, northeasterly, approximately 155 ft. to
- AP 149 at intersection with the line between said secs. 2 and 35; thence on said line, easterly, approximately 2,590 ft. to
- AP 150 the cor. of secs. 1 and 2, T. 1 N., R. 6 E., and secs. 35 and 36, T. 2 N., R. 6 E.; thence on the line between said secs. 1 and 36, easterly, approximately 5,325 ft. to
- AP 151 the cor. of said sec. 36, and sec. 31, T. 2 N., R. 7 E.; thence on the line between said secs., northerly, approximately 3,820 ft. to
- AP 152 at intersection with the left bank of the Columbia River at OHWM;
T. 02 N., R. 07 E.
thence along said left bank at OHWM, easterly, approximately 12,200 ft. to
- AP 153 {AP 3B} at intersection with a line extending West from the center line of the Union Pacific Railroad at Engineers Station 2091+64.3 Point of Spiral, identical with AP 3B of the North Bonneville Urban Area (UA) Legal Boundary Description; thence on said UA Boundary, East, approximately 165 ft. to

- AP 154 {AP 3A} at intersection with said center line; thence on said center line, northeasterly, approximately 2,224 ft. to
- AP 155 {AP 2} at intersection with the line between secs. 21 and 28; thence on said line, N. 89°20' E., approximately 2,910 ft. to
- AP 156 {AP 1} the cor. of secs. 21, 22, 27, and 28; thence on the line between said secs. 21 and 22, N. 0°16' W., approximately 1,340 ft. to
- AP 157 {AP 55} at intersection with a line 40 ft. southerly, when measured perpendicular thereto, from the westbound center line of Interstate 84; thence parallel, and 40 ft. southerly from, said center line, N. 69°06' E., approximately 1,020 ft. to
- AP 158 {AP 54} at intersection with the right-of-way line of Interstate 84 where the east and westbound lanes separate on the westerly side of Tooth Rock Tunnel; thence N. 47°38' E., approximately 634 ft. to
- AP 159 {AP 53} at intersection with the left bank of the Columbia River at BNPE thence along said left bank at BNPE, leaving said North Bonnevill UAB, northeasterly, approximately 12,350 ft. to
- T. 02 N., R. 07 E., Hood River County**
- AP 160 {AP 26} at intersection with the E. and W. center line of the NW1/4 of sec. 13, identical with the Cascade Locks UA Boundary and Cascade Locks Urban Growth Boundary (UGB); thence on said center line, identical with said boundaries, N. 89°00' E., approximately 1,230 ft. to
- AP 161 {AP 25} the NW1/16 cor. of said sec.; thence on the N. and S. center line of said NW1/4, S. 00°10'32" E. a distance of 654.21 ft. to
- AP 162 {AP 24} the northwesterly cor. of that tract of land described in Deed Book 72 Page 26, records of Hood River County, Oregon, as shown in C.S. 2006082, records of Hood River County, Oregon; thence leaving said UGB, on the E. and W. center line of the SE1/4 of said NW1/4, N. 89°36'59" E. a distance of 655.65 ft. to
- AP 163 {AP 23} the northeasterly cor. of said tract, as shown in said C.S.; thence on the N. and S. center line of said SE1/4 NW1/4, identical with the westerly line of that tract of land described in Warranty Deed 701515, records of Hood River County, Oregon, N. 00°08'37" W. a distance of 455.05 ft. to
- AP 164 {AP 22} the northwesterly cor. of said tract; thence on the northerly line thereof, N. 89°32'14" E. a distance of 435.55 ft. to
- AP 165 {AP 21} the southwesterly cor. of that tract of land described in Warranty Deed 661324, as shown in C.S. No. 2006082, records of Hood River County, Oregon; thence on the westerly line thereof, N. 00°08'18" W. a distance of 199.98 ft. to
- AP 166 {AP 20} the northwesterly cor. of said tract, as shown in said C.S.; thence on the northerly line thereof, N. 89°32'14" E. a distance of 220.26 ft. to
- AP 167 {AP 19} the N1/16 cor. of said sec., as shown in said C.S., and rejoining said UGB; thence on the N. and S. center line of said sec. and said boundaries, N. 00°08'26" W. a distance of 1,313.2 ft. to
- AP 168 {AP 18} the 1/4 cor. of sec. 12 and said sec. 13, as shown in C.S. No. 96015, records of Hood River County, Oregon; thence on the line between said secs., N. 88°22' E. a distance of 2,618.7 ft. to
- AP 169 {AP 17} the cor. of said secs. 12 and 13, and secs. 7 and 18, T. 02 N., R. 08 E.;
- T. 02 N., R. 08 E.**
- thence on the line between said secs. 7 and 12, N. 01°06' 04" W. a distance of 1,320.60 ft. to
- AP 170 {AP 16} the S1/16 cor. of said secs.; thence on the line between two unnumbered lots (NW1/4 SW1/4 and SW1/4 SW1/4) of said sec. 7, N. 88°11' E., approximately 1,320 ft. to
- AP 171 {AP 15} the cor. of said unnumbered lots and lots 1 and 2 of said sec. 7; thence on the line between said unnumbered lot (NW1/4 SW1/4) and said lot 1, N. 00°12' E., approximately 1,320 ft. to
- AP 172 {AP 14} the northerly cor. of said lots; thence on the E. and W. center line of said sec., N. 89°01' E., approximately 2,640 ft. to

- AP 173 {AP 13} the center E1/16 cor. of said sec.;
thence on the N. and S. center line of the NE1/4 of said sec., N. 00°27' W., approximately 1,320 ft. to
- AP 174 {AP 12} the NE1/16 cor. of said sec.;
thence on the E. and W. center line of said NE1/4, leaving said UGB, S. 89°40' E., approximately 1,320 ft. to
- AP 175 {AP 11} the N1/16 cor. of said sec. 7, and sec. 8;
thence on the line between said secs., northerly, approximately 20 ft. to
- AP 176 {AP 10} at intersection with the southeasterly line of the BPA Bonneville-The Dalles Transmission Line easement;
thence on said southeasterly line, N. 57°09' E., approximately 2,483 ft. to
- AP 177 {AP 9} at intersection with the line between secs. 5 and 8, rejoining said UGB;
thence on said line and said boundaries, N. 89°36'59" E., approximately 510 ft. to
- AP 178 {AP 8} the 1/4 cor. of said secs., as shown in C.S. No. 93070, records of Hood River County, Oregon;
thence on the N. and S. center line of said sec. 5, leaving said UGB, N. 00°00'48" E. a distance of 329.46 ft. to
- AP 179 {AP 7} the NW cor. of the S1/2 SW1/4 SW1/4 SE1/4 of said sec., established in said C.S.;
thence on the E. and W. center line of the SW1/4 SW1/4 SE1/4 of said sec., N. 89°36'14" E. a distance of 654.19 ft. to
- AP 180 {AP 6} the NE cor. of said S1/2 SW1/4 SW1/4 SE1/4, as shown in said C.S.;
thence on the N. and S. center line of the SW1/4 SE1/4 of said sec., S. 00°01'21" E. a distance of 329.21 ft. to
ft
- AP 181 {AP 5} the SE cor. of the W1/2 SW1/4 SE1/4 of said sec., as shown in said C.S., rejoining said UGB;
thence on the line between said secs. 5 and 8, easterly, approximately 654.4 ft. to
- AP 182 {AP 4} the E1/16 cor. of said secs.;
thence on the N. and S. center line of the SE1/4 of said sec. 5, leaving said UGB, N. 00°03'30" W., approximately 1,080 ft. to
- AP 183 {AP 3} at intersection with the southerly line of the BPA Bonneville-The Dalles Transmission Line easement;
thence on said easement line, N. 58°40' E., approximately 1,530 ft. to
- AP 184 {AP 2} at intersection with the line between secs. 4 and 5,
thence on said line, rejoining said UGB, N. 01°25'36" E., approximately 3,315 ft. to
- AP 185 {AP 1B} at intersection with the northerly extremity of Government Rock Road at BNPE, identical with the left bank of the Columbia River at BNPE, from which the cor. of said secs. 4 and 5, and secs. 32 and 33, T. 03 N., R. 08 E., as shown in C.S. 99018, records of Hood River County, Oregon, bears N. 01°25'36" E., approximately 27.03 ft.;
thence leaving aforementioned UA Boundary and UGB, along said left bank at BNPE, easterly, 73,550 ft. to
- T. 03 N., R. 08 E.**
- T. 03 N., R. 09 E.**
- T. 03 N., R. 10 E.**
- AP 1 the **Point of Beginning**
the Area being 48,025 Acres, more or less.
- SOURCE MAPS AND DOCUMENTS:
1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:
 - a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
 - b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
 - c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.
 2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.
 - a. USFS Map 2
 - b. USFS Map 3
 - c. USFS Map 4
 - d. USFS Map 6
 - e. USFS Map 7
 - f. USFS Map 8
 - g. USFS Map 10
 - h. USFS Map 12
 3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

2. AP 94 to AP 97 were located with deference given to the 1986 Congressional Maps. The 1986 maps clearly depict the Exterior Boundary of the NSA following Larch Mountain Road to an unnamed ravine, downstream along the ravine and then subdivision of sec. lines. The 1987 USFS Map (Sheet 4) does not clearly depict these locations and appears to be random in its location of the NSA line. Utilizing the 1986 map location is consistent with line location throughout the boundary.

Columbia River Gorge National Scenic Area
Gates of the Columbia River, Sandy River Delta
Special Management Area
Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP). The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as Gates of the Columbia River, Sandy River Delta Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-

663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 1 North, Range 3 East, and
Township 1 North, Range 4 East, of the Willamette Meridian, in Multnomah County, Oregon.

T. 01 N., R. 04 E.

- AP 1 **Beginning** at the point of intersection of the left bank of the Columbia River at Mean Low Water (MLW), the waterward limit of the sand or mud beach or foreshore as depicted in the United States Geological Survey, Camas, Wash. - Oreg. and Washougal, Wash. - Oreg., 1961, photorevised 1970 and 1975, with the line between lots 1 and 2 of sec. 27;
Latitude 45°32'31.7" N. Longitude 122°17'45.4" W.
thence on said line, South, approximately 1,200 ft. to
- AP 2 the north line of the tract of land described in Instrument No. 2005-218219, records of Multnomah County, Oregon, and the easterly extension thereof;
thence on said line, N. 88°39'40" E., approximately 1,317 ft. to
- AP 3 at intersection with the line between secs. 26 and 27;
thence on said line, South, approximately 800 ft. to
- AP 4 at intersection with the center line of Chamberlain Road;
thence on said center line, westerly and southerly, approximately 9,340 ft. to
- AP 5 at intersection with the line between secs. 28 and 33;
thence on said line, West, approximately 1,600 ft. to
- AP 6 the cor. of secs. 28, 29, 32, and 33;
thence on the line between said secs. 29 and 32, West, approximately 5,287 ft. to
- AP 7 the cor. of secs. 29, 30, 31, and 32;
thence on the line between said secs. 29 and 30, North, approximately 1,320 ft. to
- AP 8 the S1/16 cor. between said secs.;
thence on the E. and W. center line of the S1/2 of said sec. 30, N. 89°57'15" W., approximately 5,283 ft. to
- AP 9 the S1/16 cor. between said sec. 30 and sec. 25, T. 01 N., R. 03 E.;

T. 01 N., R. 03 E..

thence on the E. and W. center line of the SE1/4 of said sec. 25, West, approximately 850 ft. to

AP 10
(AP 716) at intersection with the left bank of the Sandy River at Ordinary High Water Mark (OHWM), identical with AP 716 of the Exterior Legal Boundary Description; thence along said left bank at OHWM and the northerly extension thereof, along said Exterior Boundary, northerly, approximately 17,510 ft. to

AP 11
(AP 717) at intersection with the left bank of the Columbia River at MLW; thence along said left bank at MLW, easterly, approximately 1,000 ft. to

AP 12
(AP 718) at intersection with a line perpendicular to the Oregon-Washington State Line at River Mile 0 of the Sandy River; thence leaving said Exterior Boundary, continuing on said left bank at intersection with MLW, easterly, approximately 34,000 ft. to

AP 1 the Point of Beginning

the Area being 4,083 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:

a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);

b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);

c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 1
- b. USFS Map 2

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

Columbia River Gorge National Scenic Area
Rowena Special Management Area
Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to

the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP). The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Rowena Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 2 North, Range 12 East,

Township 2 North, Range 13 East, and

Township 3 North, Range 12 East, of the Willamette Meridian, in Wasco County, Oregon.

T. 02 N., R. 12 E.

AP 1
(AP 489) **Beginning** at the 1/4 cor. of secs. 13 and 14, identical with AP 489 of the Exterior Legal Boundary Description; Latitude 45°39'24.3" N. Longitude 121°16'25.1" W.

thence on the line between said secs., on said Exterior Boundary, North, approximately 2,640 ft. to

AP 2
(AP 490) the cor. of secs. 11, 12, 13, and 14; thence on the line between said secs. 11 and 14, N. 89°46' W., approximately 5,244 ft. to

AP 3
(AP 491) the cor. of secs. 10, 11, 14, and 15; thence on the line between said secs. 10 and 15, N 89°30' W., approximately 5,264 ft. to

- AP 4 (AP 492) the cor. of secs. 9, 10, 15, and 16; thence leaving said Exterior Boundary, on the line between said secs. 9 and 10, North, approximately 5,280 ft. to
- AP 5 the cor. of secs. 3, 4, 9, and 10; thence on the line between said secs. 4 and 9, West, approximately 5,280 ft. to
- AP 6 the cor. of secs. 4, 5, 8, and 9; thence on the line between said secs. 5 and 8, West, approximately 3,960 ft. to
- AP 7 the W1/16 cor. between said secs.; thence on the N. and S. center line of the SW1/4 of said sec. 5, North, approximately 2,640 ft. to
- AP 8 the W1/16 cor. of said sec.; thence on the E. and W. center line of said sec., West, approximately 1,320 ft. to
- AP 9 the 1/4 cor. of secs. 5 and sec. 6; thence on the line between said secs., North, approximately 2,640 ft. to
- AP 10 the cor. of said secs. 5 and 6 and secs. 31 and 32, T. 3 N., R. 12 E.; thence on the line between said secs. 6 and 31, West, approximately 2,555 ft. to
- AP 11 at intersection with the east line of the Richard Marshal Donation Land Claim (DLC) No. 39; thence on said DLC line and northerly extension thereof, North, approximately 2,645 ft. to
- T. 03 N., R. 12 E.,**
- AP 12 at intersection with the left bank of the Columbia River at Bonneville Normal Pool Elevation 72 ft., National Geodetic Vertical Datum of 1929 (NGVD 1929) (BNPE) (See Footnote 1); thence along said left bank at BNPE, and southeasterly extension thereof, crossing the mouth of Salisbury Slough, easterly, approximately 26,000 ft. to
- T. 02 N., R. 12 E.,**
- AP 13 at intersection with the line between Lots 9 and 10, Map of Rowena, Slide No. A-005, records of Wasco County, Oregon; thence on the line between said lots and continuing on the line between lots 5, 6, 7, and 8; and lots 11, 12, and 13; South, approximately, 1,730 ft. to
- AP 14 at intersection with the southerly right-of-way line of Interstate 84; thence on said right-of-way line, northwesterly, approximately 2,130 ft. to
- AP 15 at intersection with the N. and S. center line of the NW1/4 of sec. 11; thence on said line, South, approximately 1,265 ft. to
- AP 16 the NW1/16 cor. of said sec.; thence on the E. and W. center line of said NW1/4, East, approximately 470 ft. to
- AP 17 at intersection with the west line of the George R. Snipes DLC, No. 37; thence on said west line, South, approximately 195 ft. to
- AP 18 the SW cor. of said DLC, identical with the SW cor. of Lot 6, said Map of Rowena; thence on the south line of said DLC, identical with the south line of said Lot, East, approximately 1,320 ft. to
- AP 19 the SE cor. of said Lot 6; thence on the east line thereof, N. 0°35'08" E., approximately 130 ft. to
- AP 20 the SW cor. of that tract of land described in Statutory Warranty Deed 2013-000006, records of Wasco County; thence on the south line of said tract and easterly extension thereof, as shown on C.S. Book 7, Page 47, records of Wasco County, Oregon, S. 89°31'37" E. a distance of 834.65 ft. to
- AP 21 at intersection with the line between Lots 13 and 14, said Map of Rowena, identical with the N. and S. center line of the NE1/4 of sec. 11; thence on said line, S. 00°35'08" W., approximately 70 ft. to
- AP 22 the SW cor. of said Lot 14; thence on the southerly line and southeasterly extension thereof, S. 69°50'17" E. a distance of 1,145.87 ft. to
- AP 23 at intersection with the westerly line of Lot 25, said Map of Rowena; thence on said westerly line, S. 20°09'43" W. a distance of 99.95 ft. to
- AP 24 the SW cor. of said Lot 25; thence on the southerly line thereof, S. 66°45'14" E. a distance of 289.53 ft. to
- AP 25 at intersection with the line between secs. 11 and 12; thence on said line, South, a distance of 582.38 ft. to

- AP 26 the 1/4 cor. of said secs.;
thence on the south line of that tract of land described in Deed Book 134 Page 560, records of Wasco County, Oregon, East, approximately 660 ft. to
- AP 27 the westerly NW cor. of Parcel 3, Partition Plat 92-0031, records of Wasco County, Oregon,
thence South, approximately 900 ft. to
- AP 28 the SW cor. of said Parcel 3;
thence on the south line thereof, East, approximately 604.12 ft. to
- AP 29 the SE cor. of said Parcel 3, identical with the west line of that tract of land described in Statutory Warranty Deed 2015-003649, records of Wasco County, Oregon;
thence on said west line, South, approximately 445 ft. to
- AP 30 the SW cor. of said tract;
thence S. 72°00'00" E. a distance of 479.84 ft. to
- AP 31 an interior cor. in the west line of Adjusted Parcel 2, Property Line Adjustment Plat 2013-0003, records of Wasco County, Oregon;
thence on said west line, South, a distance of 110.10 ft. to
- AP 32 the SW cor. of said Parcel 2;
thence on the south line of said Parcel 2 and easterly extension thereof, S. 89°52'13" E., approximately 2,870 ft. to
- AP 33 at intersection with the line between Lots 73 and 74, said Map of Rowena, from which the South cor. of said Lots bears South 1,035.54 ft.;
thence on said line, North, approximately 86 ft. to
- AP 34 at intersection with the westerly extension of the south line of the Josiah Marsh DLC No. 42;
thence on said westerly extension, East, approximately of 660 ft. to
- AP 35 the westerly SW cor. of said DLC;
T. 02 N., R. 13 E.
thence on the south line thereof, East, approximately 3,960 ft. to
- AP 36 at intersection with the line between Lots 60 and 63;
thence on said line and the line between Lots 61 and 62, said Map of Rowena, North, approximately 830 ft. to
- AP 37 at intersection with the left bank of the Columbia River at BNPE;
thence along said left bank at BNPE, easterly, approximately 3,950 ft. to
- AP 38 at intersection with the east line of the aforementioned Marsh DLC;
thence South, approximately 800 ft. to
- AP 39 the SE cor. of said DLC;
thence S. 24°50' W. a distance of 1,805 ft. to
- AP 40 thence S. 05°03' E., approximately 955 ft. to
- AP 41 at intersection with the E. and W. center line of sec. 17;
thence on said center line, West, approximately 1,565 ft. to
- AP 42 the 1/4 cor. of sec. 17 and sec. 18;
thence on the E. and W. center line of said sec. 18, West, approximately 5,280 ft. to
- AP 43 the 1/4 cor. of said sec. 18 and sec. 13, T. 02 N., R. 12 E.;
thence on the E. and W. center line of said sec. 13, West, approximately 4,205 ft. to
T. 02 N., R. 12 E.
- AP 44 (AP 488) at intersection with the thread of an unnamed ravine, identical with AP 488 of the Exterior Legal Boundary Description; thence continuing on said E. and W. center line, on said Exterior Boundary, West, approximately 1,075 ft. to
the **Point of Beginning**
- AP 1 (AP 489) also including that portion of Lots 41, 43, 45, 48, 49, and Lots 52, 53, 56, 57, 58, and 61, T. 02 N., R. 13 E., said Map of Rowena, lying northerly of the northerly right-of-way line of the Union Pacific Railroad and above BNPE on the left bank of the Columbia River.
- the Area being 4,848 Acres, more or less.
- SOURCE MAPS AND DOCUMENTS:
1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:
 - a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
 - b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
 - c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).
 These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.
 2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based upon the Congressional Maps. The Commission and U.S.

Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 18
- b. USFS Map 21

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTE:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

Columbia River Gorge National Scenic Area
Wind Mountain Special Management Area Legal Boundary
Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. Islands of the Columbia River, defined as Special Management Areas in the Act creating the Columbia River Gorge National Scenic Area (CRGNSA), are not described in this description. This description notes where it is identical with and where it leaves the Exterior Boundary and Urban Area (UA) boundaries of the CRGNSA. Exterior Boundary Angle Points are shown in parentheses (AP) and Urban Area boundary Angle Points are shown in braces {AP}. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this scenic area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems

(GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Wind Mountain Special Management Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(b), 100 Stat. 4274, 4276 (1986), located in portions of:

Township 3 North, Range 8 East,

Township 3 North, Range 9 East,

Township 4 North, Range 8 East,

Township 4 North, Range 9 East, and

Township 4 North, Range 10 East, of the Willamette Meridian, in Skamania County, Washington.

T. 03 N., R. 08 E.

- AP 1 (AP 81B) and {AP 2} **Beginning** at the intersection of the line between secs. 8 and 17 with the 560-ft contour line, National Geodetic Vertical Datum (NGVD) 1929, identical with AP 81B of the Exterior Legal Boundary Description and AP 2 of the Carson Urban Area (UA) Legal Boundary Description; Latitude 45°45'17.5" N. Longitude 121°49'39.3" W. thence leaving said UA Boundary, on the line between said secs. 8 and 17, on said Exterior Boundary, S. 88°24' E., approximately 469 ft. to
- AP 2 (AP 82A) the S1/4 cor. of said sec. 8; thence continuing on the line between said secs. 8 and 17, S. 87°02' E., approximately 2,928 ft. to
- AP 3 (AP 82B) the SE cor. of said sec. 8; thence on the east line of said sec. 8, north-erly, approximately 4,871 ft. to
- AP 4 (AP 83) the cor. of secs. 5 and 8; thence on the east line of said sec. 5, N. 00°14' W., approximately 600 ft. to
- AP 5 (AP 84) at intersection with the crest of a ridge line; thence ascending along said ridge line, east-erly, approximately 1,700 ft. to
- AP 6 (AP 85) the summit of a minor peak; thence continuing along said ridge line, easterly, approximately 1,735 ft. to
- AP 7 (AP 86) the summit of a minor peak; thence continuing along said ridge line, easterly, approximately 1,080 ft. to
- AP 8 (AP 87) the summit of a minor peak; thence S. 42°38' E., approximately 750 ft. to
- AP 9 (AP 88) at intersection with the center line of N.F. Road 6808; thence on said center line, easterly, approxi-mately 3,000 ft. to

- AP 10 (AP 89) at intersection with the center line of N.F. Road 016; thence ascending N. 52°45' E., approximately 830 ft. to
- AP 11 (AP 90) at intersection with the crest of a ridge line; thence descending along ridge line, easterly, approximately 1,380 ft. to
- AP 12 (AP 91) a saddle in said ridge line; thence ascending along said ridge line, easterly, 1,435 ft. to
- AP 13 (AP 92) the summit of a minor peak; thence descending along the crest of a ridge line, easterly, approximately 1,070 ft. to
- AP 14 (AP 93) a saddle in said ridge line; thence ascending along said ridge line, easterly, approximately 610 ft. to
- AP 15 (AP 94) the summit of a minor peak; thence descending along the crest of a ridge line, easterly, approximately 1,000 ft. to
- AP 16 (AP 95) a saddle in said ridge line; thence ascending along said ridge line, easterly, approximately 1,110 ft. to
- AP 17 (AP 96) the summit of a minor peak; thence descending along the crest of a ridge line, northeasterly, approximately 930 ft. to
- AP 18 (AP 97) a saddle in said ridge line; thence ascending along said ridge line, northeasterly, approximately 730 ft. to
- AP 19 (AP 98) the summit of a minor peak; thence descending along the crest of a ridge line, easterly, approximately 590 ft. to
- AP 20 (AP 99) a saddle in said ridge line; thence N. 12°24' E., approximately 740 ft. to
- AP 21 (AP 100) at intersection with the center line of an unnamed primitive road; thence N. 18°49' E., approximately 510 ft. to
- AP 22 (AP 101) at intersection with the center line of an unnamed primitive road; thence ascending N. 38°36' E., approximately 725 ft. to
- AP 23 (AP 102) at intersection with the crest of a ridge line; thence ascending along said ridge line, northeasterly, approximately 2,550 ft. to
- AP 24 (AP 103) the summit of a minor peak; thence descending along the crest of a ridge line, northeasterly, approximately 1,650 ft. to
- T. 04 N., R. 08 E.**
- AP 25 (AP 104) at intersection with N.F. Road 6808, identical with Triangle Pass; thence ascending along said ridge line, easterly, approximately 1,475 ft. to
- T. 04 N., R. 09 E.**
- AP 26 (AP 105) the summit of a minor peak; thence along the crest of a ridge line, easterly, approximately 3,090 ft. to
- AP 27 (AP 106) the summit of a minor peak; thence descend along the crest of a ridge line, southeasterly, approximately 1,375 ft. to
- AP 28 (AP 107) at intersection with the north line of sec. 6, T. 03 N., R. 09 E.; thence on the north line of said sec. 6, East, approximately 610 ft. to
- AP 29 (AP 108) the cor. of secs. 5 and 6; thence on the north line of said sec. 5, East, approximately 1,313 ft. to
- AP 30 (AP 109) the W1/16 cor. on the north line of said sec. 5; thence on the N. and S. center line of the W1/2 of said sec. 5, S. 00°01' E., approximately 5,275 ft. to
- T. 03 N., R. 09 E.**
- AP 31 (AP 110) the W1/16 cor. between secs. 5 and 8; thence on the line between said secs., West, approximately 1,320 ft. to
- AP 32 (AP 111) the cor. of secs. 5, 6, 7, and 8; thence on the line between said secs. 7 and 8, S. 00°01' E., approximately 5,280 ft. to
- AP 33 (AP 112) the cor. of secs. 7, 8, 17, and 18; thence on the line between said secs. 8 and 17, N. 89°43' E., approximately, 775 ft. to
- AP 34 (AP 113) at intersection with the crest of a ridge line; thence ascending along said ridge line, southeasterly, approximately 440 ft. to
- AP 35 (AP 114) the summit of Augspurgen Mountain; thence along the crest of a ridge easterly and southeasterly, approximately 14,160 ft. to
- AP 36 (AP 115) the summit of Cook Hill; thence descend along the crest of a ridge line, northeasterly, approximately 1,665 ft. to
- AP 37 (AP 116) at intersection of the center line of an unnamed primitive road with the thread of an unnamed ravine to the southeast; thence leaving the aforementioned Exterior Boundary, along said thread, southeasterly, approximately 5,380 ft. to

AP 38 at intersection with the center line of Cook - Underwood Road; thence along said center line, southerly, approximately 5,920 ft. to

AP 39 at intersection with the line between secs. 27 and 34; thence on said line, N. 88°38'53" W. a distance of 2,300 ft. to

AP 40 thence South, approximately 1,200 ft. to

AP 41 at intersection with the right bank of the Columbia River at Bonneville Normal Pool Elevation 72 ft., National Geodetic Vertical Datum of 1929 (NGVD 1929) (BNPE) (See Footnote 1); thence along said right bank at BNPE, westerly, approximately 29,500 ft. to

T. 03 N., R. 08 E.

{AP 13B} AP 42 at intersection with the line between AP 13A and AP 14 of the Home Valley UA Legal Boundary Description, or the southerly extension thereof; thence on said line, on said UA Boundary, N. 05° E., approximately 335 ft. to

{AP 13A} AP 43 the south most point of the center line of Viewpoint Road; thence easterly, approximately 1,060 ft. to

{AP 12} AP 44 at intersection of the line between the NW1/4NE1/4 and lot 3, sec. 35, with the 400-ft. contour line, NGVD 1929; thence along said contour line, northerly, approximately 2,060 ft. to

{AP 11} AP 45 at intersection with the center line of Rike Road; thence on said center line, northerly, approximately 510 ft. to

{AP 10} AP 46A at intersection with the center line of Wind Mt. Road; thence along said center line, northeasterly, approximately 510 ft. to

{AP 9} AP 46B at intersection with the NW cor. of that tract of land described in Doc. No. 2015-160037, records of Skamania Co., WA; thence leaving said UA Boundary, continuing on said center line, northerly, approximately 1,350 ft. to

AP 47 at intersection with the center lines of Home Valley Cut-off Road and an unnamed private roadway; thence on the center line of said unnamed roadway, northerly, approximately 180 ft. to

AP 48 at intersection with the N. and S center line of sec. 26; thence on said line, northerly, approximately 2,600 ft. to

AP 49 the 1/4 cor. of sec. 23 and said sec. 26; thence on the N. and S. center line of said sec. 23, northerly, a distance of 4,500 ft. to

AP 50 thence West, approximately 2,000 ft. to

AP 51 at intersection with the center line of the natural gas pipeline easement; thence along said center line, southwesterly, approximately 7,980 ft. to

AP 52 at intersection with the right bank of the Wind River at Ordinary High Water Mark (OHWM), identical with AP 7 of the Carson UA Boundary; thence along said right bank at OHWM, along said UA Boundary, northerly, approximately 2,330 ft. to

{AP 7} AP 53 at intersection with the E. and W. center line of sec. 21; thence on said center line, westerly, approximately 545 ft. to

{AP 5} AP 54 at intersection with the 400-ft. contour line, NGVD 1929; thence along said contour, northwesterly, approximately 9,815 ft. to

{AP 4} AP 55 at intersection with the crest of a ridge line; thence along said ridge line, southwesterly, approximately 510 ft. to

{AP 3} AP 56 at intersection with the 560-ft. contour line BN 1929; thence along said contour line, northwesterly, approximately, 2,110 ft. to

AP 1 **the Point of Beginning**
(AP 81B)
and
{AP 2}

the Area being 17,319 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. The following maps referenced in the Columbia River Gorge National Scenic Area Act:
 - a. Boundary Map, Columbia River Gorge National Scenic Area, NSA-001 sheets 1 and 2 (September 1986);
 - b. Special Management Areas, Columbia River Gorge National Scenic Area, SMA-002 sheets 1 through 17 (September 1986);
 - c. Urban Areas, Columbia River Gorge National Scenic Area, UA-004 sheets 1 through 11 (September 1986).

These maps were reviewed for consistency with the USFS Maps (see 2. below) for this description.

2. In January 1987, the United States Forest Service developed maps, sheets 1 through 29 (USFS Maps) based

upon the Congressional Maps. The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 8
- b. USFS Map 9
- c. USFS Map 10
- d. USFS Map 11

3. Reference documents, including relevant recorded surveys, plats, deeds, and decisions are, with this reference, made a part of this description. Copies of all source maps and reference documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTE:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

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

AMENDATORY SECTION

350-10-030C Appendix C

**APPENDIX C TO COMMISSION RULE 350-10
LEGAL BOUNDARY DESCRIPTIONS FOR THE
COLUMBIA RIVER GORGE NATIONAL SCENIC AREA
URBAN AREAS**

Columbia River Gorge National Scenic Area
Carson Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves the Exterior and Special Management Area (SMA) Boundaries of the Columbia River Gorge National Scenic Area (CRGNSA). Exterior Boundary Angle Points are shown in parentheses (AP) and Special Management Area Boundary Angle Points are shown in brackets [AP]. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are

intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Carson Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 3 North, Range 8 East, of the Willamette Meridian, Skamania County, Washington.

T. 03 N., R. 08 E.

- AP 1
(AP 81A) **Beginning** at the corner of sections 7, 8, 17, and 18, identical with AP 81A of the Columbia River Gorge National Scenic Area Exterior Legal Boundary Description; Latitude: 45°45'17.6" N., Longitude: 121°50'8.7" W.; thence on the line between said sections 8 and 17, on and identical with said Exterior Boundary, S. 88°29'10" E., approximately 2,120 ft. to
- AP 2
(AP-81B)
[AP 1] at intersection with the 560-ft. ~~foot~~ contour line, (National Geodetic Vertical Datum of 1929 (NGVD 1929 N.G.V.D. 29)) , identical with AP 81B of said Exterior Legal Boundary Description and AP-1 of the Wind Mountain Special Management Area (SMA) Legal Boundary Description; thence leaving said Exterior Boundary along said 560-ft. ~~foot~~ contour line, on said SMA Boundary, southeasterly, approximately 2,110 ft. to
- AP 3
[AP 56] at intersection with the crest of a ridge running downhill to the northeast; thence leaving said 560-ft. ~~foot~~ contour line descending along the line of steepest downhill gradient, northeasterly, approximately 510 ft. to
- AP 4
[AP 55] at intersection with the 400-ft. ~~foot~~ contour line (N.G.V.D. 29 NGVD 1929); thence along said 400-ft. ~~foot~~ contour line, southeasterly, approximately 9,815 ft. (See Footnote 3) to

- AP 5
[AP 54] at intersection with the E. and W. center line of ~~sec. tion~~ 21; thence on said E. and W. center line, easterly, approximately 545 ft. (See Footnote 3) to
- AP 6
[AP 53] at intersection with the Ordinary High Water Mark (~~O.H.W.M.~~ OHWM) on the right bank of the Wind River; thence along said ~~O.H.W.M.~~ OHWM downstream, southerly, approximately 2,330 ft. to
- AP 7
[AP 52] at intersection with the center line of the natural gas pipeline crossing the Wind River; thence leaving said SMA Boundary, and said ~~O.H.W.M.~~ OHWM crossing the Wind River, southeasterly, approximately 595 ft. to
- AP 8 at intersection with the line between ~~secs. tions~~ 22 and 27 and the center line of a Wind River boat launch access road (not Indian Cabin Road); thence southerly, approximately 600 ft. to
- AP 9 at intersection with the line between ~~secs. tions~~ 27 and 28 and center line of the Bonneville Power Administration (~~B.P.A.~~ BPA) Bonneville-Coulee transmission line easement; thence on said center line, S. 61°30'30" W., approximately 1,395 ft. to
- AP 10 on said center line; thence continuing on said center line, N. 88°27'45" W., approximately 750 ft. to
- AP 11 at intersection with the northerly extension of the east line of that tract of land described in Book 162, Page 979, records of Skamania County, Washington; thence leaving said center line on said extension and east line, S. 00°01'11" W., approximately 1,000 ft. to
- AP 12 at intersection with the easterly extension of the south line of that tract of land described in Auditor's File No. 2006-161403, records of Skamania County, Washington; thence on said extension and south line, N. 89°50'14" W., approximately 500 ft. to
- AP 13 at intersection with the center line of the ~~B.P.A.~~ BPA Carson Tap ~~B.P.A.~~ BPA transmission line easement; thence on said center line, S. 00°09'50" W., approximately 519.2 ft. to
- AP 14 thence continuing on said center line, N. 89°44'30" W., approximately 2,886.7 ft. to
- AP 15 thence continuing on said center line, N. 80°12'30" W., approximately 1,116 ft. to
- AP 16 thence continuing on said center line, N. 37°54'10" W., approximately 392.9 ft. to
- AP 17 at intersection with the center line of the Wind River Road; thence on said center line, southwesterly, approximately 1,505 ft. to
- AP 18 at intersection with the N. and S. center line of ~~sec. tion~~ 29; thence on said N. and S. center line, N. 00°59'45" E., approximately 2,035 ft. to
- AP 19 at intersection with the crest of a ridge line; thence leaving said N. and S. center line ascending along the line of steepest uphill gradient, northwesterly, approximately 960 ft. to
- AP 20 at intersection with the 800-~~ft. foot~~ contour line (~~N.G.V.D. 29~~ NGVD 1929); thence along said 800-~~ft. foot~~ contour line, northerly, approximately 7,715 ft. to
- AP 21 at intersection with the line between ~~secs. tions~~ 19 and 20; thence on said line between ~~secs. tions~~ 19 and 20, N. 01°30'19" E., approximately 275 ft. to
- AP 22 the ~~corner~~ of ~~secs. tions~~ 17, 18, 19, and 20; thence on the line between ~~secs. tions~~ 17 and 18, N. 01°29'54" E. a distance of 2,616.63 ft. to
- AP 23 the 1/4 ~~corner~~ of ~~secs. tions~~ 17 and 18; thence continuing on the line between ~~secs. tions~~ 17 and 18, N. 00°57'51" E. a distance of 2,643.38 ft. to
- AP 1
(AP 81A) the ~~corner~~ of ~~secs. tions~~ 7, 8, 17, and 18 and **Point of Beginning, identical with the aforementioned Exterior Legal Boundary Description.**
- the Area being 1,880 Acres, more or less.
- SOURCE MAPS AND DOCUMENTS:
1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):
 - a. Sheet 2
 - b. Sheet 3
 2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.
 - a. USFS Map 8
 - b. USFS Map 9

3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. The primary references for this description are the USFS 1987 Map Set, Sheets 8 and 9, and the 1986 Act Map Set UA-004, Sheets 2 and 3.

2. No significant differences are noted between the two reference maps. A significant portion of the Act Map was obliterated by a sticky note.

3. The southern end of the AP 4 to AP 5 call, running along the 400 contour and the AP 5 to AP 6 call, is substantially consistent with the May 16, 1994 planning map initiated by Gorge Commission staff as a SMA/UA Boundary Determination. The Commission staff determination shows undimensioned straight line segments which appears intended to mimic the USFS Carson UA Map. Upon further review, including the Carson Act Map, the intent appears to use the 400 ft. contour. This description follows the contour to and then on the east and west center line of section 21.

Columbia River Gorge National Scenic Area

Cascade Locks Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves Special Management Area (SMA) Boundaries of the Columbia River Gorge National Scenic Area (CRGNSA). Special Management Area Boundary Angle Points are shown in brackets [AP]. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. feet horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Cascade Locks Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986,

Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 7 East,

Township 2 North, Range 8 East, and

Township 3 North, Range 8 East, of the Willamette Meridian, Hood River County, Oregon.

T. 02 N., R. 08 E.

AP 1A **Beginning** at the corner of sections 4 and 5, T. 02 N., R. 08 E. and sections 32 and 33, T. 03 N., R. 08 E., re-established by Professional Land Surveyor (~~P.L.S.~~) No. 2209 in 1992; monumented with an aluminum post and 3-1/2" aluminum cap, as shown in County Survey (~~C.S.~~ CS) No. 93070, records of Hood River County, Oregon; Latitude 45°41'27.5" N. Longitude 121°50'24.4" W. thence on the line between said sections 4 and 5, identical with United States Forest Service (USFS) Map 8, Act Map 3, and the Cascade Locks Urban Growth Boundary (~~C.L.~~ CL UGB), S. 00°40' W. S. 01°25'36" W., approximately 3,350 27.03 ft. to

AP 1B
[AP 185] at intersection with the northerly extremity of Government Rock Road at Bonneville Normal Pool Elevation 72 ft., National Geodetic Vertical Datum of 1929 (BNPE) (See Footnote 1), identical with the left bank of the Columbia River at BNPE, identical with AP 185 of the Gates of the Columbia River, Oregon Falls Special Management Area (SMA) Legal Boundary Description; thence leaving said left bank at BNPE, on said SMA Boundary, continuing on said sec. line, S. 01°25'36" W., approximately 3,315 ft. to

AP 2
[AP 184] at intersection with the southerly line of the Bonneville Power Administration (BPA) Bonneville-The Dalles Transmission Line easement, thence on said easement line, leaving the ~~C.L.~~ CL UGB, S. 58°40' W., approximately 1,530 ft. to

AP 3
[AP 183] at intersection with the N. and S. center line of the SE1/4 of said section 5 (See Footnote + 2); thence on said N. and S. center line, S. 00°03'30" E., approximately 1,080 ft. to

AP 4
[AP 182] the E1/16 corner of sections 5 and 8; thence on the line between sections 5 and 8, S. 89°34'58" W. a distance of 654.4 ft. to

- AP 5
[AP 181] the SE corner of the W1/2 SW1/4 SE1/4 of section 5, established by PLS 2209 in 1992, as shown in ~~C.S.~~ CS No. 93070, records of Hood River County, Oregon; monumented with an aluminum post and 3-1/4" aluminum cap;
thence on the N. and S. center line of the SW1/4 SE1/4 of section 5, N. 00°01'21" W. a distance of 329.21 ft. to
- AP 6
[AP 180] the NE corner of the S1/2 SW1/4 SW1/4 SE1/4 of section 5, established in said ~~C.S.~~ CS No. 93070; monumented with an aluminum post and 3-1/4" aluminum cap;
thence on the E. and W. center line of the SW1/4 SW1/4 SE1/4 of section 5, S. 89°36'14" W. a distance of 654.19 ft. to
- AP 7
[AP 179] the NW corner of said S1/2 SW1/4 SW1/4 SE1/4 of section 5, established in said ~~C.S.~~ CS No. 93070; monumented with an aluminum post and 3-1/4" aluminum cap;
thence on the N. and S. center line of section 5, S. 00°00'14" W. a distance of 329.46 ft. to
- AP 8
[AP 178] the 1/4 corner of sections 5 and 8, perpetuated by United States Department of Agriculture (~~U.S.D.A.~~) in 1987, as shown in said ~~C.S.~~ CS No. 93070; monumented with an iron post and 3-1/4" brass cap;
thence on the line between sections 5 and 8, S. 89°36'59" W., approximately 510 ft. to at intersection with the southeasterly line of the BPA Bonneville-The Dalles Transmission Line easement, identical with USFS Map 8 and Act Map 3;
thence on said southeasterly easement line, identical with USFS Map 8, S. 57°09' W., approximately 2483 ft. to
- AP 9
[AP 177] at intersection with the line between sections 7 and 8 (See Footnote 2);
thence on the line between sections 7 and 8, southerly, approximately 20 ft. to
- AP 10
[AP 176] the N1/16 corner of sections 7 and 8
thence on the E. and W. center line of the NE1/4 of section 7, joining the ~~C.L.~~ CL UGB, N. 89°40' W., approximately 1,320 ft. to
- AP 11
[AP 175] the NE1/16 corner of section 7;
thence on the N. and S. center line of the NE1/4 of section 7, S. 00°27' E., approximately 1,320 ft. to
- AP 12
[AP 174] the center E1/16 corner of section 7;
thence on the E. and W. center line of section 7, S. 89°01' W., approximately 2,640 ft. to
- AP 13
[AP 173] the northerly corner of lot 1 and an unnumbered lot (NW1/4 SW1/4) of section 7;
thence on the line between said lots, S. 00°12' W., approximately 1,320 ft. to
- AP 14
[AP 172] the corner of lots 1, 2, an unnumbered lot (NW1/4 SW1/4), and an unnumbered lot (SW1/4 SW1/4) of section 7;
thence on the line between said unnumbered lots, S. 88°11' W., approximately 1,320 ft. to the S1/16 corner of section 7, T. 02 N., R. 08 E. and section 12, T. 02 N., R. 07 E.;
thence on the line between said sections 7 and 12, S. 01°06'04" E. a distance of 1,320.60 ft. to
T. 02 N., R. 07 E.
- AP 15
[AP 171] the corner of sections 7 and 18, T. 02 N., R. 08 E., and sections 12 and 13, T. 02 N., R. 07 E.;
thence on the line between sections 12 and 13, S. 88°22' W. a distance of 2,618.7 ft. to the 1/4 corner of sections 12 and 13, as shown in ~~C.S.~~ CS No. 96015, records of Hood River County, Oregon; monumented with an iron post and brass cap;
thence on the N. and S. center line of section 13 (See Footnote 2), S. 00°08'26" E. a distance of 1,313.2 ft. to
- AP 16
[AP 170] the N1/16 corner of section 13, as shown in ~~C.S.~~ CS No. 2006-082, records of Hood River County, Oregon; monumented with an iron post and 3-in. brass cap;
thence on the E. and W. center line of the NE1/4 of section 13 (See Footnote 3), S. 89°32'14" W. a distance of 220.26 ft. to the northwesterly corner of that property described in Warranty Deed No. 661324, and shown in ~~C.S.~~ CS No. 98030, records of Hood River County, Oregon; monumented with a 5/8" iron rod with plastic cap;
thence on the westerly line of said property, S. 00°08'18" E. a distance of 199.98 ft. to
- AP 17
[AP 169] the southwesterly corner of said property, as shown in ~~C.S.~~ CS No. 98030, records of Hood River County, Oregon; monumented with a 5/8" iron rod with plastic cap;
thence on the northerly line of that property described in Warranty Deed No. 701515, records of Hood River County, Oregon, S. 89°32'14" W. a distance of 435.55 ft. to
- AP 18
[AP 168]
- AP 19
[AP 167]
- AP 20
[AP 166]
- AP 21
[AP 165]

- AP 22
[AP 164] the northwesterly corner of said property, as shown in ~~C.S.~~ CS No. 98030, records of Hood River County, Oregon; monumented with a 5/8" iron rod with plastic cap; thence on the N. and S. center line of the SE1/4 NW1/4 of section 13, identical with the westerly line of said property, S. 00°08'37" E. a distance of 455.05 ft. to
- AP 23
[AP 163] the southwesterly corner of said property, as shown in the aforementioned ~~C.S.~~ CS No. 2006-082; monumented with a 5/8" iron rod with yellow plastic cap; thence on the E. and W. center line of the SE1/4 NW1/4 of section 13, S. 89°36'59" W. a distance of 655.65 ft. to
- AP 24
[AP 162] the northwesterly corner of the property described in Warranty Deed Book 72 Page 26, records of Hood River County, Oregon, as shown in said ~~C.S.~~ CS 2006-082; monumented with a 5/8" iron rod with yellow plastic cap; thence on the N. and S. center line of the NW1/4 of section 13, N. 00°10'32" W. a distance of 654.21 ft. to
- AP 25
[AP 161] the NW1/16 corner of section 13, as shown in said ~~C.S.~~ CS No. 2006-082; monumented with an iron post and 3" brass cap; thence on the E. and W. center line of the NW1/4 of section 13, S. 89°00' W., approximately 1,230 ft. to
- AP 26
[AP 160] at intersection with the left bank of the Columbia River at ~~Bonneville Normal Pool Elevation (B.N.P.E.), elevation 72 ft., National Geodetic Vertical Datum of 1929 (N.G.V.D. 29) BNPE;~~ thence leaving the aforementioned SMA Boundary along the left bank at ~~B.N.P.E. BNPE,~~ northeasterly, approximately 2,750 ft. to
- AP 27 at intersection with the southwesterly line of that property conveyed to the Port of Cascade Locks described in Deed Book 52 Page 551, as shown in ~~C.S.~~ CS No. 2008-065, records of Hood River County, Oregon; thence on a line across the water, N. 45°45' W., approximately 340 ft. to
- AP 28 at intersection with the southwesterly most extremity of Thunder Island at ~~B.N.P.E. BNPE;~~ thence along the northwesterly shore of Thunder Island at ~~B.N.P.E. BNPE,~~ northeasterly, approximately 1,420 ft. to
- AP 29 from which the northwesterly corner of Thunder Island bears northeasterly, approximately 720 ft.; thence on a line across the water, westerly from a small island and group of rock outcroppings, N. 45° W., approximately 435 ft. to
- AP 30 at intersection with the meander line of lot 4, from which the north most northwesterly meander corner of lot 4 bears N. 46°00' E., approximately 367 ft.; thence on said meander line, N. 46°00' E. approximately 367 ft. to
- AP 31 said north most northwesterly meander corner of lot 4; thence on a line across the water, S. 45° E., approximately 390 ft. to
- AP 32 at intersection with the northwesterly shore of Thunder Island, at ~~B.N.P.E. BNPE;~~ thence along said northwesterly shore at ~~B.N.P.E. BNPE,~~ northeasterly, approximately 340 ft. to
- AP 33 at the northwesterly corner of Thunder Island at ~~B.N.P.E. BNPE;~~ thence along the northerly shore of Thunder Island at ~~B.N.P.E. BNPE,~~ S. 84° E., approximately 85 ft. to
- AP 34 the northeasterly corner of Thunder Island at ~~B.N.P.E. BNPE;~~ thence on a line across the water, N. 60° E., approximately 960 ft. to
- AP 35 at intersection with the northerly most extremity of the eastern peninsula of the Port of Cascade Locks Marina, at ~~B.N.P.E. BNPE;~~ thence along the left bank of the Columbia River at ~~B.N.P.E. BNPE,~~ easterly, approximately 7,100 ft. to
T. 02 N., R. 08 E.
- AP 36 at intersection with the northerly extension of the line between lots 2 and 3 of section 6, T. 02 N., R. 08 E.; thence on a line across the water, N. 53° E., approximately 1,890 ft. to
- AP 37 the northwesterly most extremity of the northerly spit in lot 1, section 6, at ~~B.N.P.E. BNPE;~~ thence along the northerly shore of the spit and peninsula, at ~~B.N.P.E. BNPE;~~ in sections 6 and 5, northeasterly, approximately 3,200 ft. to

- AP 38 the northerly most extremity of said peninsula at ~~B.N.P.E.~~ BNPE; thence on a line across the water, N. 45° E., approximately 1,080 ft. to
- AP 39 at intersection with the north most northwesterly corner of the peninsula in lot 1, section 5, at ~~B.N.P.E.~~ BNPE; thence along the northerly shore of said peninsula at ~~B.N.P.E.~~ BNPE, easterly, a distance of 275 ft. to
- AP 40 the north most northeasterly corner of said peninsula; thence on a line across the water, N. 62° E., approximately 440 ft. to
- AP 41 at intersection with the westerly shore of Quarry Island, at ~~B.N.P.E.~~ BNPE; thence along the westerly and northerly shores of Quarry Island, including the spit at the northwesterly point, at ~~B.N.P.E.~~ BNPE northwesterly and easterly approximately 3,420 ft. to
- T. 03 N., R. 08 E.**
- AP 42 at intersection with the line between sections 32, T. 03 N., R. 08 E. and section 5, T. 02 N., R. 08 E., as shown in ~~C.S.~~ CS No. 99018, records of Hood River County, Oregon; thence on said line between sections 32 and 5, S. 89°35' E. approximately 20 ft. to
- AP 1 the **Point of Beginning**

the Area being 1,581 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004 (Congressional or Act Maps)
 - a. Sheet 1
 - b. Sheet 3
2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description. The USFS maps appear to have very few differences from the earlier Act Maps.
 - a. USFS Map 7
 - b. USFS Map 8
3. Memorandum from Jonathan Doherty, Columbia River Gorge Commission, to Gorge Commissioners, dated November 10, 1997, to Gorge Commissioners, records of Columbia River Gorge Commission, White Salmon, Washington, about "Review of Urban Area Mapping Discrepancies." These mapping discrepancies were addressed in later agreements.

4. "Final Order of the Columbia River Gorge Commission (Modified) Minor Urban Area Boundary Revision - City of Cascade Locks UA-98-01," dated April 16, 2001.

5. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. AP 3 to AP 9, held the "Final Order of the Columbia River Gorge Commission (Modified) Minor Urban Area Boundary Revision - City of Cascade Locks UA-98-01," dated April 16, 2001, records of Columbia River Gorge Commission, White Salmon, Washington.

2. AP 3 to AP 9 and AP 10 to AP 25; held the "Final Order of the Columbia River Gorge Commission (Modified) Minor Urban Area Boundary Revision - City of Cascade Locks UA-98-01," dated April 16, 2001, records of Columbia River Gorge Commission, White Salmon, Washington.

Columbia River Gorge National Scenic Area
Dallesport Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Dallesport Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 13 East, of the Willamette Meridian, Klickitat, County Washington

T. 02 N., R. 13 E.

- AP 1 **Beginning** at the corner of sections 13, 14, 23, and 24, monumented with an iron post with a brass cap on top in a mound of stones perpetuated by the U.S. Army Corps of Engineers;
Latitude: 45°39'03.0" N., Longitude: 121°08'07.5" W.;
thence on the line between sections 23 and 24, S. 01°00'14" W., approximately 265 ft. to
- AP 2 at intersection with the center line of Washington State Route 14;
thence on said center line, easterly, approximately 2,957 ft. to
- AP 3 at intersection with center line of Horse Thief Lake State Park access road;
thence on said access road center line, southeasterly, approximately 1,329 ft. (See Footnote 1) to
- AP 4 at intersection with a line 1,100 ft. westerly of when measured perpendicular thereto from the line between T. 02 N., Rs. 13 and 14 E.;
thence on a line parallel with and 1,100 ft. distant westerly from said line, southerly, approximately 8,641 ft. to
- AP 5 at intersection with the Washington-Oregon state line;
thence on said state line more specifically described by the following courses:
S. 48°47' W., approximately 250 ft. to
- AP 6 thence S. 21°46' E., approximately 1,950 ft. to
- AP 7 thence S. 59°42' W., approximately 1,545 ft. to
- AP 8 thence S. 46°19' W. a distance of 2,925 ft. to
- AP 9 thence leaving said state line, N. 51°55' W. a distance of 889 ft. (See Footnote 2) to
- AP 10 thence S. 89°47' W., approximately 1,540 ft. to
- AP 11 at intersection with aforementioned state line;
thence on said state line, S. 46°27' W., approximately 445 ft. to
- AP 12 at intersection with the center line of U.S. Highway 197;
thence on said center line, northwesterly, approximately 790 ft. to
- AP 13 at intersection with the right bank of the Columbia River at Bonneville ~~Pool~~ Normal Pool Elevation (~~B.N.P.E.~~); 72 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D.-29~~) (BNPE) (See Footnote 3);
thence along said right bank at ~~B.N.P.E.~~ BNPE, southwesterly, approximately 990 ft. to
- AP 14 said point being South of the intersection of the west right-of-way line of aforementioned U.S. Highway 197 and the center line of Dallesport County Road;
thence South, approximately 1,815 ft. to
- AP 15 at intersection with said west right-of-way line of U.S. Highway 197 and center line of Dallesport County Road;
thence on said center line, westerly, approximately 8,345 ft. to
- AP 16 at intersection with the center line of Old Ferry County Road;
thence on said center line of Old Ferry County Road, southwesterly, approximately 1,620 ft. to
- AP 17 at intersection with the line between sections 33 and 34;
thence on the line between said sections 33 and 34, southerly, approximately 545 ft. to
- AP 18 at intersection with the aforementioned right bank of the Columbia River at ~~B.N.P.E.~~ BNPE;
thence along said right bank at ~~B.N.P.E.~~ BNPE, northwesterly a distance of 1,817 ft. to
- AP 19 thence leaving said right bank N. 30° E., approximately 710 ft. to
- AP 20 at intersection with the center line of the Burlington Northern Santa Fe Railroad right-of-way at a point 1,241 ft. northwesterly on said center line from the intersection with the center line of aforementioned Old Ferry County Road;
thence on said railroad center line, northerly, approximately 14,965 ft. to
- AP 21 at intersection with the center line of the Bonneville Power Administration (~~B.P.A.~~ BPA) The Dalles - Goldendale transmission line easement;
thence on said center line, northeasterly, approximately 645 ft. to

- AP 22 thence leaving said center line, N. 08°50'55" W. a distance of 2,235.12 ft., as shown on Amendment to Short Plat No. SP-97-35, recorded at Auditor's File No. (~~A.F.N.~~ AFN) 1024369, records of Klickitat County, Washington, (See Footnote 4) to
- AP 23 at intersection with the center line of a private farm access road and monumented with a 5/8" x 30" iron rod with 2-1/2" aluminum cap set in said Amendment to Short Plat No. SP-97-35 See Footnote 5);
thence on said center line more specifically described by the following courses:
N. 16°04'54" E. a distance of 99.66 ft. to
- AP 24 thence N. 01°46'25" E. a distance of 105.56 ft. to
- AP 25 thence N. 27°36'50" W. a distance of 55.45 ft. to
- AP 26 thence N. 12°23'07" W. a distance of 106.19 ft. to
- AP 27 thence N. 15°43'12" W. a distance of 79.56 ft. to
- AP 28 thence N. 06°25'57" E. a distance of 89.91 ft. to
- AP 29 thence N. 04°33'26" W. a distance of 92.07 ft. to
- AP 30 thence N. 13°35'39" W. a distance of 85.32 ft. to
- AP 31 thence N. 00°50'25" W. a distance of 111.96 ft. to
- AP 32 at intersection with the south most ~~corner~~ of Lot 1, Boundary Line Adjustment BLA 2012-04, recorded at ~~A.F.N.~~ AFN 1101083, records of Klickitat County, Washington, and monumented with a 5/8" x 30" iron rod (See Footnote 6);
thence on the line between Lots 1 and 2, said BLA 2012-04, more specifically described by the following courses:
N. 55°55'00" E. a distance of 200.12 ft. to
- AP 33 at intersection with the southwesterly right-of-way line of Elm Street monumented with a 5/8" x 30" iron rod;
thence on said right-of-way line, N. 34°05'00" W. a distance of 60.00 ft. to
- AP 34 at intersection with the northwesterly right-of-way line of Mt. Hood Street identical with the line between said Lot 1 and Lot 2, BLA 2012-04 monumented with a 5/8" x 30" iron rod;
thence on the line between said Lots 1 and 2 more specifically described by the following courses:
N. 38°46'27" W. a distance of 89.77 ft. to
- AP 35 a 5/8" x 24" iron rod;
thence N. 85°00'28" W. a distance of 44.94 ft. to
- AP 36 a 5/8" x 24" iron rod;
thence N. 04°59'31" E. a distance of 333.47 ft. to
- AP 37 at intersection with the E. and W. center line of ~~sec. tion~~ 16 and monumented with a 5/8" x 24" iron rod;
thence on said E. and W. center line, S. 88°44'04" E., approximately 997 ft. to
- AP 38 at intersection with an existing fence (See Footnote 7);
thence on said fence, N. 07°23'17" E., approximately 733.73 ft. to
- AP 39 at intersection with an angle point in said fence and monumented with a 5/8" x 30" iron rod with yellow plastic cap inscribed "B BESEDA PLS 35092" as shown in survey recorded at ~~A.F.N.~~ AFN 1115674, records of Klickitat County, Washington;
thence leaving said fence, S. 43°14'51" E. a distance of 2,135.26 ft. to
- AP 40 a 5/8" x 30" iron rod with yellow plastic cap inscribed "B BESEDA PLS 35092" as set in said ~~A.F.N.~~ AFN 1115674;
thence S. 76°35'58" E. a distance of 1,112.42 ft. to
- AP 41 at intersection with the center line of the Schreiner Farms paved access road;
thence on said center line, southerly, approximately 1,630 ft. to
- AP 42 at intersection with the line between ~~secs. tions~~ 16 and 21;
thence on the line between ~~secs. tions~~ 16 and 21, S. 88°48'27" E., approximately 710 ft. to
- AP 43 to the ~~corner~~ of ~~secs. tions~~ 15, 16, 21, and 22 perpetuated with a 5/8" x 30" iron rod with 1-1/2" aluminum cap inscribed "PLS 15673" (See Footnote 8);
thence on the line between ~~secs. tions~~ 15 and 22, S. 88°54'24" E. a distance of 2,664.97 ft. to

- AP 44 the 1/4 corner of sections 15 and 22 perpetuated with an axle in a mound of stones; thence continuing on the line between sections 15 and 22, N. 88°54'27" E. a distance of 2,663.58 ft. to
- AP 45 the corner of sections 14, 15, 22, and 23 perpetuated with a nail set in the top of a notched stone (See Footnote 9); thence on the line between sections 14 and 23, S. 88°48'37" E. a distance of 2,645.39 ft. to
- AP 46 the 1/4 corner of sections 14 and 23 and monumented with a stone notched "1/4"; thence continuing on the line between sections 14 and 23, S. 88°21'34" E., approximately 11 ft. to
- AP 47 at intersection with an existing fence; thence on said fence, northeasterly, approximately 1,825 ft. to
- AP 48 at intersection with the E. and W. center line of the southeast 1/4 of section 14; thence on said E. and W. center line, easterly, approximately 1,430 ft. to
- AP 49 at intersection with the line between sections 13 and 14; thence on the line between sections 13 and 14, southerly, approximately 1,322 ft. to
- AP 1 the **Point of Beginning**.

the Area being 6,427 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

- a. Sheet 8
- b. Sheet 9

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 20
- b. USFS Map 21
- c. USFS Map 22
- d. USFS Map 23

3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This dimension off of the east line of section 24 used in the AP 3 to AP 4 call is scaled from USFS CRGNSA Urban Area Map 23.

2. For the course in the UA line to AP 9, it is not clear why Congress elected to deviate from continuing to run along

the State line. Both the USFS and Act Maps clearly show that the line in this area does not follow the State line.

3. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

24. The call from AP 22 to AP 23 is per the resolution shown on Amendment to Short Plat No. SP-97-35, recorded July 6, 2001 at AF No.1024369, records of Klickitat County, and runs to an existing farm road. D. Peoples appears to have the correct location of AP 22. The quad maps used in 1985 reflected 1973 aerial photography and would have reflected the road location Peoples monumented. Review of the Gorge Commission files on Urban Area decision revealed a 1997 survey by Land Development Consultants, Inc. (Robert Oquist, PLS) for Dale Jones. This survey was not recorded with Klickitat County. It locates the UA line through the same area as Amendment to Short Plat No. SP-97-35. This survey locates the line by using a bluff and bisecting a house. It also references a November 9, 1992 Gorge Commission determination.

35. AP 23 to AP 32 are as depicted on the plat of Columbia Vineyards Subdivision, recorded June 19, 2007 at AF No.1070858, records of Klickitat County. Line courses L1 through L10 on this plat reflect the field surveyed location of the original farm road but could only verify this by field survey.

46. AP 32 to AP 36 follow the Urban Area Boundary line, as shown on Boundary Line Adjustment BLA 2012-04, as recorded January 8, 2013, at ~~A.F.N.~~ AFN 1101083, records of Klickitat County, Washington. The line location is consistent with C.R.G.C. No. COA-K-11-02, Final Order and Opinion. The surveyed line and final order reflect an agreed to location for the Urban Area line through the then Arndt Living Trust property.

~~5. The Bonneville Dam Normal Pool is listed as elevation 72 ft. on the N.S.A. Boundary Quad maps.~~

~~6. This dimension off of the east line of section 24 used in the AP 3 to AP 4 call is scaled from USFS CRGNSA Urban Area Map 23.~~

7. The calls and monuments in AP 38 to AP 41 are per the survey for John Grim & Associates, recorded at ~~A.F.N.~~ AFN 1115674, records of Klickitat County, Washington.

8. The calls and monuments in AP 43 to AP 45 are per the survey for Webster Orchards, recorded at ~~A.F.N.~~ AFN 1112592, records of Klickitat County, Washington.

9. The call and monuments in AP 45 to AP 47 are per the Binding Site Plan for the Port of Klickitat, recorded at ~~A.F.N.~~ AFN 1107846, records of Klickitat County, Washington.

Columbia River Gorge National Scenic Area
Home Valley Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves Special Management Area (SMA)

Boundaries of the Columbia River Gorge National Scenic Area (CRGNSA). Special Management Area Boundary Angle Points are shown in brackets [AP]. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Home Valley Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 3 North, Range 8 East, of the Willamette Meridian, Skamania County, Washington

T. 03 N., R. 08 E.

- | | | | |
|-------------|--|--|---|
| <p>AP 1</p> | <p>Beginning at the intersection of the center line of Washington State Route 14 and the right bank of the Columbia River at Bonneville Normal Pool Elevation (B.N.P.E. elevation 72 ft., National Geodetic Vertical Datum of 1929 (N.G.V.D. 29 NGVD 1929) (BNPE) (See Footnote 1); Latitude: 45°42'56.8" N., Longitude: 121°47'28.8" W. thence at said B.N.P.E. BNPE easterly and northerly, approximately 2,500 ft. to</p> | <p>AP 4</p> | <p>at intersection with the center lines of Berge and Indian Cabin Roads; thence on the center line of Berge Road, easterly, approximately 1,615 ft. to</p> |
| <p>AP 2</p> | <p>the terminus of said B.N.P.E. BNPE at left bank of the Wind River, identical with beginning of the Ordinary High Water Mark (O.H.W.M. OHWM); thence along said O.H.W.M. OHWM northerly a distance of 1,117 ft. to</p> | <p>AP 5</p> | <p>a point on said center line being at the northmost point in a curve deflecting said center line from a northeast to southeast direction; thence leaving said center line, N. 73° E., approximately 410 ft. to</p> |
| <p>AP 3</p> | <p>on said left bank (See Footnote 2); thence leaving said left bank, S. 70°E., approximately 635 ft. to</p> | <p>AP 6</p> | <p>at intersection with the 480-ft. foot contour line (N.G.V.D. 29 NGVD 1929); thence southeasterly, approximately 1,405 ft. to</p> |
| | | <p>AP 7</p> | <p>at intersection with the east line of the Robins Donation Land Claim (D.L.C.) No. 38, at a point being northerly on said line, a distance of 100 ft. from the center line of Home Valley Cut-off Road; thence on said east line, S. 01°02' W., approximately 1,655 ft. to</p> |
| | | <p>AP 8</p> | <p>at the northwest corner of that tract of land described in Document No. 2015-160037, records of Skamania County, Washington; thence leaving said east line on the north line of said tract of land and extension thereof, easterly, approximately 2,685 ft. to</p> |
| | | <p>AP 9
[AP 46B]</p> | <p>at intersection with the center line of Wind Mt. Road, identical with AP 46B of the <u>Wind Mountain Special Management Area (SMA) Legal Boundary Description</u>; thence on said center line, <u>on said SMA Boundary</u> southwesterly approximately 510 ft. to</p> |
| | | <p>AP 10
[AP 46A]</p> | <p>at intersection with the center line of Rike Road intersecting the south side of said Wind Mt. Road; thence on the center line of said Rike Road, southeasterly, approximately 510 ft. to</p> |
| | | <p>AP 11
[AP 45]</p> | <p>at intersection with the 400-ft. foot contour line (N.G.V.D. 29 NGVD 1929); thence along said 400-ft. foot contour line, southerly, approximately 2,060 ft. to</p> |
| | | <p>AP 12
[AP 44]</p> | <p>at intersection with the line between the NW1/4 of the NE1/4 and Lot 3, section 35; thence leaving said 400-ft. foot contour, westerly, approximately 1,060 ft. to</p> |
| | | <p>AP 13A
[AP 43]
AP 13B
[AP 42]</p> | <p>the southmost point of the center line of Viewpoint Road; thence S. 05° W., approximately 335 ft. to <u>at intersection with the right bank of the Columbia River at BNPE</u>; <u>thence leaving said SMA Boundary, S. 05° W., approximately 40 ft. to</u></p> |

- AP 14 at intersection with the southerly right-of-way line of the Burlington Northern/Santa Fe Railroad right-of-way; thence on said southerly right-of-way line, northwesterly, approximately 3,585 ft. to
- AP 15 at intersection with northwest corner of the U.S.A. Home Valley Park property; thence on the northerly and westerly lines of said property, westerly and southerly a distance of 1,310 ft. to
- AP 16 a point on said west line; thence leaving said west line, East a distance of 106 ft. to
- AP 17 thence N. 12°13' E. a distance of 90 ft. (See Footnote 3) to
- AP 18 thence S. 86°10' E. a distance of 94 ft. to
- AP 19 thence S. 49°23' E. a distance of 444 ft. to
- AP 20 thence N. 27°02' E. a distance of 522 ft. to
- AP 21 thence N. 79°55' E. a distance of 108 ft. to
- AP 22 thence S. 00°15' E. a distance of 525 ft. to
- AP 23 thence S. 37°41' E. a distance of 143 ft. to
- AP 24 thence S. 24°51' W. a distance of 184 ft. to
- AP 25 thence S. 01°30' E. approximately 239 ft. to
- AP 26 at intersection with aforementioned ~~B.N.P.E.~~ BNPE; thence along aforementioned right bank of the Columbia River at said ~~B.N.P.E.~~ BNPE, southwesterly, approximately 153 ft. to
- AP 27 at the easterly side of a small bay; thence crossing the mouth of said small bay, northwesterly, approximately 345 ft. to
- AP 28 at the south most point on the westerly side of said small bay at said ~~B.N.P.E.~~ BNPE; thence along aforementioned right bank of the Columbia River at said ~~B.N.P.E.~~ BNPE, westerly, approximately 6,260 ft. to
- AP 1 at intersection with said center line of State Route 14 and **Point of Beginning**.

the Area being 551 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

a. Sheet 3

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

a. USFS Map 8

3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. The Normal Pool Elevation of the Bonneville Dam is 72 ft. (N.G.V.D. 29) as shown on the USFS 1987 Map Set, Sheet 8.

2. AP 3 to AP 5 are substantially consistent with the June 2, 1993 planning map initialed by Commission staff as a Boundary Determination. The Act map shows more of a point at Angle Point 3 which this description mimics. The Commission staff determination shows an east and west line segment of 150 ft.

23. From AP 17 to AP 27 the UAB was scaled from the USFS 1986 Map, Sheet 8, and 1987 Act Map UA-004, Sheet 3. The maps are very similar and the UA line cannot be correlated to known lines or features. The calls from Angle Points 17 to 27 are random. Site investigation may yield a reason for this line location.

3. AP 3 to AP 5 are substantially consistent with the June 2, 1993 planning map initialed by Commission staff as a Boundary Determination. The Act map shows more of a point at Angle Point 3 which this description mimics. The Commission staff determination shows an east and west line segment of 150 ft.

Columbia River Gorge National Scenic Area Hood River Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves the Exterior Boundary of the Columbia River Gorge National Scenic Area (CRGNSA). Exterior Boundary Angle Points are shown in parentheses (AP). The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain

corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 feet horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Hood River Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 10 East,

Township 3 North, Range 10 East, and

Township 3 North, Range 11 East, of the Willamette Meridian, Hood River County, Oregon.

T. 03 N., R. 11 E.

- AP 1 **Beginning** at intersection of the easterly line of the Nathan L. Benson Donation Land Claim (~~D.L.C.~~ DLC) No. 37 with the left bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~, elevation 72 ft., National Geodetic Vertical Datum 1929 (~~N.G.V.D.-29~~) (BNPE) (See Footnote 1);
Latitude: 45°36'39.6" N., Longitude: 121°07'37.2" E.
thence on said easterly line (See Footnote 2), S. 01°11' E., approximately 500 ft. to
- AP 2 at intersection with the southerly right-of-way line of the Union Pacific Railroad; thence on said southerly right-of-way line, S. 82°18' E., approximately 750 ft. to
- AP 3 at intersection with the line between lots 1 and 2, sec~~tion~~s 30; thence on the line between lots 1 and 2, identical with the Hood River Urban Growth Boundary (H.R. UGB) (See Footnote 2), S. 01°10' E., approximately 467 ft. to
- AP 4 the southerly cor~~ner~~ of said lots 1 and 2; thence on the line between sec~~tion~~s 30 and 31, westerly, a distance of 1,063.65 ft. to
- AP 5 the northwest cor~~ner~~ of that property described in Warranty Deed No. 862185, and shown in County Survey (~~C.S.~~ CS) No. 89106, records of Hood River County, Oregon; thence leaving the line between sec~~tion~~s 30 and 31, on the westerly line of said property, S. 01°27' W., approximately 196 ft. to

- AP 6 at intersection with the northeasterly right-of-way line of the Historic Columbia River Highway; thence on said right-of-way line, northwesterly, approximately 710 ft. to
- AP 7 the southeast cor~~ner~~ of that property described in Warranty Deed Book 46 Page 300, records of Hood River County, Oregon; thence on the southwesterly line of said property, N. 71°29' W., approximately 208 ft. to
- AP 8 the southerly most southwest cor~~ner~~ of said property, on the northeasterly right-of-way line of the aforementioned Historic Highway; thence on said right-of-way line, northwesterly, approximately 100 ft. to
- AP 9 the northerly most southwest cor~~ner~~ of said property; thence on the west line thereof, northerly, approximately 10 ft. to
- AP 10 the northerly most cor~~ner~~ of said property, at intersection with the line between sec~~tion~~s 30 and 31; from which the point of intersection of said sec~~tion~~ line with the southeasterly right-of-way line of the aforementioned Historic Highway bears N. 89°47'00" W., on said sec~~tion~~ line, a distance of 158.03 ft., as shown in ~~C.S.~~ CS No. 83025, records of Hood River County, Oregon; thence N. 26°55' W. a distance of 220.7 ft. to
- AP 11 a 1/2" iron rod as shown in said ~~C.S.~~ CS No. 83025, at intersection with the northeasterly right-of-way of said Historic Highway; thence on a line radial to the right-of-way curve, southwesterly a distance of 60 ft. to
- AP 12 at intersection with the southerly right-of-way line of said Historic Highway; thence on said southerly right-of-way line, continuing through the intersection with the Mount Hood Highway 35, westerly, approximately 850 ft. to
- T. 03 N., R. 10 E.**
- AP 13 at intersection with the easterly terminus of the southerly right-of-way line of realigned United States Highway 30, as shown in Highway Drawings 3B-15-8 and 9B-2-19, records of Oregon Department of Transportation;

- thence on said southerly right-of-way line, identical with USFS Map 28, across the Hood River, westerly, approximately 600 ft. to
- AP 14 at intersection with the westerly right-of-way line of the Mount Hood Railroad; thence on said right-of-way line, southerly, approximately 1,660 ft. to
- AP 15 at intersection with the E. and W. center line of the NE1/4 of section 36; thence on said center line, S. 89°31'09" W., approximately 1,290 ft. to
- AP 16 the northwesterly corner of that property shown in ~~C.S.~~ CS No. 892769, records of Hood River County, Oregon; thence on the westerly line and southerly extension thereof, as shown in ~~C.S.~~ CS No. 1995-111, records of Hood River County, Oregon, S. 27°08'08" W., approximately 676 ft. to
- AP 17 at intersection with the N. and S. center line of section 36 at the center line terminus of Pine Street; thence on said N. and S. center line of section 36, southerly, approximately 1,000 ft. to
- AP 18 at 300 ft. southerly of the C1/4 of section 36; thence along the top of a ridge overlooking the Hood River, S. 28°52' E., approximately 690 ft. to
- AP 19 the northeast corner of that property described in Deed No. 800749, records of Hood River County, Oregon, said corner being 300 ft. easterly from the N. and S. center line of section 36, when measured perpendicular thereto; thence on the westerly line of said property, S. 00°01' E., approximately 1,730 ft. to **T. 02 N., R. 10 E.**
- AP 20 at intersection with the line between Tps. 02 and 03 N., identical with AP 588 of the Exterior Legal Boundary Description; thence on said township line, ~~identical with the on said e~~ Exterior b Boundary of the Columbia River Gorge National Scenic Area (CRGNSA) (See Footnote 3 4), N. 89°27'48" W., approximately 4,660 ft. to
- AP 21 at intersection with the southerly (right) bank of Indian Creek at a ~~o~~ Ordinary h High w Water Mark (See Footnote 4 5); thence along said southerly (right) bank, westerly, approximately 3,800 ft. to
- AP 22 at intersection with the easterly right-of-way line of Indian Creek Road; thence continuing along said southerly (right) bank, S. 48°37' W., approximately 800 ft. to
- AP 23 at intersection with the line between sections 2 and 3; thence leaving said southerly (right) bank on said section line (See Footnote 5 6), N. 00°24' W., approximately 1,720 ft. to
- AP 24 the corner of sections 2 and 3, T. 02 N., R. 10 E., and sections 34 and 35, T. 03 N., R. 10 E., ~~leaving the exterior boundary of the CRGNSA~~; thence leaving said Exterior Boundary on the line between sections 34 and 35, N. 00°53' W., approximately 2,628 ft. to **T. 03 N., R. 10 E.**
- AP 25 the 1/4 corner of sections 34 and 35; thence on the E. and W. center line of section 34, S. 88°57'42" W., approximately 2,638 ft. to
- AP 26 the center 1/4 of said section 34; thence southerly, approximately 20 ft. to
- AP 27 at intersection with the easterly extension of the southerly right-of-way line of Post Canyon Road; thence on said southerly right-of-way line and extension thereof, N. 89°43' W., approximately 1,325 ft. to
- AP 28 at intersection with the N. and S. center line of the NW1/4 of section 34; thence on said center line, N. 00°35'10" E., approximately 1,960 ft. to
- AP 29 at intersection with the southerly line of the Davenport Lane easement, as described in Deed Volume G Page 30, and shown in ~~C.S.~~ CS No. 2003-019, records of Hood River County, Oregon; thence on said southerly line (See Footnote 6 7), N. 89°06'53" W. a distance of 1,327.78 ft. to
- AP 30 at intersection with the line between sections 33 and 34; thence on said line N. 00°34'52" W. a distance of 660.00 ft. to
- AP 31 the corner of sections 27, 28, 33, and 34 as shown in ~~C.S.~~ CS No. 2009-004, records of Hood River County, Oregon, monumented with an iron post with 3" brass cap (See Footnote 8);

- thence on the line between sections 27 and 28, N. 00°06'02" W., approximately 280 ft. to
- AP 32 at intersection with the northerly right-of-way line of Interstate 84, identical with the southerly right-of-way line of Frontage Road, as relinquished in 1976 by ~~O.D.O.T.~~ ODOT to Hood River County, as described in Document No. 76-0682 and shown in ~~said C.S.~~ CS No. 2009_004, records of Hood River County, Oregon (~~See Footnote 7~~); thence on said right-of-way line, S. 72°49'50" W. a distance of 321.85 ft. to
- AP 33 thence N. 86°23'19" W. a distance of 170.63 ft. to
- AP 34 at intersection with the southerly corner of Lots 8 and 9, Clifton Park Subdivision; thence S. 72°49'50" W., approximately 340 ft. to
- AP 35 the southwesterly corner of Lot 11, Clifton Park Subdivision; thence on the westerly line of said Lot 11 and northerly extension thereof, N. 17°10'10" W., approximately 750 ft. to
- AP 36 at intersection with the left bank of the Columbia River at ~~BNPE Bonneville Normal Pool Elevation (B.N.P.E.) 72 ft. (N.G.V.D.)~~; thence along said left bank at ~~B.N.P.E.~~ BNPE, easterly, approximately 5,240 ft. to
- AP 37 at intersection with the westerly face of a peninsula in the S1/2 of section 27, at ~~B.N.P.E.~~ BNPE (See Footnote 8 & 9); thence across the base of said peninsula, N. 63°44' E., approximately 750 ft. to
- AP 38 at intersection with the easterly face of said peninsula and the left bank of the Columbia River at ~~B.N.P.E.~~ BNPE; thence along said left bank at ~~B.N.P.E.~~ BNPE, easterly, approximately 5,100 ft. to
- AP 39 at the northerly most extremity of a small peninsula at ~~B.N.P.E.~~ BNPE, in the SW1/4 NE1/4 of section 26, at ~~B.N.P.E.~~ BNPE; thence on a line, N. 47° E., approximately 1,240 ft. to
- AP 40 from which the north most point of the peninsula known as "The Hook", at ~~B.N.P.E.~~ BNPE, bears East a distance of 200 ft. and South a distance of 30 ft.; thence N. 90° E., approximately 250 ft. to
- AP 41 at intersection with a line parallel with and 30 ft. from the northeasterly face of the "The Hook" at ~~B.N.P.E.~~ BNPE, when measured perpendicular thereto; thence on said line, S. 64° E., approximately 1,010 ft. to
- AP 42 at intersection with the westerly extension of a line between the northerly most extremity of the small peninsula, at ~~B.N.P.E.~~ BNPE, which bears easterly, approximately 300 ft., from the base of "The Hook"; and the northerly most extremity of the westerly jetty, at ~~B.N.P.E.~~ BNPE, which bears easterly, approximately 2,100 ft., from said base of "The Hook"; thence along said line and the westerly and easterly extensions thereof, N. 87° E., approximately 3,000 ft. to
- AP 43 at intersection with a meander line of lot 2, identical with the 1982 H-R- UGB; thence on said meander line S. 63°45' E., approximately 585 ft. to
- AP 44 a record meander corner of lot 2, westerly of the Hood River; thence on said meander line S. 49°45' E. a distance of 1,815 ft. to
- AP 45 the record meander corner on the line between Rs. 10 and 11 E.; thence on said range line, northerly, approximately 670 ft. to
- T. 03 N., R. 11 E.**
- AP 46 the northerly most corner of the Shore Lands Line, as described in Hood River County Annexation Ordinance No. 1159, dated May 6, 1963, Deed Volume 73 Page 124, records of Hood River County, Oregon; thence on the northerly line of said Shore Lands Line more specifically described by the following courses:
S. 68°30' E. a distance of 770.0 ft. to
- AP 47 S. 28°16' E. a distance of 148.1 ft. to
- AP 48 S. 53°32' E. a distance of 593.53 ft. to
- AP 49 S. 45°52' E. a distance of 180.0 ft. to
- AP 50 S. 24°04' E. a distance of 314.47 ft. to
- AP 51 S. 51°13' E. a distance of 382.0 ft. to
- AP 52 the northeasterly corner of said Shore Lands Line; thence on the easterly line of the Nathan L. Benson ~~D.L.C.~~ DLC No. 37 and northerly extension thereof, S. 01°11' E., approximately 266 ft. to

AP 1 the Point of Beginning

the Area being 2,422 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps UA-004, September 1986, (Congressional or Act Maps):

a. Sheet 4 - Hood River (Act Map 4); the Urban Area Boundary is not drawn on this map.

b. Sheet 5 - Hood River (Act Map 5) - is a land use map that was the basis for the 1987 USFS Maps. The Gorge Commission and U.S. Forest Service did not have a copy of Sheet 5; a map that appears to be a copy of Sheet 5 was found in a 2016 search of the Hood River County Surveyor's Office. The 1986 Hood River Urban Growth Boundary is drawn on this map, however the Urban Area Boundary is not.

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. Because Act Map 4 did not show the Hood River Urban Area Boundary, and Sheet 5 was missing, the USFS Maps are the basis for this description, particularly USFS Map 28. Certain cartographic interpretations differ from USFS Map to USFS Map.

a. CRGNSA Boundary Map, September 1986, NSA-001, Sheets 1 and 2; Urban Area Boundaries (U.A.B.s) are drawn at a small scale.

b. USFS Map 12.

c. USFS Map 15.

d. USFS Maps 12 and 15 have unexplainable differences with USFS Map 28.

e. Map 28, CRGNSA, September 1986, UA-004, Hood River Urban Area, Sheet 5, Produced January 1987, is a "Land Use Map" which was used as the primary basis for this description. The title block states, "The information on these maps was taken from the official maps referred to in Section 4 of P.L. 99-663... A map entitled 'Land Use Map, Hood River, Oregon' was used as the base for this map." However, no boundary lines are found on said Act Map.

3. Memorandum from Jonathan Doherty, Columbia River Gorge Commission, to Gorge Commissioners, dated November 10, 1997, to Gorge Commissioners, records of Columbia River Gorge Commission, White Salmon, Washington, about "Review of Urban Area Mapping Discrepancies." These mapping discrepancies are noted in this description at each area.

4. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

5. Research indicates the general intent was to coincide with Oregon Urban Growth Boundaries from that era, with NSA Urban Area Boundaries except where this approach conflicted with other NSA objectives, such as in large areas in the main stem of the Columbia River. This description has incorporated the "legs" of the 1982 Hood River "Urban Growth Boundary (H-R: UGB) legal description, Goal 14 - Urbanization" in many places, which coincide with USFS Map 28.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

~~42.~~ AP 1 to AP 3, held USFS Map 28; not coincident with the City of Hood River Urban Growth Boundary (H-R: UGB).

~~23.~~ AP 3 to AP 14, held USFS Map 28; AP 3 to AP 13, held Eastside Amendment to the Urban Growth Boundary, as shown in Ordinance No. 1578, records of City of Hood River, Oregon; also Emergency Ordinance No. 155, records of Hood River County, Oregon.

~~34.~~ AP 20 to AP 21, held the exterior boundary of the National Scenic Area, on the line between Tps. 02 and 03 N., coincident with the center line of Eliot Drive and Brookside Drive; not coincident with the H-R UGB, which is on the southerly right-of-way line of Eliot Drive, outside the NSA.

~~45.~~ AP 21 to AP 23, held the 1982 H-R UGB description calls to the "south bank of Indian Creek" which is an unusual call for a non-navigable stream. Clark on Surveying and Boundaries, 4th Edition, 1976 (in use when the NSA was created), Page 843 states, "Where a stream is given as an abutting boundary, the general rule is that title of the abutting landowners runs into the stream unless it is clear from the title descriptions that title runs to one of the banks.... Where the bank is the boundary, it may be either the high water mark or the low water mark." ~~Here, ordinary high water mark is held, along the southerly bank.~~ The OHWM on the southerly (right) bank of Indian Creek is held as the definitive boundary line.

~~56.~~ AP 23 to AP 25, held 1982 H-R: UGB, as elsewhere in this description, Leg 6 description along section line; USFS Map 28 and USFS Map 12 show the H-R: UGB along the easterly right-of-way lines of Hutson Road and Belmont Drive.

~~67.~~ AP 29 to AP 31, held 1982 H-R UGB Leg 6 and USFS Map 28, consistent with calls elsewhere in this description; contrary to the 1/4/93 Boundary Determination which was based upon USFS Map 12, records of Columbia River Gorge Commission, White Salmon, Washington.

~~78.~~ AP 31 to AP 34, held boundary line determination as shown in ~~C.S.~~ CS No. 2009-004, records of Hood River County, Oregon; and supported by Forest Service Land Surveyor Don Karsch in his letter dated Dec. 8, 2005, records of Columbia River Gorge Commission, White Salmon, Washington. This boundary determination modified Legs 7 and 8 of the 1982 H-R UGB.

~~82.~~ AP 37 to AP 43, held USFS Map 28 and USFS Map 12, not 1982 H-R: UGB which departs significantly from the USFS mapping along the waterfront.

Columbia River Gorge National Scenic Area
Lyle Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless other-

wise specified. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Lyle Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 12 East, ~~and of the Willamette Meridian, Klickitat County, Washington~~

Township 3 North, Range 12 East, of the Willamette Meridian, Klickitat County, Washington,

T. 03 N., R. 12 E., Klickitat County

- AP 1 **Beginning** at the intersection of the thread of the Klickitat River and the right bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~) elevation 72 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D.~~ NGVD 1929) (~~BNPE~~) (See Footnote 1); Latitude: 45°41'46.0" N., Longitude: 121°17'31.3" W.; thence upstream along said thread, northerly a distance of 905 ft. to
- AP 2 thence leaving said thread, S. 81°16' E., approximately 283 ft. See Footnote 2) to
- AP 3 at intersection with the centerline of the abandoned Burlington Northern Santa Fe railroad Lyle-Goldendale spur track; thence N. 66°29' E., approximately 200 ft. to

- AP 4 at intersection with the center line of Washington State Route 142; thence N. 80°30' E., approximately 1,225 ft. to
- AP 5 at intersection with the 400-~~ft.~~ foot contour line (~~N.G.V.D.~~ NGVD 1929); thence along said 400-~~ft.~~ foot contour line (See Footnote 3), southeasterly, approximately 2,840 ft. to
T. 02 N., R. 12 E.
- AP 6 at intersection with an unnamed ~~drainage ravine~~ and monumented with a 5/8" x 30" iron rod with yellow plastic cap inscribed "B BESEDA PLS 35092", as shown in survey recorded at Auditor's File No. (~~A.F.N.~~ AFN) 1107552, records of Klickitat County, Washington; thence S. 24°27'14" W. a distance of 357.97 ft. to
- AP 7 at intersection with the head of a second ~~drainage ravine~~ and monumented with a 5/8" x 30" iron rod with yellow plastic cap inscribed "B BESEDA PLS 35092", as shown in said survey recorded at ~~A.F.N.~~ AFN 1107552; thence along ~~drainage ravine~~ bottom, southwesterly, approximately 415 ft. to
- AP 8 at intersection with a third ~~drainage ravine~~ and monumented with a 5/8" x 30" iron rod with yellow plastic cap inscribed "B BESEDA PLS 35092", as shown in said survey recorded at ~~A.F.N.~~ AFN 1107552; thence along the combined ~~drainage ravine~~ bottom, southerly, approximately 610 ft. to
- AP 9 at intersection with the northerly right-of-way line of Washington State Route 14; thence on said northerly right-of-way line, easterly, approximately 915 ft. to
- AP 10 a point opposite Washington State Route 14 Center Line Station 27+77.80 Point of Tangent (P.T.); thence at a right angle through said Station 27+77.80 P.T., southwesterly, approximately 170 ft. to
- AP 11 the intersection with the aforementioned right bank of the Columbia River at ~~B.N.P.E.~~ BNPE; thence along said right bank at ~~B.N.P.E.~~ BNPE, westerly, approximately 6,945 ft. to
- AP 1 the **Point of Beginning**.

the Area being 239 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

a. Sheet 7

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

a. USFS Map 18

3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. The Bonneville Dam Normal Pool Elevation is listed as elevation 72 ft. on the USFS Map 18.

32. At AP 2 to AP 5, the Act Map clearly shows more angle points than the USFS mapping. The USFS Map was followed in the description as best as possible through these apparently random locations. The actual physical difference between the maps is very minor.

43. The easterly end of the 400-ft. contour call in AP 5 and AP 6 to AP 9 are fully shown and monumented in the survey for the Friends of Columbia Gorge Land Trust, as recorded at ~~A.F.N.~~ AFN 1107552, records of Klickitat County, Washington.

Columbia River Gorge National Scenic Area
Mosier Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats in effect as of December 1, 2016, and state authority survey plats unless otherwise specified. This description notes where it is identical with and where it leaves the Exterior Boundary of the Columbia River Gorge National Scenic Area (CRGNSA). Exterior Boundary Angle Points are shown in parentheses (AP). The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the

event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. ~~feet~~ horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Mosier Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 11 East, of the Willamette Meridian, Wasco County, Oregon.

T. 02 N., R. 11 E.

- AP 1 **Beginning** at the intersection of the northerly extension of the westerly most line of the J. A. Mosier Donation Land Claim (~~D.L.C.~~ DLC) No. 37 and the left bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~), ~~elevation 72 ft.~~, National Geodetic Vertical Datum 1929 (~~N.G.V.D. 29~~ NGVD 1929) (BNPE) (See Footnote 1), at;
Latitude: 45°41'13.2" N., Longitude: 121°25'12.0" WE.;
thence on said northerly extension, the ~~D.L.C.~~ DLC line, and southerly extension thereof, S. 00°27' E., approximately 850 ft. ~~feet~~ to
- AP 2 at intersection with the 200-ft. contour line (~~N.G.V.D. 1929~~ NGVD 1929);
thence along said 200-ft. contour line, southeasterly, approximately 1,400 ft. ~~feet~~ to
- AP 3 at intersection with the center line of the Historic Columbia River Highway, formerly Rock Creek County Road;
thence on the center line of said highway and Hood River County Road, southwesterly, approximately 1,040 ft. to
- AP 4 at intersection with the 280-ft. contour line (~~N.G.V.D.~~ NGVD 1929);
thence on a line, S. 9°40' W., approximately 390 ft. to
- AP 5 the 1/4 corner of sections 2 and 11, perpetuated by Professional Land Surveyor (~~P.L.S.~~ PLS) No. 1815 in 1996, as shown in County Survey (~~C.S.~~ CS) No. 9-190, records of Wasco County, Oregon; monumented with an iron post with a 2-1/2" brass cap;

- thence on the line between sections 2 and 11, N. 87°42'47" E. a distance of 2,640.24 ~~ft.~~ feet to
- AP 6 the corner of secs. 1, 2, 11, and 12, perpetuated by the United States Army Corps of Engineers (~~U.S.A.C.E.~~ USACE) in 1936 from original evidence; monumented with an iron post with 3" brass cap; thence on the line between sections 1 and 12, S. 88°22'52" E. a distance of 2,642.35 ft. to
- AP 7A the 1/4 corner of sections 1 and 12, perpetuated by ~~P.L.S.~~ PLS No. 856 in 1970, as shown in Land Corner Record Sheet (L.C.) 0012, records of Wasco County, Oregon; monumented with an iron post with 3" brass cap; thence on the line between sections 1 and 12, S. 88°22' E., approximately a distance of 1,012.7 863 ft. to
- AP 7B
(AP 499) at AP 499 of the Exterior Legal Boundary Description;
thence continuing on said sec. line, on said Exterior Boundary, S. 88°22' E., approximately, 150 ft. to
- AP 8 at intersection with the thread of Mosier Creek (See Footnote 2), ~~identical with the exterior boundary of the Columbia River Gorge National Scenic Area;~~ thence leaving said Exterior Boundary, downstream along the thread of Mosier Creek, as shown in 1916 County Survey (~~C.S.~~ CS) No. C-4-3, records of Wasco County, Oregon (~~See Footnote 1~~), north-westerly, approximately 905 ft. to
- AP 9 at intersection with the southerly extension of the easterly line of the aforementioned J.A. Mosier ~~D.L.C.~~ DLC No. 37; thence on said southerly extension, N. 01°09' W., approximately 230 ~~ft.~~ feet to
- AP 10 the southeast corner of said Mosier ~~D.L.C.~~ DLC, perpetuated by the ~~U.S.A.C.E.~~ USACE in 1936, as shown in L.C. 0006, records of Wasco County, Oregon; monumented with an iron post with 3" brass cap; thence on the easterly line of said Mosier ~~D.L.C.~~ DLC and northerly extension thereof, N. 01°09' W., approximately 3,425 ft. to
- AP 11 at intersection with the left bank of the Columbia River at ~~B.N.P.E.~~ BNPE; thence along said left bank, westerly, approximately 5,780 ft. to

AP 1 the Point of Beginning

the Area being 391 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, September 1986 (Congressional or Act Maps).

a. NSA-001

b. UA-004, Sheet 6

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

a. USFS Map 15

3. Memorandum from Jonathan Doherty, Columbia River Gorge Commission, to Gorge Commissioners, dated November 10, 1997, to Gorge Commissioners, records of Columbia River Gorge Commission, White Salmon, Washington, about "Review of Urban Area Mapping Discrepancies."

4. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

2. AP 8 to AP 9, held the thread of Mosier Creek. Believing the intent of Congress was to follow existing municipal boundary lines, the Mosier city limits line, dated in multiple drawings back to 1916, is clearly depicted as following along the thread of Mosier Creek. Holding the thread of Mosier Creek eliminates conflict with dwellings in the vicinity. This departs slightly from USFS Map 15 which depicts a straight line before intersecting with the southerly extension of the Mosier Donation Land Claim.

Columbia River Gorge National Scenic Area North Bonneville Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves Special Management Area (SMA) Boundaries of the Columbia River Gorge National Scenic Area (CRGNSA). Special Management Area Boundary Angle Points are shown in brackets [AP]. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both

shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. ~~feet~~ horizontally, unless otherwise noted.

This description encompasses land that is identified as

The North Bonneville Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 7 East, of the Willamette Meridian, Skamania County, Washington,

Township 2 North, Range 7 East, of the Willamette Meridian, Multnomah County, Oregon.

T. 02 N., R. 07 E., Multnomah County, Oregon

AP 1 **Beginning** at the corner of sections 21, [AP 156] 22, 27, and 28, T. 02 N., R. 07 E., identical with AP 156 of the Gates of the Columbia River, Oregon Falls Special Management Area (SMA) Legal Boundary Description, Latitude: 45°37'58.3" N., Longitude: 121°56'34.4" W.; thence on the line between sections 21 and 28, on said SMA Boundary, S. 89°20' W., approximately 2,910 ft. to

AP 2 at intersection with the center line of the [AP 155] Union Pacific Railroad right-of-way; thence on said center line, southwesterly, approximately 2,224 ft. to

AP 3A at Engineers Station 2091+64.3 Point of [AP 154] Spiral; thence ~~crossing the Columbia River~~, N. 90° W., approximately ~~2,060~~ 200 ft. to

AP 3B at intersection with the left bank of the [AP 153] Columbia River at Ordinary High Water Mark (OHWM); thence leaving the aforementioned SMA Boundary, continuing N. 90° W., approximately 1,860 ft. to

T. 02 N., R. 07 E., Skamania County, Washington

AP 4A at intersection with the right bank of the Columbia River at Ordinary High Water Mark (~~O.H.W.M.~~ OHWM); thence along the meanders of said ~~O.H.W.M.~~ OHWM, southwesterly, approximately ~~5010~~ 6,510 ft. to

AP 4B identical with AP 60 of the Gates of the [AP 60] Columbia River, Beacon Rock Special Management Area (SMA) Legal Boundary Description; thence continuing along said right bank at OHWM, along said SMA Boundary a distance of 1,500 feet to

AP 5 at intersection with the left bank of Hamilton Creek; [AP 59] thence along the meanders of said left bank, northeasterly, approximately 3,030 ft. to

AP 6 at intersection with the southeasterly extension of the south most southwesterly line of the plat of Relocated North Bonneville See [AP 58] Footnote 1); thence on said southeasterly extension, crossing Hamilton Creek and continuing on said southwesterly line, N. 67°00'00" W., approximately 760 ft. to

AP 7 thence continuing on said southwesterly [AP 57] boundary, N. 18°27'10" W. a distance of 1,452.91 ft. to

AP 8 thence continuing on said southwesterly [AP 56] boundary, N. 29°58'55" E. a distance of 119.59 ft. to

AP 9 at the northwest corner of said Relocated [AP 55] North Bonneville, identical with the line between sections 19 and 30; thence N. 43°21' W., approximately 1,045 ft. to

AP 10 at intersection with the N. and S. center line [AP 54] of section 19 and the southeasterly right-of-way line of the Burlington Northern - Santa Fe Railroad; thence on said center line, N. 0°29' W., approximately 1,890 ft. to

AP 11 the center 1/4 corner of said section 19 at; [AP 53] Latitude: 45°38'36.6" N., Longitude: 121°59'31.6" W.; thence on the E. and W. center line of said section 19, S. 89°59' E., approximately 505 ft. to

- AP 12
[AP 52] at intersection with the northerly right-of-way line of the Bonneville Power Administration (~~B.P.A.~~ BPA) Bonneville-Vancouver transmission line easement; thence on said northerly line, N. 57°56' E., approximately 4,490 ft. to
- AP 13
[AP 51] at intersection with the westerly boundary of the G.W. Johnson Donation Land Claim (~~D.L.C.~~ DLC) No. 38 and city limits line of North Bonneville See (Footnote 2); thence on said westerly boundary, identical with said city limits line, N. 16°46'08" W., approximately 160 ft. to
- AP 14
[AP 50] the northwest corner of said Johnson ~~D.L.C.~~ DLC; thence on the northerly boundary thereof, N. 84°22'12" E., approximately 350 ft. to
- AP 15
[AP 49] at intersection with aforementioned northerly right-of-way line of the ~~B.P.A.~~ BPA Bonneville-Vancouver transmission line easement; thence leaving said city limits line on said northerly line, N. 57°56' E., approximately 1,450 ft. to
- AP 16
[AP 48] at north most point thereof; thence continuing on said northerly line, S. 57°28' E., approximately 1,050 ft. to
- AP 17
[AP 47] at intersection with the aforementioned northerly boundary of the Johnson ~~D.L.C.~~ DLC and city limits line; thence on said northerly boundary, and identical with said city limits line, N. 84°22'12" E., approximately 550 ft. to
- AP 18
[AP 46] at intersection with the westerly boundary of the B.B. Bishop ~~D.L.C.~~ DLC No. 39; thence on said westerly boundary, N. 02°12'16" E., approximately 1,347 ft. to
- AP 19
[AP 45] the northwest corner of said Bishop ~~D.L.C.~~ DLC; thence on the north boundary thereof, N. 86°20'39" E., approximately 666 ft. to
- AP 20
[AP 44] at intersection with the center line of a natural gas pipe line easement; thence leaving the aforementioned SMA Boundary, on said center line, N. 45°18'27" E., approximately 499 ft. to
- AP 21 being 430.00 ft. feet North of the northerly boundary of the aforementioned B.B. Bishop ~~D.L.C.~~ DLC No. 39 when measured perpendicular thereto; thence on a line 430.00 ft. feet North of and parallel with said northerly boundary, S. 89°54'48" E., approximately 1,047 ft. to
- AP 22 at intersection with the thread of Greenleaf Creek (See Footnote 3); thence downstream along the meanders of said thread, southwesterly, approximately 950 ft. to
- AP 23 at intersection with aforementioned northerly boundary of the Bishop ~~D.L.C.~~ DLC; thence on said northerly boundary, S. 89°54'48" E., approximately 610 ft. to
- AP 24 at intersection with the center line of the Bonneville-Coulee ~~B.P.A.~~ BPA No. 1 transmission line easement; thence on said center line, S. 32°28' W., approximately 755 ft. to
- AP 25 at intersection with the center line of East Cascade Drive, also known as Moffett-Hot Springs Road; thence on said center line, southerly, approximately 1,310 ft. to
- AP 26 at intersection with the line between ~~sections~~ 16 and 21; thence on said line, S. 87°55'01" E., approximately 930 ft. to
- AP 27 at intersection with the northerly boundary of the U.S. Army Corps of Engineers Bonneville Project Take Line, as shown on survey by Hagedorn, Inc., recorded at Book 1, Page 168, survey records of Skamania County, Washington, monumented with aluminum post and 4" aluminum cap (See Footnotes 4 and 5); thence leaving aforementioned city limits line on said boundary more specifically described by the following courses: N. 33°30'32" E. a distance of 633.68 ft. to
- AP 28 an aluminum post with 4" aluminum cap; thence S. 72°59'28" E. a distance of 1,000.04 ft. to
- AP 29 an aluminum post with 4" aluminum cap; thence N. 52°00'32" E. a distance of 675.03 ft. to
- AP 30 an aluminum post with 4" aluminum cap; thence N. 84°00'32" E. a distance of 740.03 ft. to
- AP 31 an aluminum post with 4" aluminum cap; thence S. 88°59'28" E. a distance of 340.01 ft. to
- AP 32 an aluminum post with 4" aluminum cap; at intersection with the line between ~~sections~~ 15 and 16; thence S. 79°29'28" E. a distance of 2,000.08 ft. to

- AP 33 an aluminum post with 4" aluminum cap; thence S. 86°59'28" E., approximately 1,599.51 ft. to
- AP 34 an aluminum post with 4" aluminum cap; at intersection with the city limits line of North Bonneville (See Footnote 6); thence on said city limits line more specifically described by the following courses: northerly, approximately 1,000 ft. to
- AP 35 a northwest corner of said city limits line; thence continuing on said city limits line, East a distance of 223 ft. to
- AP 36 the northeast corner of that tract of land described in Book 51, Page 352, records of Skamania County, Washington; thence N. 90° E., approximately 700 ft. to
- AP 37 thence continuing on said city limits line, N. 35°15' W. a distance of 50 ft. to
- AP 38 thence East a distance of 565 ft. to
- AP 39 thence S. 78°30' E. a distance of 159 ft. to (See Footnote 5)
- AP 40 thence N. 78°12' E. a distance of 50 ft. to
- AP 41 at intersection with the west line of section 14 and the southerly right-of-way line of Wauna Lake Road; thence continuing on said city limits line, identical with said southerly right-of-way line, easterly and southerly, approximately 560 ft. to
- AP 42 thence leaving said right-of-way line, continuing on said city limits line, N. 84°36' E. a distance of 276 ft. to
- AP 43 thence S. 59°59' E. a distance of 158 ft. to
- AP 44 thence N. 90° E. a distance of 35 ft. to
- AP 45 at intersection with the easterly boundary of the D.F. Bradford ~~D.L.C.~~ DLC No. 37; thence continuing on said city limits line, identical with the easterly boundary of said Bradford ~~D.L.C.~~ DLC, S. 43° E. a distance of 14 ft. to
- AP 46 thence leaving said easterly boundary, continuing on said city limits line, N. 00° E., approximately 353 ft. to
- AP 47 thence N. 90° E. a distance of 341 ft. to
- AP 48 at intersection with the westerly line of lot 2, in section 14, from which the northerly right-of-way line of State Route 14 bears S. 00° E., approximately 353 ft.; thence on said westerly line of lot 2, S. 00° E., approximately 444 ft. to
- AP 49 at intersection with the southerly right-of-way line of Washington State Route 14; thence continuing on said city limits line, identical with said southerly right-of-way line, S. 74°54' W., approximately 212 ft. to
- AP 50 at intersection with the easterly boundary of the aforementioned Bradford ~~D.L.C.~~ DLC; thence leaving said city limits line, South, approximately 130 ft. to
- AP 51 at intersection with the right bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~) 72 ft., National Geodetic Vertical Datum (~~N.G.V.D.~~ 29) (BNPE). (See Footnote 7); thence along said right bank at ~~B.N.P.E.~~ BNPE, southwesterly, approximately 4,100 ft. to
- AP 52 at intersection with the line between lots 2 and 3, in section 22 at ~~B.N.P.E.~~ BNPE; thence crossing the Columbia River, S. 30°06' W., approximately 3,770 ft. to
- T. 02 N., R. 07 E., Multnomah County Oregon**
- AP 53 [AP 159] at intersection with the left bank of the Columbia River at ~~B.N.P.E.~~ BNPE, identical with AP 159 of the aforementioned Oregon Falls SMA Legal Boundary Description; thence on said SMA Boundary, S. 47°38' W., approximately 634 ft. to
- AP 54 [AP 158] at intersection with the right-of-way line of Interstate 84 where the east and westbound lanes separate on the westerly side of Tooth Rock Tunnel; thence parallel with the westbound center line of Interstate 84, S. 69°06' W., approximately 1,020 ft. to
- AP 55 [AP 157] at intersection with the line between sections 21 and 22; thence on the line between sections 21 and 22, S. 00°16' E., approximately 1,340 ft. to ~~the Point of Beginning~~
- AP 1 [AP 156] **the Point of Beginning**
- the Area being 2,580 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

a. Sheet 1

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as

the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

a. USFS Map 7

3. Memorandum from Jonathan Doherty, Columbia River Gorge Commission, to Gorge Commissioners, dated November 10, 1997, to Gorge Commissioners, records of Columbia River Gorge Commission, White Salmon, Washington, about "Review of Urban Area Mapping Discrepancies." These mapping discrepancies were addressed in later agreements.

4. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. AP 6 to AP 9 follow the southwesterly boundary of the plat of Relocated North Bonneville. This line is also a portion of the easterly boundary of the Pierce National Wildlife Refuge. Both the 1987 USFS and 1986 Act Maps are vague on the location of the UA line in this area. The line on both maps appears to follow what has been interpreted as a construction haul road, which existed as a part of the construction and relocation of the City of North Bonneville. The shape of the haul road is very similar to the shape of the exterior boundary of the subdivision plat. The haul road no longer exists. Its apparent location would bisect multiple lots within the subdivision plat. Because there is a common shape of both lines and no resource protection or policy reason to split small division lots, this description interpreted the Urban Area Boundary to run along the exterior boundary of the subdivision plat.

2. AP 13 to AP 15 follow the city limits of the City of North Bonneville. These angle points form a very small triangle on the north side of the ~~B.P.A.~~ BPA transmission line corridor. This land was within the North Bonneville city limits at the time of the Act and was developed. Both the 1987 USFS and 1986 Act Maps do not include this small triangular area. Believing that the intent of Congress was to follow the existing city limits line, this description included this area within the Urban Area description for North Bonneville.

3. AP 22 to AP 24 follow the North Bonneville city limits line. This is consistent with both the 1987 USFS and 1986 Act Maps. However, in this area on the base map utilized for both map sets, the city limits line was incorrectly depicted. This description reflects the correct location of the North Bonneville city limits line as it existed at the time of the Act.

4. For the area between AP 27 and AP 50 both the 1987 USFS and 1986 Act Maps are very vague. The lines drawn on both map sets appear to mimic the shape of the lines described in footnotes 5 and 6. However, the location as shown on both map sets appears to be offset from the actual location of these lines. Neither map set had the property lines or Corps Take lines on them to make them able to be easily followed. Therefore, believing the intent of Congress to be to follow the Take line and city limits line as they existed at the time of the Act, this description was written as discussed in footnotes 5 and 6.

45. AP 27 to AP 34 follow the Corps of Engineers Take Line. These courses are as per the survey completed by Hage-

dorn, Inc., recorded at Book 1, Page 168, survey records of Skamania County.

56. AP 34 to AP 50 follow the North Bonneville city limits line as adopted by the City of North Bonneville under Ordinance No. 272, dated December 10, 1974. The description within Ordinance No. 272 runs in the opposite direction to the Urban Area legal boundary description. Every effort was made to make the Urban Area description consistent with the description in the ordinance. Deference should be given to the ordinance as the senior document for surveys along this portion of the Urban Area line. AP 35 to AP 50 do not follow USFS Map 7. Believing that the intent of Congress was to follow the existing city limits line, this description includes this area within the Urban Area description for North Bonneville.

~~6. For the area between AP 27 and AP 50 both the 1987 USFS and 1986 Act Maps are very vague. The lines drawn on both map sets appear to mimic the shape of the lines described in footnotes 4 and 5 above. However, the location as shown on both map sets appears to be offset from the actual location of these lines. Neither map set had the property lines or Corp Take lines on them to make them able to be easily followed. Therefore, believing the intent of Congress to be to follow the Take line and city limits line as they existed at the time of the Act, this description was written as discussed in footnotes 4 and 5 above.~~

7. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. Normal Pool Elevation of the Bonneville Dam is 72 ft. (N.G.V.D. 29) as shown on the National Scenic Area Maps dated September 1986. The current Quad maps show an elevation of 74 feet.

Columbia River Gorge National Scenic Area
Stevenson Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail center lines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes

and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Stevenson Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 7 East, ~~of the Willamette Meridian, Skamania County, Washington~~

Township 3 North, Range 7 East, ~~and of the Willamette Meridian, Skamania County, Washington~~

Township 3 North, Range 7-1/2 East, of the Willamette Meridian, Skamania County, Washington.

T. 02 N., R. 07 E.

- AP 1 **Beginning** at intersection of the northeasterly line of the Bradford Donation Land Claim (~~D.L.C.~~ DLC) No. 37 and the right bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~) elevation 72 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D.~~ 29) BNPE (See Footnote 1);
Latitude: 45°40'37.2" N., Longitude: 121°54'18.6" W.;
thence on said northeasterly line, N. 52°47'28" W., approximately 2,630 ft. to
- AP 2 the northerly corner of said Bradford ~~D.L.C.~~ DLC No. 37, identical with the southeast corner of the Iman ~~D.L.C.~~ DLC No. 44 (See Footnote 2);
thence on the west line of said Iman ~~D.L.C.~~ DLC No. 44, N. 0°29'21" E., approximately 1,505 ft. to
- AP 3 at intersection with the northerly line of Lot 2 of the Columbia Gorge Park Subdivision; thence on the northerly line of said Lot 2 and Lot 1, said Columbia Gorge Park Subdivision, N. 65°46'40" W., approximately 1,375 ft. to
- AP 4 at intersection with E. and W. center line of ~~sec. tion~~ 2;
thence continuing on said northerly line, N. 88°58'40" W., approximately 65 ft. to
- AP 5 at intersection with the southeasterly right-of-way line of the Bonneville Power Administration (~~B.P.A.~~ BPA) Bonneville-Coulee transmission line easement;
thence on said southeasterly line, N. 40°32'30" E., approximately 2,135 ft. to
- AP 6 at intersection with aforementioned west line of the Iman ~~D.L.C.~~ DLC No. 44;
thence leaving said southeasterly line on said west line, N. 0°29'21" E., approximately 215 ft. to
- AP 7 at intersection with the center line of aforementioned ~~B.P.A.~~ BPA Bonneville-Coulee transmission line easement (See Footnote 3);
thence on said center line, N. 40°32'30" E., approximately 4,920 ft. to
- T. 03 N., R. 07 E.**
- AP 8 at intersection with the center line of Aalvik Road;
thence on said center line northwesterly, approximately 7,525 ft. to
- AP 9 at intersection with the E. and W. center line of ~~sec. tion~~ 26;
thence on said E. and W. center line, S. 89°04'59" E., approximately 3,015 ft. to
- AP 10 the 1/4 corner of ~~secs. tions~~ 25 and 26;
thence on the line between said ~~secs. tions~~ 25 and 26, N. 0°34'36" E., approximately 2,639.84 ft. to
- AP 11 the corner to ~~secs. tions~~ 23, 24, 25, and 26;
thence on the line between said ~~secs. tions~~ 23 and 24, N. 01°47'00" E., approximately 558.6 ft. to
- AP 12 at intersection with the center line of the ~~B.P.A.~~ BPA McNary-Ross No. 1 transmission line easement;
thence on said center line, N. 65°01'50" E., approximately 4,920 ft. to
- AP 13 thence continuing on said center line, N. 61°43'30" E., approximately 1,040 ft. to
- AP 14 at intersection with the line between R. 7 E. and R. 7-1/2 E.;
thence on the line between said R. 7 E. and R. 7-1/2 E. southerly, approximately 7,500 ft. to
- AP 15 at intersection with the center line of the aforementioned ~~B.P.A.~~ BPA Bonneville-Coulee transmission line easement (See Footnote 4);
thence on said center line, N. 77°37'00" E., approximately 1,270 ft. to
- T. 03 N., R. 7-1/2 E.**
- AP 16 thence continuing on said center line, N. 69°37'30" E., approximately 900 ft. to

- AP 17 at intersection with the thread of Nelson Creek;
thence along said thread downstream, southerly, approximately 5,945 ft. to
- AP 18 at intersection with the aforementioned right bank of the Columbia River at ~~B.N.P.E.~~ BNPE;
thence along said right bank southwesterly, approximately 18,000 ft. to (See Footnote 65)
- AP 1 at intersection with said northeasterly line of the Bradford ~~D.L.C.~~ DLC No. 37 and **Point of Beginning**.

the Area being 3,153 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

- a. Sheet 1
- b. Sheet 3

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description.

- a. USFS Map 7
- b. USFS Map 8

3. "Final Order of the Columbia River Gorge Commission, Minor Urban Area Boundary Revision - City of Stevenson, UA-98-02," dated June 22, 1999.

4. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. The normal pool elevation of the Bonneville Dam is 72 ft. (N.G.V.D. 29) as shown on the National Scenic Area Maps dated September 1986. The current Quad maps show an elevation of 74 ft.

2. Both the 1987 USFS and 1986 Act Maps show this line going from AP 2 to AP 6. This area reflects the "Final Order of the Columbia River Gorge Commission, Minor Urban Area Boundary Revision - City of Stevenson, UA-98-02," dated June 22, 1999, records of Columbia River Gorge Commission, White Salmon, Washington. This revision is also shown and depicted on the November 10, 1997 memorandum as Area 2 (Iman Lake Triangle). The revision area is included in this legal boundary description.

3. Between AP 7 and AP 8 both the 1987 USFS and 1986 Act Maps depict the center line of the Bonneville-Coulee (300 ft. wide) transmission line easement with angle breaks. The Bonneville-Coulee line drawings do not show angle breaks nor do any exist in the field. This legal boundary

description simply calls the center line of the Bonneville-Coulee right-of-way.

4. Both the 1987 USFS Maps (Sheets 7 and 8) and the 1986 Act Maps (UA-004, Sheets 1 and 3) were analyzed for preparation of this description. There is only one location where the maps differ enough to note. This location is the AP 15 to AP 17 courses. The USFS Map runs to a ~~B.P.A.~~ BPA transmission line easement center line. The Act Map runs a random direction to intersect Nelson Creek. With no logic to the random Act Map course, this description held the USFS Map location.

5. The Urban Area Boundary jumps across the mouth of Rock Creek. It does not enter Rock Cove.

Columbia River Gorge National Scenic Area

The Dalles Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 feet horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Dalles Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

- Township 1 North, Range 13 East,
- Township 2 North, Range 13 East,
- Township 1 North, Range 14 East, and

Township 2 North, Range 14 East, of the Willamette Meridian, Wasco County, Oregon.

T. 02 N., R. 14 E., Wasco County

- AP 1 **Beginning** at the record meander corner (See Footnote 1) on the left bank of the Columbia River on the line between sections 36 and 31, T. 02 N., Rs. 13 and 14 E., perpetuated by the United States Army Corps of Engineers (~~U.S.A.C.E.~~ USACE) in 1939 from original evidence; monumented with a brass disk cemented into the top of solid rock, from which the corner of Tps. 01 and 02 N., Rs. 13 and 14 E. bears S. 00°14'42" W., a distance of 2,033.43 ft.; Latitude 45°36'39.6" N. Longitude 121°07'37.2" E.
thence on the line between T. 02 N., Rs. 13 and 14 E., S. 00°14'42" W., approximately 1,070 ft. to
- AP 2 at intersection with the northwesterly right-of-way line of the Union Pacific Railroad (See Footnote 2);
thence on a line, northeasterly, approximately 873 ft. to
- AP 3 at intersection with the southwesterly right-of-way line of Interstate 84 and the line between lots 4 and 5 in said section 31;
thence on the line between said lots 4 and 5, identical with the E. and W. center line of the SW1/4 of section 31, S. 89°46'38" E., approximately 2,220 ft. to
- AP 4 the center S1/16 corner of said section 31 as shown on County Survey (~~C.S.~~ CS) No. 5-072, records of Wasco County, Oregon;
thence on the N. and S. center line of section 31, N. 0°57'09" E., approximately 61 ft. to
- AP 5 at intersection with the southerly right-of-way line of Lower Eightmile County Road, formerly The Dalles - California Highway;
thence on said southerly right-of-way line, easterly, approximately 2,475 ft. to
- AP 6 a 5/8" iron rod as shown in ~~C.S.~~ CS No. 4-087, records of Wasco County, Oregon, at intersection with the line between sections 31 and 32;
thence on said section line, S. 0°18'44" W. a distance of 446.80 ft. to
- AP 7 a 5/8" iron rod as shown in said ~~C.S.~~ CS 4-087, at intersection with the northeasterly boundary line of Bonneville Power Administration (~~B.P.A.~~ BPA) land as described in Deed document No. 66-0507, records of Wasco County, Oregon, from which the corner of sections 5, 6, 31, and 32, Tps. 01 and 02 N., R. 14 E. bears S. 0°18'44" W. a distance of 776.20 ft., perpetuated by the ~~U.S.A.C.E.~~ USACE in 1937; monumented with a stainless steel post with a brass cap on top;
thence on the northeasterly boundary line of said ~~B.P.A.~~ BPA land, S. 72°02'37" E. a distance of 2,417.83 ft. to
T. 01 N., R. 14 E.
- AP 8 at intersection with the line between sections 5 and 32, Tps. 01 and 02 N., R. 14 E.;
thence on the line between said sections 5 and 32, N. 89°14'04" E. a distance of 353.83 ft. to
- AP 9 the 1/4 corner of sections 5 and 32, Tps. 01 and 02 N., R. 14 E.;
thence on the line between said sections 5 and 32, N. 89°49'59" E., approximately 744 ft. to
- AP 10 from which the northerly corner of unnumbered lot (NE1/4 NE1/4) containing 42.12 acres and unnumbered lot (NW1/4 NE1/4) containing 42.00 acres, said section 5, bears N. 89°49'59" E., approximately 587 ft.;
thence, S. 53° E. a distance of 742 ft. to
- AP 11 at intersection with the line between said unnumbered lots, from which the northerly corner bears northerly, approximately 455 ft.;
thence on the line between said unnumbered lots, southerly, approximately 928 ft. to
- AP 12 the southerly corner of said unnumbered lots;
thence on the southerly line of said lot (NW1/4 NE1/4) and unnumbered lot (NE1/4 NW1/4) containing 41.86 acres, S. 89°39' W. a distance of 2,648 ft., as shown in ~~C.S.~~ CS 0163-2, records of Wasco County, Oregon, to
- AP 13 the southerly corner of unnumbered lot (NW1/4NW1/4) containing 41.74 acres and unnumbered lot (NE1/4 NW1/4) containing 41.86 acres, said section 5;
thence on the N. and S. center line of the NW1/4 of section 5, southerly, approximately 1,304 ft. to
- AP 14 the center W 1/16 corner of section 5;
thence on the E. and W. center line of section 5, S. 89°39' W. a distance of 1,320.5 ft. to

- AP 15 the 1/4 corner of sections 5 and 6; thence on the line between sections 5 and 6, S. 00°25' E., approximately 2,640 ft. to
- AP 16 the corner of sections 5, 6, 7, and 8, established by Professional Land Surveyor (~~P.L.S.~~ PLS) No. 872 in 1983, as described in Wasco County Land Corner Record Sheet L.C. 0678; monumented with an aluminum post and cap; thence on the line between sections 6 and 7, S. 88°03' W. a distance of 1,494.41 ft., as shown in the survey of ~~B.P.A.~~ BPA Celilo-Mead Transmission Line, Page 1 of 266, dated 2/8/1967, records of ~~B.P.A.~~ BPA, to
- AP 17 at intersection with the easterly line of the ~~B.P.A.~~ BPA Celilo-Mead Transmission Line easement, as shown in said survey; thence leaving ~~B.P.A.~~ BPA land, on easterly line of said easement, S. 19°45' E. a distance of 1,000 ft. to
- AP 18 on said easterly line; thence perpendicular to said easterly line, across the full width of said easement, S. 70°15' W. a distance of 437.5 ft. to
- AP 19 on the westerly line of said easement; thence on said westerly line, N. 19°45' W. a distance of 1,140 ft. to
- AP 20 at intersection with the line between sections 6 and 7, identical with the south line of the aforementioned ~~B.P.A.~~ BPA land; thence on said line, S. 88°03' W., approximately 970 ft. to
- AP 21 the northwest corner of that property described in Deed Document No. 2011-1521, records of Wasco County, Oregon; thence on the northwesterly boundary line of said property, identical with the southerly line of said B.P.A land, southwestwesterly, approximately 1,682 ft. to
- AP 22 at intersection with the easterly right-of-way line of The Dalles - California Highway, US 197; thence on said easterly right-of-way line, northwestwesterly, approximately 355 ft. to
- AP 23 at intersection with the easterly line of the R.R. Thompson Donation Land Claim (~~D.L.C.~~ DLC) No. 37; thence on said easterly ~~D.L.C.~~ DLC line, N. 00°04'05" W. a distance of 2,371.62 ft. to
- AP 24 the northeast corner of said Thompson ~~D.L.C.~~ DLC, perpetuated by ~~P.L.S.~~ PLS No. 856 in 1983, as shown in Wasco County L.C. 0686; monumented with a 2-inch bronze disk set in a large stone; thence leaving ~~B.P.A.~~ BPA land, on the northerly line of said Thompson ~~D.L.C.~~ DLC, on The Dalles Urban Growth Boundary (~~T.D.~~ TD UGB) from this point forward unless otherwise noted, N. 89°34' W., approximately 3,920 ft. to
- T. 01 N., R. 13 E.**
- AP 25 at intersection with a line extended northerly, parallel with and 208.7 ft. easterly of, the westerly line of Lot 1, Cherry Park Addition to Wasco County; thence on said line, S. 00°08' W., approximately 90 ft. (See Footnote 3) to
- AP 26 the southeast corner of the Cherry Park Grange Tract described in Deed Book 127 at Page 725, records of Wasco County, Oregon; thence on the southerly line of said tract, N. 89°34' W. a distance of 208.7 ft. to
- AP 27 at intersection with the easterly right-of-way line of Lambert Street; thence on said right-of-way line, S. 00°08' W., approximately 2,543 ft. to
- AP 28 at intersection with the southerly line of the aforementioned Thompson ~~D.L.C.~~ DLC; thence on said southerly line, N. 89°28'53" W., approximately 4,640 ft. to
- AP 29 at intersection with the southerly terminus of the center line of Thompson Street, as platted in Thompson Addition to Wasco County; thence on the southerly extension thereof, S. 00°08' W. a distance of 20 ft. to
- AP 30 at intersection with a line parallel with and 20 ft. southerly of the southerly line of said Thompson ~~D.L.C.~~ DLC, when measured perpendicular thereto; thence on said line, N. 89°28'53" W. a distance of 301.48 ft. to
- AP 31 at intersection with the westerly line of Wasco County Partition Plat 2004-0013; thence on said westerly line, S. 00°10'48" E. a distance of 1,172.60 ft. to
- AP 32 the southeast corner of The Dalles city reservoir land as described in Deed Book 108 at Page 499, records of Wasco County, OR; thence N. 89°56' W. a distance of 1,516.02 ft. to
- AP 33 the southeast corner of the John A. Simms ~~D.L.C.~~ DLC No. 39; thence on the southerly line of said Simms

- AP 34 ~~D.L.C. DLC~~, N. 89°45' W. a distance of 3,003.41 ft. to the southwest corner of the Plat of Assembly Addition; thence on the westerly line of said Assembly Addition and the northerly extension thereof, N. 00°04' W. a distance of 568.15 ft. to
- AP 35 at intersection with the southerly boundary line of Dry Hollow Elementary School property, as described in Deed Book 139 at Page 605, records of Wasco County, Oregon, from which the southeast corner of the W. D. Bigelow ~~D.L.C. DLC~~ No. 40 bears N. 89°56' E. a distance of 660.00 ft. See Footnote 4; thence on the southerly boundary line of said school land, S. 89°56' W., approximately 390 ft. to
- AP 36 the southwest corner of said school land (See Footnote 4); thence on the westerly line of said school land and the northerly extension thereof, leaving ~~T.D. TD~~ UGB, N. 00°39' W., approximately 530 ft. to
- AP 37 the southerly right-of-way line of East Scenic Drive; thence on said southerly right-of-way line westerly, approximately 850 ft. to
- AP 38 at intersection with the northerly extension of the easterly line of Lot 5, Block 2, Orchard Hills Addition to the City of The Dalles; thence on said northerly extension of the easterly line of Lot 5, the easterly line of Lot 5, and further on the southerly extension thereof, S. 19°30' W., approximately 680 ft. to
- AP 39 at intersection with the southerly line of the aforementioned Bigelow ~~D.L.C. DLC~~; thence on said southerly line, S. 89°59' W., approximately 1,500 ft. to
- AP 40 the southwest corner of the Plat of Hillcrest Addition; thence on the westerly line of Hillcrest Addition, N. 00°10'00" E., approximately 360 ft. to
- AP 41 at intersection with the City of The Dalles city limit line; thence on said city limit line, S. 77°09' W., approximately 965 ft. to
- AP 42 at intersection with the southeasterly extension of the Fort Dalles Military Reservation line; thence on said city limit line N. 66°36' W., approximately 1,140 ft. to
- AP 43 the southeast corner of said Fort Dalles Military Reservation at intersection with the westerly line of the aforementioned Bigelow ~~D.L.C. DLC~~, from which the southwest corner of said Bigelow ~~D.L.C. DLC~~ bears S. 32°30' W., on said westerly line, a distance of 695.47 ft.; thence on the southerly line of said Fort Dalles Military Reservation, N. 66°36' W., approximately 1,225 ft. to
- AP 44 from which the initial point of Brocks Addition to the City of The Dalles bears S. 66°36' E. a distance of 2.0 ft. (See Footnote 5); thence on the southeasterly line of that property described in Deed Document 1968-0064, records of Wasco County, Oregon, S. 47°27' W. a distance of 228.60 ft. to
- AP 45 the southeasterly corner thereof; thence on the southwesterly line of said property, N. 38°46' W. a distance of 64.00 ft. to
- AP 46 the southwesterly corner thereof; thence on the northwesterly line of said property, N. 42°58' E. a distance of 168.77 ft. to
- AP 47 from which the southerly line of the Fort Dalles Military Reservation bears northerly 20 ft., when measured perpendicular thereto; thence on a line parallel with and 20 ft. southerly, when measured perpendicular from said southerly line, N. 66°22'30" W. a distance of 151.28 ft. to
- AP 48 the interior corner of the property described in Deed Document No. 1979-2215, records of Wasco County, Oregon; thence on the westerly most southeasterly line of said property, S. 23°37'30" W. a distance of 210.00 ft. to
- AP 49 the most southerly corner thereof; thence on the southerly most southwesterly line of said property, N. 66°22'30" W. a distance of 100.00 ft. to
- AP 50 the southwesterly corner thereof; thence on the northwesterly line of said property, N. 23°37'30" E. a distance of 230.00 ft. to

- AP 51 at intersection with the westerly right-of-way line of Radio Way, identical with said southerly line of the Fort Dalles Military Reservation;
thence on said southerly line and city limit line, N. 66°36' W., approximately 1,815 ft. to
- AP 52 at intersection with the easterly right-of-way line of Sunset Valley Drive;
thence on said right-of-way line, S. 6°00' E., approximately 155 ft. to
- AP 53 at intersection with the northeasterly extension of the southeasterly line of that property described in Wasco County Deed Document No. 78-0471, records of Wasco County, Oregon;
thence on said line and continuing on the southeasterly line of that property described in Wasco County Deed Book 119 Page 80, records of Wasco County, Oregon, S. 53°35' W. a distance of 166.38 ft. to
- AP 54 the southwesterly ~~corner~~ of said property described in Deed Book 119 at Page 80;
thence on the southwesterly line of said property, N. 36°53' W. a distance of 30.00 ft. to
- AP 55 the southeasterly ~~corner~~ of that property described in Deed Document No. 1980-0450, records of Wasco County, Oregon;
thence on the southeasterly line thereof, S. 53°35' W. a distance of 86.0 ft. to
- AP 56 the southwest ~~corner~~ thereof, identical with the northeasterly line of that property described in Deed Book 145 at Page 351, records of Wasco County, Oregon;
thence on said line, S. 36°53' E. a distance of 30.00 ft. to
- AP 57 the southeasterly ~~corner~~ thereof;
thence on the southeasterly line of said property and continuing on the southeasterly line of that property described in Wasco County Deed Document No. 66-2105, records of Wasco County, Oregon, S. 53°35' W. a distance of 200.00 ft. to
- AP 58 the southwesterly ~~corner~~ thereof;
thence on the southwesterly line of said property, N. 36°53' W., approximately 36 ft. to
- AP 59 the southeasterly ~~corner~~ of that property described in Deed Document No. 1982-0040, records of Wasco County, Oregon;
thence on the southeasterly line of said property, S. 53°15' W. a distance of 105.0 ft. to
- AP 60 the southwesterly ~~corner~~ thereof;
thence on the southwesterly line of said property, N. 36°53' W. a distance of 150.00 ft. to
- AP 61 the southeasterly right-of-way line of Mill Creek Market County Road;
thence on said southeasterly right-of-way line, S. 53°24' W., approximately 700 ft. to
- AP 62 the northwesterly ~~corner~~ of that property described in Deed Document No. 79-0849, records of Wasco County, Oregon;
thence on the line determined by Gifford Pinchot National Forest Surveyor Don Karsch and Tenneson Engineering Corporation surveyor Ben Beseda, memorialized in a letter dated September 30, 2005 to Brian Litt, File Code 7150, records of Columbia River Gorge Commission, leaving ~~T-D~~ TD UGB, North, approximately 1,355 ft. to
- AP 63 at intersection with the southerly line of Tract "A" of the Plat of Ericksen's 4th Addition;
thence rejoining ~~T-D~~ TD UGB on said southerly line, S. 88°31' W., approximately 277 ft. to
- AP 64 the southwest ~~corner~~ of said Tract "A";
thence on the westerly line of said Tract "A", N. 00°19' E. a distance of 149.37 ft. to
- AP 65 thence on a property line, N. 29°36'00" W. a distance of 36.50 ft. to
- AP 66 thence on said property line, N. 60°24' E. a distance of 21.00 ft. to
- AP 67 at intersection with the westerly line of said Tract "A";
thence on said westerly line, N. 00°19' E. a distance of 166.00 ft. to
- AP 68 the northwest ~~corner~~ of said Tract "A";
thence on the northerly line of said Tract "A", S. 89°41'00" E. a distance of 683.33 ft. to
- AP 69 a 5/8" iron rod at the northeasterly ~~corner~~ Parcel 1, as shown on Partition Plat 2004-0001, records of Wasco County, Oregon;
thence on the easterly line of said partition plat, S. 00°19'00" W. a distance of 118.00 ft. to
- AP 70 a 5/8" iron rod;
thence continuing on said easterly line, S. 43°41'00" E. a distance of 70.23 ft. to

- AP 71 at intersection with the westerly line of the aforementioned Fort Dalles Military Reservation, identical with The Dalles city limit line;
thence on said Military Reservation line and extension thereof, N. 13°59' E., approximately 2,000 ft. to
- AP 72 the westerly right-of-way line of Cherry Heights Road;
thence on said right-of-way line, northerly, approximately 470 ft. to
- AP 73 the center line of Road H, in Fruitland Park Addition;
thence continuing on the 1980 ~~TD~~ TD UGB, on said center line, N. 60°43' W., approximately 129 ft., to
- AP 74 on said center line;
thence N. 17°29' W. a distance of 300 ft. to
- AP 75 on said center line;
thence northwesterly a distance of 140 ft. to
- AP 76 on said center line, at intersection with the southwesterly extension of the northwesterly line of Lot 20 of said Fruitland Park Addition;
thence continuing on said center line, N. 47°04' W., approximately 600 ft. to
- AP 77 on said center line;
thence N. 61°28'14" W., approximately 514 ft. to
- AP 78 at intersection with the southwesterly extension of the westerly most line of Parcel 2, Replat 2005-0035, records of Wasco County, Oregon; said point being S. 24°40'32" W., approximately 20 ft. on said line from the westerly most ~~corner~~ of said Parcel 2;
thence on said extension and most westerly line, N. 24°40'32" E., approximately 232 ft. to
- AP 79 at intersection with the southwesterly right-of-way line of Road "L" in the aforementioned Fruitland Park Addition;
thence on said southwesterly right-of-way line, northwesterly, approximately 760 ft. to
- AP 80 an angle point on the northeasterly line of Lot 51 of said Fruitland Park Addition;
thence on the southwesterly line of Road "L", which becomes West 16th Street, N. 79°34' W. a distance of 406.81 ft., as shown in ~~C-S~~ CS G-12-11b, records of Wasco County, Oregon to
- AP 81 an angle point on the northeasterly line of Lot 50 of said Fruitland Park Addition;
thence on the southwesterly right-of-way line of West 16th Street, N. 47°34'03" W., approximately 2,735 ft. to
T. 02 N., R. 13 E.
- AP 82 at intersection with the northwesterly right-of-way line of Meek Street in said Fruitland Park Addition;
thence on said northwesterly right-of-way line, N. 42°27'00" E., approximately 650 ft. to
- AP 83 at intersection with the southwesterly right-of-way line of Road "B", known also as West 13th Street;
thence on said southwesterly right-of-way line and extension thereof, N. 47°34'00" W., approximately 420 ft. to
- AP 84 a 5/8-inch iron rod at intersection with the southeasterly exterior boundary of the Amended Plat of Highland Heights, Phase One;
thence on said exterior line, N. 49°54'24" E. a distance of 26.34 ft. to
- AP 85 a 1/2-inch iron rod at the easterly most ~~corner~~ of said plat;
thence on the northeasterly exterior line of said plat and northwesterly extension thereof, N. 22° W., approximately 2,356 ft. to
- AP 86 at intersection with the center line of Pomona Street West;
thence on the center line of Pomona Street West, S. 74°36'40" W., approximately 312 ft. to
- AP 87 at intersection with the westerly right-of-way line of West 13th Street;
thence on said westerly right-of-way line, N. 10°32'36" W., approximately 730 ft. to
- AP 88 at intersection with the line between ~~sections~~ 29 and 32, identical with the southeasterly ~~corner~~ of Block "C", Emerson Park Addition;
thence on the south most southerly line of Emerson Park Addition, S. 89°58' W. a distance of 100 ft. to
- AP 89 the south most southwesterly ~~corner~~ of Emerson Park Addition;
thence on the westerly line of Emerson Park Addition, northerly, approximately 2,050 ft. (See Footnote 6) to

AP 90 the northwesterly corner of Lot 34, Block C, Emerson Park Addition; thence on the north most southerly line of Emerson Park Addition, N. 89°58' W. a distance of 290 ft. to

AP 91 the southwesterly corner of Block "G", Emerson Park Addition; thence on the westerly line of said Block "G", N. 00°02' W. a distance of 390.0 ft. to

AP 92 the northwesterly corner of Emerson Park Addition; thence on the northerly line of Emerson Park Addition, S. 89°58' E. a distance of 390.0 ft. to

AP 93 the northeasterly corner of Block "D", Emerson Park Addition, identical with the westerly right-of-way line of West 13th Street; thence on the westerly then northerly right-of-way line of West 13th Street as it becomes Irvine Street West, northerly and easterly, approximately 760 ft. to

AP 94 at intersection with the westerly right-of-way line of West 10th Street, also known as Chenowith Road; thence on said right-of-way, northwesterly, approximately 390 ft. to

AP 95 at intersection with the thread of Chenowith Creek; thence along the thread of Chenowith Creek, easterly, approximately 4,950 ft. to

AP 96 at intersection with the westerly right-of-way line of Interstate Highway I-84; thence on said right-of-way line, N. 19°56'30" E., approximately 1,900 ft. to

AP 97 being 150 ft. westerly from engineers centerline survey station 2157+84.25 PT, when measured perpendicular thereto; thence leaving said right-of-way line and continuing on the extension thereof, N. 19°56'30" E., approximately 1,020 ft. to

AP 98 at intersection with the westerly extension of the southerly most line of the Edward Crate ~~D.L.C.~~ DLC No. 38; thence on said westerly extension and southerly most line, N. 89°27' E., approximately 1,800 ft. to

AP 99 at intersection with the left bank of the Columbia River, at Bonneville Normal Pool Elevation (~~B.N.P.E.~~) 72 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D.~~ 29) (BNPE) (See Footnote 7);

thence along said left bank at ~~B.N.P.E.~~ BNPE through sections 21, 28, 33 and 34 of T. 02 N., R. 13 E. and T. 01 N., R. 13 E.

AP 100 section 3 of T. 01 N., R. 13 E., southeasterly, approximately 17,600 ft. to at intersection with the northwesterly extension of the U.S. Army Corps of Engineers Permit Harbor Line of the Port of The Dalles, as shown in the ~~U.S.A.C.E.~~ USACE Portland District map of "Bonneville Dam - Lands Vicinity Map of The Dalles City" No. R-0-8-10/c-OW dated December 16, 1941 (See Footnote 7 8); thence on said northwesterly extension, S. 74°24'07" E., approximately 360 ft. to

AP 101 at intersection with the northeasterly extension of the easterly right-of-way line of Union Street, from which the southwesterly corner of Block 2, Plat of Original Dalles City, bears S. 34°35'53" W. a distance of 601.15 ft.; thence on said ~~U.S.A.C.E.~~ USACE Harbor Line, S. 74°24'07" E. a distance of 1,043.48 ft. to

AP 102 thence on said ~~U.S.A.C.E.~~ USACE Harbor Line and southeasterly extension thereof (See Footnote 8 9), S. 29°05'05" E., approximately 810 ft. to

AP 103 at intersection with a line parallel with and a distance of 50 ft. northwesterly from the Port of The Dalles Marina sea wall, as measured perpendicular thereto; thence on said line, northeasterly, approximately 250 ft. to

AP 104 at intersection with a line parallel with and a distance of 50 ft. northerly from said sea wall, as measured perpendicular thereto; thence on said line, easterly, approximately 650 ft. to

AP 105 from which the northerly most extremity of the Port of The Dalles Marina jetty, at B.N.P.E, bears South a distance of 50 ft.; thence on a line, southeasterly, approximately 830 ft. to

AP 106 the north most extremity of the eastern jetty, at ~~B.N.P.E.~~ BNPE, protecting the existing boat launch ramp; thence along the easterly face of said jetty and the left bank of the Columbia River, at ~~B.N.P.E.~~ BNPE through sections 1, 2, and 3, T. 01 N., R. 13 E.,

T. 02 N., R. 13 E.

and section 36, T. 02 N., R. 13 E., easterly, approximately 11,800 ft. to

- AP 107 at intersection with the northerly extension of the line between lots 1 and 2, section 36, T. 02 N., R. 13 E. (See Footnote ~~9~~ 10); thence N. 18° E., approximately 390 ft. to
- AP 108 at intersection with the Oregon-Washington state line; thence on said state line, N. 46° E., approximately 1,660 ft. to
- AP 109 at intersection with the northeasterly easement line of the ~~B.P.A.~~ BPA transmission line; thence southerly, approximately 615 ft. to
- AP 1 the **Point of Beginning**

the Area being 5,536 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

- a. Sheet 8 - The Dalles UA Boundary has been erased, refers to: "See NSA-001, Sheet Two"
- b. Sheet 9 - The Dalles UA Boundary has been erased, refers to: "See NSA-001, Sheet Two"
- c. Sheet 10 - Land Use Map The Dalles, Oregon - is a land use map which, by reference, was the basis for the 1987 USFS Maps. Cartographic depictions from Sheet 10 (Act Map 10) were held where occasional differences occurred with USFS Map 29. Act Map 10 also contains a handwritten note stating, "Note: Urban Growth Boundary follows The Dalles UGB" The Commission and U.S. Forest Service believe the words "Urban Growth Boundary" means "Urban Area Boundary." Consistent with this note, the 1980 Zoning Map of The Dalles, see note 3, was examined where applicable. Act Map 10 depicts numerous courses which fit well with roads, ownerships, and the US rectangular system.

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal boundary description. The USFS Maps are generally the basis for this description. USFS Certain cartographic interpretations differ from USFS Map to USFS Map. The footnotes in this description explains significant discrepancies between the congressional and USFS Maps, between the USFS Maps, and resolutions of the discrepancies.

- a. CRGNSA Boundary Map, September 1986, NSA-001, Sheet 2, UABs drawn at a small scale.
- b. USFS Map 20-
- c. USFS Map 21-
- d. USFS Map 22-
- e. USFS Maps 20 to 22 have several unexplainable differences with USFS Map 29.
- f. USFS Map 29. This map is a "Land Use Map" which was referred to when USFS Maps 20 to 22 were ambiguous.

The title block states, "The information on these maps was taken from the official maps referred to in Section 4 of P.L. 99-663 A map entitled 'Land Use Map, The Dalles, Oregon' was used as the base for this map." Based on that statement, this description occasionally holds to Act Map 10 where differences between the two maps occur and where Act Map 10 fits known geographic features or property lines. Map 29 also has two notes stating "Urban Growth Boundary" at the depicted Urban Area Boundary lines. These notes, and identical Act Map UA-004, Sheet 10 notes, demonstrate the USFS cartographers' intent to follow the congressional delegation's attempt to depict the city's 1986 urban growth boundaries.

3. Zoning Map of City of The Dalles, Oregon, dated May 28, 1980, was used in this description to clarify a number of ambiguities between various maps.

4. City of The Dalles Urban Growth Boundary Mapping and Legal Description (2006) were both referred to as this description was written. The mapping was a basis for comparison USFS because the CRGNSA Act states that urban areas are "generally depicted" (see CRGNSA Act, § 4(e)), and are contained on small-scale drawings.

5. Memorandum from Jonathan Doherty, Columbia River Gorge Commission, to Gorge Commissioners, dated November 10, 1997, to Gorge Commissioners, records of Columbia River Gorge Commission, White Salmon, Washington, about "Review of Urban Area Mapping Discrepancies." These mapping discrepancies are noted in this description at each area.

6. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. AP 1 begins at the same point as The Dalles Urban Growth Boundary (~~T.D.~~ TD UGB).

2. AP 2 to AP 12 held 1980 ~~T.D.~~ TD UGB and Act Map 10 for reasons stated in the Map Source Narrative, specifically where these courses fit well with roads, public ownerships, and the US rectangular system, unlike the depictions in USFS mapping in these specific locations. Note also that 1997 G.C. Memorandum "Area 6B - I 84 Right-of-Way" was not held because the "drafting error" pertains to USFS Map 29 which, itself, is not drawn correctly in this location.

3. AP 25 to AP 27 held ~~T.D.~~ TD UGB, minor difference from USFS Map 29.

4. AP 35 to AP 39 held USFS Map 29, in harmony with conclusion reached in 1997 G.C. Memorandum "Area 6C - Dry Hollow Elementary School."

5. AP 44 to AP 51 held 2006 ~~T.D.~~ TD UGB description, including two long-standing residential home sites, which were shown as one "protrusion" on the 1982 ~~T.D.~~ TD UGB map.

6. AP 89 to AP 90 held westerly line of 1953 Emerson Park Addition. The 1987 USFS dotted boundary line is drawn some distance westerly of the West 13th Street right-of-way, not depicting this said right-of-way, suggesting it must have been intended to be westerly of the existing homes, so this description held the 1980 ~~T.D.~~ TD UGB Map which coincides with the subdivision boundary. This is also consistent with the "Urban Growth Boundary" note on USFS Map 29

and the conclusion reached in 1997 G.C. Memorandum "Area 6D - West Thirteenth Street."

7. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary.

78. AP 100 to AP 106 held USFS Map 29 and U.S. Army Corps of Engineers Permit Line, see also Urban Area Boundary determination letter from James Johnson, Columbia River Gorge Commission, to John Rayburn, Port of The Dalles, dated July 17, 1990, records of Columbia River Gorge Commission, White Salmon, Washington.

89. AP 102 to AP 107 held conclusion reached in 1997 G.C. Memorandum "Area 6A, Columbia River The Dalles," leaving ~~F.D.~~ TD UGB, staying consistent with USFS Map 29.

910. AP 107 to AP 1 held USFS Map 29 to coincide with state line and to abut the Dallesport Urban Area Boundary.

Columbia River Gorge National Scenic Area

White Salmon and Bingen Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. This description notes where it is identical with and where it leaves the Exterior and Special Management Area (SMA) Boundaries of the Columbia River Gorge National Scenic Area (CRGNSA). Exterior Boundary Angle Points are shown in parentheses (AP) and Special Management Area Boundary Angle Points are shown in brackets [AP]. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as The White Salmon and Bingen Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 3 North, Range 10 East, and of the Willamette Meridian, Klickitat County, Washington

Township 3 North, Range 11 East, of the Willamette Meridian, Klickitat County, Washington,

T. 03 N., R. 10 E.

- AP 1 **Beginning** at the intersection of the right bank of the Columbia River at Bonneville Normal Pool Elevation (~~B.N.P.E.~~), ~~elevation~~ 72 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D. 29~~ NGVD 1929) (BNPE) (See Footnote 1) and the southerly extension of the center line of Washington State Route 141 Alternate; Latitude: 45°43'41.0" N., Longitude: 121°31'15.9" W.; thence on said extended center line, northerly, approximately 135 ft. to
- AP 2 at intersection with the northerly right-of-way line of Washington State Route 14; thence N. 48°49' E., approximately 380 ft. to
- AP 3 at intersection with the 200-ft. ~~foot~~ contour line (~~N.G.V.D. 29~~ NGVD 1929); thence along said 200-ft. ~~foot~~ contour line, northerly, approximately 990 ft. to
- AP 4 at intersection with the westerly extension of the center line of Eyrie Road; thence ascending on the line of steepest uphill gradient, northeasterly, approximately 85 ft. to
- AP 5 at intersection with the westerly line of Lot 4 of the Hatfield Estates Phase 1 Subdivision, as recorded at Auditor's File No. (~~A.F.N.~~ AFN) 1076670, records of Klickitat County, Washington; thence on said westerly lot line, northerly, approximately 110 ft. to
- AP 6 the southern terminus of the Urban Area Boundary line as ~~located~~ shown on Short Plat No. SPL 2004-32, as recorded at ~~A.F.N.~~ AFN 1055724, records of Klickitat County, Washington, and monumented with a 5/8" x 30" iron rod with red plastic cap inscribed "WA PLS 18028" (See Footnote 2); thence on said Urban Area Boundary line, N. 10°40'43" E. a distance of 54.49 ft. to

- AP 7 an angle point on said Urban Area Boundary line, monumented with a 5/8" x 30" iron rod with red plastic cap inscribed "WA PLS 18028";
thence continuing on said Urban Area Boundary line, N 00° W. a distance of 816.27 ft. to
- AP 8 an angle point on said Urban Area Boundary line monumented with a 5/8" x 30" iron rod with red plastic cap inscribed "WA PLS 18028";
thence continuing on said Urban Area Boundary line, N. 13°41'40" W. a distance of 268.57 ft. to
- AP 9 at intersection with the northern terminus of said Urban Area Boundary line, as ~~located~~ shown on Short Plat No. SPL 2004-32, identical with the northerly line of Lot 1 of aforementioned Short Plat 2004-32 and monumented with a 5/8" x 30" iron rod with red plastic cap inscribed "WA PLS 18028";
thence on said northerly line and westerly extension thereof, N. 89°13'51" W., approximately 30 ft. to
- AP 10 at intersection with the ~~400-ft. foot~~ contour line (~~N.G.V.D. 29~~ NGVD 1929);
thence along said ~~400-ft. foot~~ contour line, northerly, approximately 2,370 ft. to
- AP 11 at intersection with the southerly line of Tax Parcel 03-10-1400-0010/00, as shown on Boundary Line Adjustment BLA 2007-12, as recorded at ~~A.F.N.~~ AFN 1072760, records of Klickitat County, Washington (See Footnote 3);
thence on said southerly line, N. 89°39'47" E., approximately 80 ft. to
- AP 12 at intersection with the top of prominent slope identical with the southern terminus of the Urban Area Boundary line as ~~located~~ shown on said BLA 2007-12;
thence on said top of prominent slope identical with Urban Area Boundary line more specifically described by the following courses:
N. 04°20'52" E. a distance of 170.41 ft. to
- AP 13 thence N. 76°07'36" W. a distance of 214.10 ft. to
- AP 14 thence N. 59°55'04" W. a distance of 104.74 ft. to
- AP 15 thence N. 31°01'16" W. a distance of 105.06 ft. to
- AP 16 thence N. 24°24'20" W. a distance of 30.49 ft. to
- AP 17 thence N. 14°41'39" E. a distance of 242.87 ft. to
- AP 18 thence N. 30°30'08" E. a distance of 51.48 ft. to
- AP 19 thence N. 14°34'05" E. a distance of 367.33 ft. to
- AP 20 thence N. 04°16'28" W. a distance of 100.55 ft. to
- AP 21 thence N. 27°11'36" E. a distance of 267.87 ft. to
- AP 22 thence N. 67°32'17" E. a distance of 165.79 ft. to
- AP 23 thence S. 85°30'02" E. a distance of 121.14 ft. to
- AP 24 thence N. 58°57'14" E. a distance of 156.82 ft. to
- AP 25 thence N. 01°33'31" E. a distance of 123.13 ft. to
- AP 26 at intersection with the northerly line of aforementioned Tax Parcel 03-10-1400-0010/00;
thence on said northerly line, S. 89°34'06" W., approximately 50 ~~ft.~~ feet to
- AP 27 at intersection with the ~~400-ft. foot~~ contour line (~~N.G.V.D. 29~~ NGVD 1929);
thence along said ~~400-ft. foot~~ contour line, northerly, approximately 200 feet to
- AP 28 at intersection with the northerly extension of the west line of Lot 1, SP-91-12, as adjusted in aforementioned BLA 2007-12;
thence ~~East easterly~~, approximately 8,269 ft. to
- AP 29 (AP 198) at intersection with the line between sec. 13, T. 03 N., R. 10 E., and sec. 18, T. 03 N., R. 11 E., identical with AP 198 of the Exterior Legal Boundary Description with an angle point in the Columbia River Gorge National Scenic Area Exterior Boundary and the line between section 13, T. 03 N., R. 10 E., and section 18, T. 03 N., R. 11 E.;
thence continuing East, on identical with said eExterior bBoundary, a distance of 1,189.0 feet to more specifically described by the following courses:
N. 90° E. a distance of 1,189.0 ft. to
T. 03 N., R. 11 E.
- AP 30 (AP 199) thence across the easterly slope of Cemetery hill, South a distance of 773.0 ft. to
- AP 31 (AP 200) thence descending, N. 90° E., approximately 1,430 ft. to

- AP 32
(AP 201) at intersection with the N. and S. center line of section 18; thence on said N. and S. center line, S. 00°29'38" E., approximately 2,055 ft. to
- AP 33
(AP 202) the 1/4 corner between sections 18 and 19 perpetuated with a 5/8" iron rod with aluminum cap driven into a 1" pipe as shown in Short Plat SP 97-16, recorded at ~~A.F.N.~~ AFN 1003866, records of Klickitat County, Washington; thence leaving said the aforementioned ~~e~~Exterior ~~b~~Boundary ~~line~~ on the N. and S. center line of said section 19, S. 00°44'45" E., approximately 2,645 ft. to
- AP 34 the center 1/4 corner of section 19 perpetuated with a 6" concrete monument in a mound of stones with a 1-1/2" pipe and brass cap on top and a northeast corner of the White Salmon city limits; thence S. 34°46' E., approximately 405 ft. to
- AP 35 at intersection with the 800-ft. ~~foot~~ contour line (~~N.G.V.D. 29~~ NGVD 1929); thence along said 800-ft. ~~foot~~ contour line, southeasterly, approximately 3,659 ft. to
- AP 36 at intersection with the line between sections 29 and 30; thence on the line between sections 29 and 30, N. 01°37'52" E. or S. 01°37'52" W. to
- AP 37 at intersection with the Urban Area Boundary line, as shown on survey recorded at ~~A.F.N.~~ AFN 1020245, records of Klickitat County, Washington, and monumented with a 5/8" x 30" iron rod with cap inscribed "OR 932 & WA 22098", as shown in said survey See Footnote 5); thence on said Urban Area Boundary line, S. 56°33'36" E. a distance of 570.80 ft. to
- AP 38 a 5/8" x 30" iron rod with cap inscribed "OR 932 & WA 22098", as shown in said survey; thence continuing on said Urban Area Boundary line, S. 46°00'13" E. a distance of 397.66 ft. to
- AP 39 a 5/8" x 30" iron rod with cap inscribed "OR 932 & WA 22098", as shown in said survey; thence continuing on said Urban Area Boundary line, as shown on survey recorded at ~~A.F.N.~~ AFN 1085112, records of Klickitat County, Washington, S. 45°06'55" E. a distance of 5,532.43 ft. (See Footnote 6) to
- AP 40 at intersection with the line between sections 28 and 29; thence leaving said Urban Area Boundary line as shown on ~~A.F.N.~~ AFN 1085112 on
- AP 41 the line between sections 28 and 29, S. 00°29'43" W., approximately 140 ft. to the corner of sections 28, 29, 32, and 33 perpetuated with an iron post in concrete with a brass cap on top set by the U.S. Army Corps of Engineers; thence S. 63°06' E., approximately 3,002 ft. to
- AP 42
[AP 55] the north 1/16 corner of section 33 monumented with a 5/8" x 30" iron rod, as shown in survey recorded at ~~A.F.N.~~ AFN 176093, records of Klickitat County, Washington, identical with AP 55 of the Burdoin Mountain Special Management Area (SMA) Legal Boundary Description; thence on the E. and W. center line of the NE1/4 of section 33, on said SMA Boundary, S. 88°34'53" E. a distance of 1,933.17 ft. to
- AP 43
[AP 54] the center E-NE 1/64 corner of section 33; thence on the N. and S. center line of the SE1/4 of the NE1/4 of section 33, S. 01°11'20" W. a distance of 1,321.01 ft. to
- AP 44
[AP 53] the center E-E 1/64 corner of section 33; thence S. 01°07'34" W., approximately 1,206 ft. to
- AP 45
[AP 52] at intersection with the aforementioned right bank of the Columbia River at ~~B.N.P.E.~~ BNPE; thence leaving the aforementioned SMA Boundary, along said right bank at ~~B.N.P.E.~~ BNPE, westerly, approximately 7,419 ft. to
- AP 46 at intersection with the easterly mouth of the Bingen Marina; thence crossing said mouth of the Bingen Marina, S. 64°39' W., approximately 278 ft. to
- AP 47 at intersection with said right bank at ~~B.N.P.E.~~ BNPE; thence along said right bank at ~~B.N.P.E.~~ BNPE, westerly, approximately 8,739 ft. to
- AP 48 at intersection with the south side of the mouth of the S.D.S. Lumber Co. Harbor; thence crossing said mouth, N. 08°03' W., approximately 1,893 ft. to
- AP 49 at intersection with the west line of the E.S. Joslyn Donation Land Claim and said right bank at ~~B.N.P.E.~~ BNPE; thence along said right bank at ~~B.N.P.E.~~ BNPE, westerly, approximately 11,389 ft. to
- AP 1 the **Point of Beginning**.
the Area being 3,325 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):

- a. Sheet 4
- b. Sheet 6

2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this ~~Legal Boundary~~ Description. The USFS Maps are generally the basis for this description.

- a. USFS Map 12
- b. USFS Map 15

3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Bonneville Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Bonneville Normal Pool Elevation was 72 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. The Bonneville Dam Normal Pool Elevation is listed as elevation 72 ft. on the N.S.A. Boundary Quad Map Sheets 12 and 15.

2. Short Plat No. SPL 2004-32, recorded at AFN Auditor's File #1055724, records of Klickitat County was completed in 2005 by Frank Childs, PLS of Taylor Engineering. Mr. Childs worked with then USFS Scenic Area Surveyor Don Karsch, PLS, to locate the line on this plat. There was correspondence between Mr. Childs, Mr. Karsch and Gorge Commission Senior Planner Brian Litt concerning this short plat. Mr. Childs utilized an overlay of USFS Map 12 which was then rotated, translated and scaled into position by reference to other known common points such as road intersections. Mr. Karsch accepted this location which was subsequently accepted by the Gorge Commission and Klickitat County. Both surveyors acknowledge that the line located in in this fashion is likely to be accurate to within only 10 to 20 ft. Following the initial short plat the property has been developed as Hatfield Estates. Platted lots adjoin the line established in Short Plat 2004-32. Mr. Childs' determination and Mr. Karsch's review did not have the benefit of also being able to review the Act Map. The Act Map appears to follow the 400-ft. contour through the majority of the determination. Utilizing the 400-ft. contour would appear to move the UA line to the east in the 15 to 65-ft. ~~foot~~ range. Because of the determination and subsequent land use actions this description follows the line determined in Short Plat 2004-32.

3. Boundary Line Adjustment, BLA 2007-12 by Klein & Assoc. Inc. for Whitney Miller, recorded September 11, 2007 at ~~AFN A.F. #1072760~~, records of Klickitat County, shows the UA line and notes it as being the top of a prominent slope. Mr. Klein worked with then USFS Scenic Area Surveyor Don Karsch, PLS to locate the line on this plat. There was correspondence with between Mr. Klein and Mr. Karsch on the UA line location. Mr. Klein imported a digitized GIS line from the USFS map sheet 12. They surmised that the line segments shown on the map represented bluffs or grade breaks.

One of Mr. Karsch's notes states "... they were trying to follow breaks of the east side of the White Salmon. Either that or a very poor tracing of the contour line." Their review of the UA line location in this area did not include review of the Act Map. The Act Map in this location appears to follow the contour line. The line established by Mr. Klein was not utilized as a property line in the BLA. There is very little physical difference in these two locations. Either location follows Mr. Karsch's opinion that the intent was to "be able to develop the flat area, and keep the steep slopes protected." Because BLA 2007-12 followed protocols of the time, this description follows the line shown on BLA 2007-12.

~~4. AP 32 does not coincide with a C.R.G.N.S.A. draft exterior boundary description. It runs to the north and south center line of section 18. The USFS and Act Maps clearly show this intent. Berta Romio, P.L.S. No. of the USFS, and coauthor of the draft N.S.A. Exterior Boundary legal description agreed with this conclusion and would support modifying the NSA Exterior description if/when the FS continues work on the exterior descriptions.~~

54. The locations of AP 36 and AP 37 will be very close. Without benefit of field survey, it is unknown whether the course from AP 36 to AP 37 will be north or south along the section line; therefore, this description shows both bearings without a distance.

5. AP 37, AP 38, and AP 39 conform to the Klein surveys for Vezina, recorded as ~~A.F.N.~~ AFN 1046562 and 1020245.

6. AP 39 connects to the Pioneer Surveying and Engineering survey for S.D.S. Lumber Co., recorded as ~~A.F.N.~~ AFN 1085112. The surveys do not readily explain how they fully connected to each other. Under additional actual field survey, another angle point may be developed within the UA line. The intent of the UA description is to conform to these surveys. These surveys were performed without benefit of the review of the Act Map. Consideration of the Act Map may have resulted in a slightly different location of the Urban Area description; however, these surveys followed the protocols in place at the time they were completed and were held for the UA description. This creates a small jog on the section 28 and 29 line at AP 40 to AP 41, which does not readily appear on either of the USFS or Act Maps.

Columbia River Gorge National Scenic Area
Wishram Urban Area Legal Boundary Description

All corner points and lines of the Public Land Survey System (PLSS) referenced in this description are according to the latest official survey notes and plats, and state authority survey plats in effect as of December 1, 2016, unless otherwise specified. The hierarchy of the "rules of construction" is observed herein - natural monuments control over artificial monuments, which control over bearings and distances, which control over coordinates. This description will be junior to all senior rights when overlaps may occur. This description shall be considered, along with the final legislation map, as whole and complete per the original legislation creating this urban area and together they both shall govern all boundaries of this area, and guide future "on-the-ground" surveys. Where the boundary is described as a topographic feature, the actual location of the feature will control the

approximate course identifying that part of said boundary. Courses for parallel offsets are measured from the apparent road or trail centerlines of the traveled way to determine the boundary and are intended to be used to locate the boundary in the future in the event that the road migrates or becomes indistinguishable; the courses follow the general configuration of the feature and not every turn or bend. The latitudes and longitudes reported for certain corner points and angle points in this description are North American Datum of 1983 (NAD83) (2011) (Epoch2011.00) values where survey-grade Global Positioning System (GPS) data was available, otherwise were determined by Geographical Information Systems (GIS) mapping data with a relative accuracy of ± 40 ft. horizontally, unless otherwise noted.

This description encompasses land that is identified as

The Wishram Urban Area, established in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT OF 1986, Pub. L. No. 99-663, § 4(e), 100 Stat. 4274, 4277 (1986), located in portions of:

Township 2 North, Range 15 East, of the Willamette Meridian, Klickitat County, Washington.

T. 02 N., R. 15 E., Klickitat County

- AP 1 **Beginning** on the line between sections 16 and 17 at the intersection with the right bank of the Columbia River at ~~The Dalles Pool~~ Lake Celilo Normal Pool Elevation (T.D.N.P.E.), elevation 160 ft., National Geodetic Vertical Datum of 1929 (~~N.G.V.D.-29~~ NGVD 1929) (LCNPE) (See Footnote 1); Latitude: 45°39'39" NW., Longitude: 120°56'48.8" WN.; thence on the line between sections 16 and 17, N. 00°19'40" E., approximately 1,710 ft. to
- AP 2 the corner to sections 8, 9, 16, and 17; thence on the line between sections 8 and 17, westerly, approximately 260 ft. to
- AP 3 at intersection with the center line of Washington State Route 14; thence on said center line, westerly, approximately 5,675 ft. to
- AP 4 at intersection with the line between sections 17 and 18; thence on the line between sections 17 and 18, N. 00°23'54" E., approximately 840 ft. to
- AP 5 the corner to sections 7, 8, 17, and 18, said point being perpetuated with an iron post with a brass cap on top set by the U.S. Army Corps of Engineers; thence on the line between sections 7 and 8, N. 01°08'56" W., approximately 410 ft. to
- AP 6 at intersection with a line offset North of the line between sections 7 and 18 extending E. and W. through the northmost corner of Lot 4 of Short Plat SP 90-05 as recorded October 20, 1990 at Auditor's File No. ~~umber~~ (A.F.N. AFN) 220700 (Vol. 2 of Short Plats, Pg. 60), records of Klickitat County Washington (See Footnote 2); thence parallel with and approximately 900 ft. northerly, of said line between sections 7 and 18, N. 89°17'16" W., approximately 3,315 ft. to
- AP 7 at northmost corner of said Lot 4; thence continuing parallel with said section line, N. 89°17'16" W., approximately 1,300 ft. to
- AP 8 at intersection with the northerly extension of the west line of Lot 1 of said Short Plat SP 90-05; thence along said extension, identical with the west line of said Short Plat SP 90-05, and the southerly extension thereof, S. 00°00'00" W. a distance of 1,957 ft. to
- AP 9 thence easterly approximately 3,710 ft. to
- AP 10 at intersection with an unnamed drainage ravine, identical with the 400-ft. foot contour line (~~N.G.V.D.~~ NGVD 1929) (See Footnote 3); thence downstream along said unnamed drainage ravine, southeasterly, approximately 710 ft. to
- AP 11 the point at which the natural drainage ravine becomes a manmade channel, identical with the northwest corner of Lot 3, Short Plat G-18 as recorded May 15, 1975 at A.F.N. AFN 152475, records of Klickitat County Washington (See Footnote 4); thence on the westerly line of said Lot 3, S. 25°20'23" E. a distance of 146.68 ft. to
- AP 12 at intersection with the toe of Talus slope as shown on survey for Gloria Flock recorded November 29, 2011 at A.F.N. AFN 1095717 records of Klickitat County Washington; thence leaving said westerly line along said toe of talus slope, S. 17°52'03" E. a distance of 202.54 ft. to
- AP 13 at intersection with center of a seasonal drainage ravine; thence continuing along said toe of talus slope, and identical with said seasonal drainage ravine, S. 16°53'09" E. a distance of 86.92 ft. to

- AP 14 thence S. 31°07'03" E. a distance of 67.15 ft. to
- AP 15 thence leaving said toe of talus slope, continuing identical with said center of seasonal drainage ravine, southeasterly, approximately 175 ft. to
- AP 16 at intersection with the E. and W. center line of ~~section~~ 18;
thence parallel with the line between ~~sections~~ 17 and 18, S. 00°23'56" W., approximately 1,025 ft. to
- AP 17 at intersection with aforementioned right bank of the Columbia River at LCNPE T.D.N.P.E.;
thence along said right bank at LCNPE T.D.N.P.E., northeasterly, approximately 6,000 ft. to
- AP 1 the **Point of Beginning**.

the Area being 456 Acres, more or less.

SOURCE MAPS AND DOCUMENTS:

1. 1986 Columbia River Gorge National Scenic Area Act Urban Boundary Maps, UA-004, September 1986, (Congressional or Act Maps):
 - a. Sheet 9
2. In January 1987, the U.S. Forest Service developed maps based on the congressional maps (USFS Maps). The Commission and U.S. Forest Service used the USFS Maps as the primary National Scenic Area maps until adopting this legal description. The USFS Maps are generally the basis for this description.
 - a. USFS Map 25
3. Copies of all source maps and documents are available at the Columbia River Gorge Commission and U.S. Forest Service, National Scenic Area offices.

FOOTNOTES:

1. This description intends to use the Lake Celilo Normal Pool Elevation in place at the time of the adoption of the National Scenic Area Act. At that time the Lake Celilo Normal Pool Elevation was 160 ft. Changes to this elevation through dam operations or otherwise do not change the location of the urban area boundary. The Dalles Dam Normal Pool elevation is listed as elevation 160 on USFS Map Map 25.
2. Short Plat 90-05, recorded October 22, 1990 at Auditor's File No. 220700 (Vol. 2 of Short Plats, Pg. 60), records of Klickitat County.
3. Short Plat G-18, recorded May 15, 1975 at Auditor's File No. 152475, deed records of Klickitat County.
2. AP 6 to AP 9 generally reflect a planning map dated October 6, 1989 and initialed by Gorge Commission staff depicting the Wishram UA line, which includes some dimensioning. This map appears to have been completed to allow completion of Short Plat No. SP-90-05, which was recorded October 22, 1990 (Klickitat Co. AFN 220700). This description is generally consistent with this map. This description calls to the west line of Lots 1 and 2 in this short plat so will

match up on the 700-foot distance from the west line of Section 18. This description's call north of the north line of Section 18 is approximately 409 ft., not 400 ft.; using the point of the old county road to locate this section of the UA line is more consistent with the USFS and Act maps than the Commission staff determination. This description's call south from the north line of Section 18 is about 1,560 ft., which is longer than the 1,500 used by the Commission staff determination. Not knowing how the Commission staff developed this distance, this description uses the more precise dimensioning developed from the USFS and Act maps.

3. AP 10 generally reflects a planning map dated May 22, 1990 and initialed by Gorge Commission staff depicting the Wishram UA line along a portion of the southwest side of Wishram. The map does not include any dimensioning. It does call out the center line of a ravine. This description also calls to the ravine, which is generally consistent with the Commission staff map.

4. AP 11 to AP 14 follow the survey for Gloria Flock completed by Jesse Garner, WA PLS No. 42687, of Pioneer Surveying and Engineering, recorded November 29, 2011 at Auditor's File No. AFN 1095717, deed records of Klickitat County. See also Gorge Commission letter to Gloria Flock dated November 22, 2011.

5. Both the 1986 Congressional Map (CSW-UA-004, Sheet 11) and the 1987 USFS Map (Sheet 25) were studied for preparation of this description. No differences of significance between the two maps were found.

6. ~~A planning map dated October 6, 1989 and initialed by Gorge Commission staff depicts the line between the GMA and Wishram UA and includes some dimensioning. This map appears to have been completed to allow completion of Short Plat No. SP-90-05, which was recorded October 22, 1990 (Klickitat Co. Auditor's File #220700). This description is generally consistent with this map. This description calls to the west line of Lots 1 and 2 in this short plat so will match up on the 700 foot distance from the west line of Section 18. This description's call north of the north line of Section 18 is approximately 409 ft., not 400 ft.; using the point of the old county road to locate this section of the UA line is more consistent with the USFS and Act maps than the Commission staff determination. This description's call south from the north line of Section 18 is about 1,560 ft., which is longer than the 1,500 used by the Commission staff determination. Not knowing how the Commission staff developed this distance, this description uses the more precise dimensioning developed from the USFS and Act maps.~~

7. A planning map dated May 22, 1990 and initialed by Gorge Commission staff depicts the line between the GMA and UA along a portion of the southwest side of Wishram. The map does not include any dimensioning. It does call out the center line of a drainage. This description also calls to the drainage, which is generally consistent with Commission staff map.

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

WSR 18-24-072
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed November 30, 2018, 10:30 a.m., effective December 31, 2018]

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

Purpose: These amendments to the Gorge Commission's National Scenic Area (NSA) Land Use Ordinance for Klickitat County make the ordinance consistent with recent amendments to the NSA management plan. The amendments add two definitions and specify when new development proposals must be reviewed for cumulative effects to scenic, cultural, natural, and recreational resources in the NSA. The amendments codify language already adopted into the management plan and largely codify the commission staff's existing practice.

Citation of Rules Affected by this Order: Amending 350-81-020, 350-81-540, 350-81-560, 350-81-570, 350-81-580, 350-81-590, and 350-81-600.

Statutory Authority for Adoption: 16 U.S.C. §§ 544e(c), 544f(1); RCW 43.97.015; ORS 196.150.

Adopted under notice filed as WSR 18-19-038 on September 13, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 7, Repealed 0; Federal Rules or Standards: New 0, Amended 7, 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: November 30, 2018.

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Rules Coordinator

AMENDATORY SECTION (Amending WSR 105-11-054 [05-11-054], filed May 16, 2005)

350-81-020. Definitions

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

(1) **Accepted agricultural practice:** A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain

a profit in money and customarily utilized in conjunction with agricultural use.

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

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

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

(5) **Adversely affect or Adversely affecting:** A reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on—

(a) the context of a proposed action;

(b) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(c) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(d) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.

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

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

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

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

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

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

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

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(10) **Air:** The mixture of gases comprising the Earth's atmosphere.

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

(1012) **Anaerobic:** A condition in which molecular oxygen is absent (or effectively so) from the environment.

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

(1214) **Aquatic area:** The water area of a stream, pond, or lake measured at the ordinary high water mark.

(1315) **Archaeological resources:** See cultural resource.

(1416) **Archival research:** Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(1517) **Bed and breakfast inn:** An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(1618) **Best management practices:** Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(1719) **Biodiversity (SMA):** A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(1820) **Boat landing:** Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(1921) **Buffer zone:** An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(2022) **Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

(2123) **Camping or recreational vehicle:** A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(2224) **Campsite:** Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(2325) **Capability:** The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(2426) **Canopy closure (SMA):** For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

(2527) **Cascadian architecture (SMA):** Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(2628) **Catastrophic situations (SMA):** Forces such as fire, insect and disease infestations, and earth movements.

(2729) **Childcare center:** A facility providing daycare to three or more children, but not including:

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

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

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

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

(2830) **Columbia River Gorge National Scenic Area Graphic Signing System:** Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(2931) **Commercial development/use:** Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(3032) **Commercial forest products:** These include timber for lumber, pulp, and firewood for commercial purposes.

(3133) **Commercial recreation:** Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(3234) **Community facility:** Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(3335) **Consulting parties (cultural resources):** Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(3436) **Contiguous land:** Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(3537) **Counties:** The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(3638) **Created opening (SMA):** A created forest opening with less than 40 percent average canopy closure of over-story trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

(3739) **Creation (wetlands):** A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(3840) **Cultivation:** Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(3941) **Cultural resource:** Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

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

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

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

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

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

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

(4042) **Cumulative effects:** The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(4143) **Cut:** An area where soil or earth is excavated or removed in conjunction with development activities.

(4244) **Dedicated site:** An area actively devoted to the current use and as delineated on the site plan.

(4345) **Deer and elk winter range:** Areas normally used, or capable of being used, by deer and elk from December through April.

(4446) **Destruction of wetlands:** Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(4547) **Developed recreation:** Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(4648) **Developed road prism (SMA):** The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

(4749) **Development:** Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(4850) **Diameter at breast height (dbh):** The diameter of a tree as measured at breast height.

(4951) **Duplex:** A building containing two dwelling units and designed for occupancy by two families.

(5052) **Dwelling, single-family:** A detached building containing one dwelling unit and designed for occupancy by one family only.

(5153) **Dwelling unit:** A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(5254) **Earth materials:** Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

(5355) **Effect on treaty rights:** To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(5456) **Emergency/disaster:** A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

(5557) **Emergency/disaster response:** Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

(5658) **Endemic:** Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(5759) **Enhancement (natural resources):** A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(5860) **Ephemeral streams (SMA):** streams that contain flowing water only during, and for a short duration after, precipitation events.

(5961) **Ethnography:** The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(6062) **Existing use or structure:** Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

(6163) **Exploration, development (extraction and excavation), and production of mineral resources:** Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(6264) **Fill:** The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(6365) **Finished grade:** The final elevation of the ground level of a property after construction is completed.

(6466) **Fire break:** A break in ground cover fuels, adjacent to and surrounding buildings.

(6567) **Footprint:** The area that falls directly beneath and shares the same perimeter as a structure.

(6668) **Forbs:** Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(6769) **Foreground (SMA):** One-half mile on either side of a traveled road or trail.

(6870) **Forest health (SMA):** A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

(6971) **Forest practice (SMA):** Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

(7072) **Forest practice (GMA):** Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(7173) **Forest products:** Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(7274) **Forest stand structure (SMA):** The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

(7375) **Forest use:** The growing, propagation, and harvesting of forest tree species and other forest products.

(7476) **Fully screened:** A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(7577) **Grade (ground level):** The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(7678) **Grading:** Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(7779) **Hazard tree (SMA):** A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

(7880) **Height of building:** The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

(7981) **Herbaceous:** A plant with no persistent woody stem above the ground, with characteristics of an herb.

(8082) **Herbs:** Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(8183) **Historic buildings and structures:** See cultural resource.

(8284) **Historic survey:** Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(8385) **Horses, boarding of (GMA):** The stabling, feeding, and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

(8486) **Hydric soil:** A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(8587) **In-lieu sites:** Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(8688) **Indian tribal government:** The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

(8789) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(8890) **Industrial uses:** Any use of land or water primarily involved in:

- (a) Assembly or manufacture of goods or products,
- (b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,
- (c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or
- (d) Production of electric power for commercial purposes.

(8991) **Interpretive displays:** Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(9092) **Key components:** The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(9193) **Key viewing areas:** Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway
Crown Point
Highway I-84, including rest stops

Multnomah Falls
Washington State Route 14
Beacon Rock
Panorama Point Park
Cape Horn
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Portland Women's Forum State Park
Bridal Veil State Park
Larch Mountain
Rooster Rock State Park
Bonneville Dam Visitor Centers
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Sandy River
Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain

(9294) **Land division:** The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(9395) **Landscape setting:** The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(9496) **Livestock feedlot:** Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(9597) **Lot line adjustment:** Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

(9698) **Maintenance:** Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

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

(9799) **Mitigation:** The use of any or all of the following actions:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

~~(98100)~~ **Mosaic (SMA):** The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

~~(99101)~~ **Multifamily dwelling:** A dwelling constructed or modified into two or more single-family units.

~~(100102)~~ **Native species:** Species that naturally inhabit an area.

~~(101103)~~ **Natural grade:** The undisturbed elevation of the ground level of a property before any excavation or construction operations.

~~(102104)~~(a) **Natural resources (SMA):** Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

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

~~(103105)~~ **Natural resource specialist:** A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

~~(104106)~~ **Natural resource-based recreation (SMA):** Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

~~(105107)~~ **Nonprofit organization:** An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

~~(106108)~~ **Not visually evident (SMA):** A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

~~(107109)~~ **Old growth (SMA):** A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decay); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

~~(108110)~~ **Operational (SMA):** For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

~~(109111)~~ **Ordinary high water mark:** The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area

where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

~~(110112)~~ **Other related major structure (SMA):** A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

~~(111113)~~ **Overstory (SMA):** For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

~~(112114)~~ **Parcel:**

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

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

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

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

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

(B) Lies in different counties;

(C) Lies in different sections or government lots;

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

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

~~(113115)~~ **Practicable:** Able to be done, considering technology and cost.

~~(114116)~~ **Preexisting:** Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

~~(115117)~~ **Previously disturbed:** An area of land where the natural surface has been graded, excavated, paved and/or graveled.

~~(116118)~~ **Project area:** The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

~~(117119)~~ **Public use facility:** Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

~~(118120)~~ **Rare plant species:** Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

~~(119121)~~ **Recreation facility:** A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

~~(120122)~~ **Reconnaissance survey:** Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, sub-surface testing, and ethnographic research.

~~(124123)~~ **Recreation opportunity spectrum (ROS):** A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

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

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

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

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

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

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

~~(122124)~~ **Recreation resources:** Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

~~(123125)~~ **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

~~(124126)~~ **Rehabilitation (natural resources):** A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

~~(125127)~~ **Remnant old forest (SMA):** Large trees in the overstory that are well into the mature growth state (older than 180 years).

~~(126128)~~ **Repair:** Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure.

Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten

deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

~~(127129)~~ **Resource-based recreation:** Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

~~(128130)~~ **Restoration (wetlands):** A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

~~(129131)~~ **Review uses:** Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

~~(130132)~~ **Riparian area:** The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

~~(134133)~~ **Road:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

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

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

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

~~(132134)~~ **Scenic Area:** The Columbia River Gorge National Scenic Area.

~~(133135)~~ **Scenic travel corridor:** Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

~~(134136)~~ **Secretary:** The Secretary of Agriculture.

~~(135137)~~ **Sensitive plant species:** Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

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

~~(136138)~~ **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wild-

life Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

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

(137139) **Service station:** A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(138140) **Serviceable:** Presently useable.

(139141) **Shall:** Action is mandatory.

(140142) **Should:** Action is encouraged.

(141143) **Shrub:** A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(142144) **Sign:** Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(143145) **Significant cultural resource (SMA):** A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(144146) **Skyline:** The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(145147) **Soil capability class:** A classification system developed by the U.S. Department of Agriculture, Natural Resources Conservation Service to group soils as to their capability for agricultural use.

(146148) **Special habitat area:** Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(147149) **Special streams:** Streams that are primary water supplies for fish hatcheries and rearing ponds.

(148150) **Stand:** A group of trees possessing uniformity in regard to type, age, vigor, or size.

(149151) **Story:** A single floor level of a structure, as defined by the Uniform Building Code.

(150152) **Streams:** Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

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

(151153) **Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(152154) **Submit:** To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

(153155) **Subsurface testing:** Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(154156) **Suitability:** The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155157) **Thinning (SMA):** A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156158) **Total canopy closure (SMA):** For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157159) **Travelers accommodations:** Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158160) **Treatment (SMA):** For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159161) **Treaty rights or other rights:** Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160162) **Tributary fish habitat:** Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161163) **Understory (SMA):** For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162164) **Undertaking:** Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

(163165) **Unimproved lands:** Lands that generally do not have developments such as buildings or structures.

(164166) **Upland:** Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165167) **Uses allowed outright:** New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166168) **Utility facility:** Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167169) **Vested right:** The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168170) **Viewshed:** A landscape unit seen from a key viewing area.

(169171) **Visual quality objective (VQO):** A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170172) **Visually subordinate:** A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in

their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171173) **Water-dependent:** Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(172174) **Water-related:** Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173175) **Wetlands:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(174176) **Wetlands functions:** The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175177) **Winery:** An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176178) **Wine sales/tasting room:** A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-81-108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177179) **Woody plant:** A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 12-09-077, filed April 17, 2012)

350-81-540. General Management Area Cultural Resource Review Criteria

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.

(ii) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in 350-81-540 (1)(c)(A)(iii) below.

(iii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.
- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
- Public transportation facilities that are outside improved rights-of-way.
- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.
- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(iv) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in

the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For 350-81-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

- (i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
- (ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

- (i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
- (ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
- (iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (i) A description of the proposed use, including drawings and maps.
- (ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
- (iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
- (iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
- (v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Executive Director as to whether affected cultural resources are significant.

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

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Executive Director within the comment period provided in 350-81-040, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons. Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Officer and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the proposed use would be consistent with 350-81-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2 (b)(B) above.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Executive Director question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Executive Director shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant

(A) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(B) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Executive Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Executive Director within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Executive Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.5].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship,

feeling, or association [36 CFR 800.5]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Executive Director shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Executive Director determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(a) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.11, including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Executive Director.

(v) Copies of any written recommendations submitted to the Executive Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Executive Director shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Executive Director. The Executive

Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Executive Director and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Executive Director within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [350-80-540 (1)(c)(G)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [350-80-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Executive Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Executive Director, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [350-81-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [350-81-540 (5)(c)] are met and the mitigation plan is executed.

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 12-09-077, filed April 17, 2012)

350-81-560. General Management Area Wetland Review Criteria

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

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

Wetlands Delineation Manual (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).

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

(C) The Executive Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

~~(e) Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within wetlands and their buffer zones.~~

(2) Commission Rule 350-81-560 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-81, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in 350-81-560(5), and reviewed under the applicable provisions of 350-81-520 through 350-81-620: Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, and

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materi-

als; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in 350-81-560 (2) and (3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to 350-81-560(6) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and

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

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

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or

destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage pat-

terns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

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

AMENDATORY SECTION (Amending WSR 12-09-077, filed April 17, 2012)

350-81-570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria

(1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas

(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.

(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and

(C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

~~(e) Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within streams, ponds, lakes, riparian areas and their buffer zones.~~

(2) Commission Rule 350-81-570 shall not apply to proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

(3) The following uses may be allowed in streams, ponds, lakes and riparian areas and their buffer zones, when approved pursuant 350-81-570(5), and reviewed under the applicable provisions of 350-81-520 through 350-81-620: Proposed uses in streams, ponds, lakes, and riparian areas and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in 350-81-074, 350-81-570 (2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to 350-81-570(6) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and local laws.

(6) Applications for all other Review Uses in streams, ponds, lakes, and riparian areas shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by

350-81-560 (6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

(b) The proposed use is in the public interest as determined by 350-81-560 (6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 2000), unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife. In Washington, the Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods for in-water work.

(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

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

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

(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

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

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by 350-81-560 (7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Executive Director may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

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

AMENDATORY SECTION (Amending WSR 12-09-077, filed April 17, 2012)

350-81-580. General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

Bald eagle habitat
Deer and elk winter range
Elk habitat
Mountain goat habitat

Peregrine falcon habitat
Pika colony area
Pileated woodpecker habitat
Pine marten habitat
Shallow water fish habitat (Columbia R.)
Special streams
Special habitat area
Spotted owl habitat
Sturgeon spawning area
Tributary fish habitat
Turkey habitat
Waterfowl area
Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(ii) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, mountain goat, and prairie falcon).

Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

~~(c) Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within 1000 feet of sensitive wildlife areas and sites.~~ Proposed uses within 1,000 feet of a sensitive wildlife area or site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

(2) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously

disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to 350-81-580(4) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(4) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

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

(B) Ascertain whether the wildlife area or site is active or abandoned, and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

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

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

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

(c) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures

needed to eliminate them. If the project applicant accepts these recommendations, the Executive Director will incorporate them into the development review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Executive Director shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Executive Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached.

The Executive Director shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(5) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and

shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(6) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be

maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

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

AMENDATORY SECTION (Amending WSR 12-09-077, filed April 17, 2012)

350-81-590. General Management Areas Rare Plant Review Criteria.

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

(A) endemic to the Columbia River Gorge and vicinity,

(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

Updated lists of sensitive plant species can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

~~(c) Determination of potential effects to significant natural resources shall include consideration of cumulative effects of proposed developments within 1000 feet of rare plants. Proposed uses within 1,000 feet of a sensitive plant shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.~~

(2) Field Survey

A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to 350-81-590(4), and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(4) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones.

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with 350-81-078, the project applicant shall prepare a protection and rehabilitation plan pursuant to 350-81-590(5).

(e) The Executive Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Executive Director. The Executive Director shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Executive Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

(5) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

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

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

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Executive Director an annual report that documents milestones, successes, problems, and contingency actions.

(6) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Executive Director shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the development review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Executive Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

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

AMENDATORY SECTION (Amending WSR 105-11-054 [05-11-054], filed May 16, 2005)

350-81-600. Special Management Areas Natural Resource Review Criteria

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).

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

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

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

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

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

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

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

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

(II) The wetland is not critical habitat.

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)'.
(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

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

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

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:
(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.
Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.
(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

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

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

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

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

(h) Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

(3) Wildlife and Plants
(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.
Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.
Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.
(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).
(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:
(A) Identify/verify the precise location of the wildlife and/or plant area or site,
(B) Determine if a field survey will be required,
(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and
(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.
(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(3) Wildlife and Plants

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

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

Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Ser-

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

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

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

Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

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

(i) Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

(4) Soil Productivity

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

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

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

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

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

Practicable Alternative Test

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

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

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

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

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

Mitigation Plan

(1) Mitigation Plan shall be prepared when:

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

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

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

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

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

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

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

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

(b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources.

Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

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

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

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

(7) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

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

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

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

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

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and

function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

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

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

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

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

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

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

(C) Fish passage shall be protected from obstruction.

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

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

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

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

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

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

Restoration: 2: 1

Creation: 3: 1

Enhancement: 4: 1

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

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

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 19-02-017
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 21, 2018, 8:50 a.m., effective January 21, 2019]

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

Purpose: The department of social and health services division of child support (DCS) is adopting permanent rules to implement Part I of SSB 6334 (chapter 150, Laws of 2018), which made changes to the law and terminology concerning medical child support obligations. The statutory change introduces new terminology, but does not change the way that medical support obligations are established, either in court or in the administrative process. However, there are changes in the policies and procedures regarding how DCS enforces medical support obligations, most notably that an obligated parent can satisfy his or her health care coverage obligation by enrolling the child(ren) in public health care coverage. In Washington, "public health care coverage" means medicaid and the other programs included in the apple health program.

Citation of Rules Affected by this Order: New [amending] WAC 388-14A-1020, 388-14A-3312, 388-14A-3324, 388-14A-3925, 388-14A-4100, 388-14A-4110, 388-14A-4111, 388-14A-4112, 388-14A-4120, 388-14A-4160, 388-14A-4175, 388-14A-4180, and 388-14A-6300.

Statutory Authority for Adoption: Part I of SSB 6334 (chapter 150, Laws of 2018), effective date June 7, 2018; RCW 26.09.105, 26.18.170, 26.23.050, 34.05.220 (1)(a), 34.05.350(1), 74.08.090, 74.20.040(9).

Adopted under notice filed as WSR 18-21-149 on October 19, 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 13, 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 13, Repealed 0.

Date Adopted: December 19, 2018.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 19-03 issue of the Register.

WSR 19-02-018
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Services and Enterprise Support Administration)

[Filed December 21, 2018, 9:16 a.m., effective January 21, 2019]

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

Purpose: The department is amending WAC 388-01-020 How is DSHS organized?, 388-01-030 What public records are available?, and 388-01-060 How may an individual request a public record?, to update an outdated hyperlink and correct two typographical errors.

Citation of Rules Affected by this Order: Amending WAC 388-01-020, 388-01-030, and 388-01-060.

Statutory Authority for Adoption: RCW 42.56.040, chapter 42.56 RCW.

Adopted under notice filed as WSR 18-18-082 on September 4, 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 3, Repealed 0.

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

Date Adopted: December 20, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-020 How is DSHS organized? (1) DSHS's current organizational structure can be located at the following link: (~~(<https://www.dshs.wa.gov/strategic-planning/organizational-chart>)~~) <https://www.dshs.wa.gov/office-of-the-secretary/organizational-chart>.

(2) You may also request organizational charts by writing to:

DSHS, office of the secretary
P.O. Box 45010
Olympia, WA 98504-5010.

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-030 What public records are available?

(1) DSHS prepares and keeps public records that relate to the programs it administers. All records DSHS uses to conduct business are public records.

DSHS public records may include documents, audio and video recordings, pictures, email, computer disks, and electronic data.

(2) DSHS public records are available to the public unless a law exempts them from disclosure. Some DSHS records are confidential and not available to everyone. Records exempt from public disclosure are listed under chapter 42.56 RCW, (~~([WAC 388-01-020](#))~~) [WAC 388-01-120](#), and other federal and state laws applicable to DSHS.

(3) Clients, or someone authorized to act for a client, may access confidential records about the client that are exempt from disclosure to the public unless specifically prohibited by law.

(4) Upon request, DSHS may provide access to records such as rules, policies, indexes, interpretive statements, pamphlets, forms, and other publications at cost under WAC 388-01-180 without using the public records request process.

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-060 How may an individual request a public record? (1) An individual may request a public record orally or in writing. DSHS prefers that all public record requests be in writing on the "request for DSHS records" form, DSHS 17-041(X). Individuals may locate this form on the DSHS website at <https://www.dshs.wa.gov/fsa/forms> or request it from:

DSHS public records officer
Services and enterprise support administration
Information governance unit
P.O. Box 45135
Olympia, WA 98504-5135
Telephone: (360) 902-8484

Fax: (360) 902-7855

Email: DSHSPublicDisclosure@dshs.wa.gov.

(2) If an individual does not use the DSHS form, the written public record request should include the following information:

(a) The requester's name, organization, mailing address, telephone number, fax number, and email address;

(b) The date of the request;

(c) A detailed description of the identifiable public record being requested;

(d) The email or mailing address where DSHS should send copies of the records, or if the requester wants to inspect the record at DSHS; and

(e) The requester's signature.

(3) An individual may fill out a record request at a DSHS office or send it by regular mail, email, or fax to the public records officer listed in WAC 388-01-050.

(4) Requests by third parties for confidential client records must be accompanied by a valid authorization as set forth in WAC 388-01-150.

(5) DSHS may ask an individual requesting a public record for personal identification when the law makes a record disclosable to a specific person.

(6) DSHS may deny a "bot" request, which is one of multiple requests from a requester within a twenty-four (~~(hour))~~ hour period, if responding to multiple requests would cause excessive interference with other essential DSHS functions.

WSR 19-02-020

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed December 21, 2018, 9:26 a.m., effective February 1, 2019]

Effective Date of Rule: February 1, 2019.

Purpose: These amendments align the developmental disabilities administration's current supports intensity scale (SIS) with the American Association on Intellectual and Developmental Disabilities' latest version of the SIS-A (adult version).

Citation of Rules Affected by this Order: Amending WAC 388-828-4200, 388-828-4220, 388-828-4240, 388-828-4260, 388-828-4280, 388-828-4300, 388-828-4320, 388-828-4360, 388-828-4380, 388-828-4400, 388-828-5460, 388-828-5700, 388-828-5800, 388-828-5900, 388-828-8040, 388-828-8060, 388-828-9560, 388-828-9580, 388-828-9650, 388-828-9660, 388-828-9670, and 388-828-9680.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Adopted under notice filed as WSR 18-21-134 on October 19, 2018.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 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 22, 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 22, Repealed 0.

Date Adopted: December 20, 2018.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 19-03 issue of the Register.

WSR 19-02-030

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed December 21, 2018, 3:17 p.m., effective January 21, 2019]

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

Purpose: Title 182 WAC regulates various programs such as the public employees benefits board, medicaid, and health technology assessment. The rules for these programs use different terms to refer to the health care authority. The agency is creating a new chapter that contains general terms used throughout Title 182 WAC.

Citation of Rules Affected by this Order: New WAC 182-02-005 and 182-02-045.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-22-042 on October 30, 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 2, Amended 0, Repealed 0.

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

Date Adopted: December 21, 2018.

Wendy Barcus
Rules Coordinator

Chapter 182-02 WAC

GENERAL DEFINITIONS

NEW SECTION

WAC 182-02-005 Definitions. Chapter 182-02 WAC contains definitions of words and phrases used in rules throughout Title 182 WAC. When a term is not defined in this chapter, the definition found in another chapter of Title 182, or applicable state or applicable federal law will apply. For general terms not defined in this chapter, or in another chapter under Title 182 WAC, or state or federal law, the definitions in the *Webster's New World Dictionary*, Fifth Edition (2016), apply. If a definition in this chapter conflicts with a definition in another chapter of Title 182 WAC, the definition in the specific WAC prevails.

NEW SECTION

WAC 182-02-045 General definitions—H. "Health care authority (HCA)" means the state agency established under chapter 41.05 RCW. In Title 182 WAC, the following terms mean the health care authority: "Agency," "authority" (unless the context clearly requires otherwise), "behavioral health administration," "HCA," "medicaid agency," "single state agency," "single state medicaid agency," and "single state behavioral health agency."

WSR 19-02-033

PERMANENT RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Filed December 21, 2018, 4:34 p.m., effective January 21, 2019]

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

Purpose: WAC 246-933-285 through WAC 246-933-480, veterinary board of governors (board) veterinary continuing education rules. The board amended the rules to modernize veterinary continuing education rules and streamline requirements. Changes to the rule include decreasing the reporting period, so that thirty hours would be required every two years instead of every three years (increasing the per-year requirement); allowing specialty certification or a residency program to qualify in lieu of the thirty hour requirement; clarifying expectations when a veterinarian is audited; setting a minimum requirement of twenty scientific or clinical hours; allowing a maximum of ten hours to be obtained through teaching; designating live, web-based coursework to be equivalent to in-person coursework; and expanding the approved provider list.

Citation of Rules Affected by this Order: New WAC 246-933-285, 246-933-425 and 246-933-445; repealing WAC 246-933-465 and 246-933-480; and amending WAC 246-933-420, 246-933-440, and 246-933-460.

Statutory Authority for Adoption: RCW 18.92.030.

Adopted under notice filed as WSR 18-21-143 on October 19, 2018.

Changes Other than Editing from Proposed to Adopted Version: The following nonsubstantive changes were adopted by the board at the rules hearing:

(1) WAC 246-933-285 HIV/AIDS prevention and information education requirements, removed the language "Alternatives to formal course work may be from professional journal articles or electronic media that contain current or updated information." Self-directed study does not comply with the department of health's HIV/AIDS curriculum requirements.

(2) WAC 246-933-420 (4)(b), corrected a reference in this subsection based on reorganization made to WAC 246-933-445. Modified audit documentation requirements to require "materials that sufficiently describe the content of the presentation" instead of a copy of the presentation itself. This was in response to a stakeholder request.

(3) WAC 246-933-445, areas of continuing education activities. Reorganized to distinguish categories of education (scientific, practice management) from modalities of education (live webinars, teaching, preprogrammed materials). Amended "granted" to "claimed" to clarify allowances for certain areas of continuing education. Removed duplicated language based on this section's reorganization.

A final cost-benefit analysis is available by contacting Lorelei Walker, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4947, fax 360-236-2901, TTY 360-833-6388 or 711, email loralei.walker@doh.wa.gov, web site www.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 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 3, Repealed 2.

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 3, Amended 3, Repealed 2.

Date Adopted: December 3, 2018.

Tawney Carrier, Chair
Veterinary Board of Governors

NEW SECTION

WAC 246-933-285 HIV/AIDS prevention and information education requirements. An applicant shall complete four clock hours of HIV/AIDS education as required in chapter 246-12 WAC, Part 8.

AMENDATORY SECTION (Amending WSR 07-19-130, filed 9/19/07, effective 10/20/07)

WAC 246-933-420 (~~Basic requirement—Amount.~~) Continuing education requirement. (~~Continuing veterinary medical education consists of programs of learning which contribute directly to the advancement or enhancement of skills in the practice of veterinary medicine, surgery and dentistry. Licensed veterinarians must complete thirty hours of continuing veterinary medical education every three years as required in chapter 246-12 WAC, Part 7. No more than ten hours can be earned in practice management courses in any three year reporting period.~~) (1) A licensed veterinarian shall complete and document thirty hours of continuing education every two years and comply with chapter 246-12 WAC, Part 7.

(2) A licensed veterinarian shall meet the continuing education requirement by either:

(a) Completing thirty hours of education that comply with WAC 246-933-401 through 246-933-460; or

(b) Alternatively, providing proof that he or she:

(i) Became board-certified by a veterinary specialty organization recognized by the American Veterinary Medical Association (AVMA) within the continuing education reporting period; or

(ii) Has been enrolled in a residency program approved by a veterinary specialty organization recognized by the AVMA during the entire continuing education reporting period for a maximum of two reporting periods.

(3) The two-year reporting period begins January 1, 2019. A veterinarian shall complete the continuing education requirements as follows:

<u>If continuing education is due on the veterinarian's renewal date in:</u>	<u>The next continuing education due date is on the veterinarian's renewal date in the year below and every two years thereafter:</u>
<u>2019</u>	<u>2021</u>
<u>2020</u>	<u>2022</u>
<u>2021</u>	<u>2023</u>

(4) The board may audit up to twenty-five percent of veterinarians after the license is renewed and may audit a veterinarian for cause.

(a) Upon request by the board, the veterinarian is responsible for submitting documentation of completed continuing education. Documentation must include, at a minimum:

(i) The name and credentials or qualifications of the continuing education provider;

(ii) The date of attendance or completion;

(iii) Course title or subject; and

(iv) The number of hours earned.

(b) Documentation for continuing education earned pursuant to WAC 246-933-445 (2)(b) must include, in addition to (a)(i) through (iv) of this subsection, a list of attendees, and materials that sufficiently describe the content of the presentation.

(c) Failure by a veterinarian to cooperate with an audit or provide the requested proof of continuing education to the board is grounds for disciplinary action.

NEW SECTION

WAC 246-933-425 Approval of courses. The board will not authorize or approve specific continuing education courses or materials. All continuing education courses must be provided by organizations, institutions, or individuals in WAC 246-933-460 and contribute to the professional knowledge and development of the practitioner, enhance services provided to patients, and contribute to the practitioner's ability to deliver current standards of care. The board will accept continuing education that reasonably falls within these criteria, and relies upon the integrity of each individual practitioner, as well as that of program sponsors, in complying with this requirement and experiencing meaningful and meritorious learning. Courses cannot be exclusively for product promotion. The board reserves the right to not accept credits from any area for any practitioner if, upon auditing, it determines that a course or material did not provide appropriate information or training.

AMENDATORY SECTION (Amending WSR 07-19-130, filed 9/19/07, effective 10/20/07)

WAC 246-933-440 Exceptions. The board may excuse from or grant an extension of continuing veterinary medical education requirements to a licensee due to illness or other extenuating circumstances.

Licensees seeking an extension ~~((must))~~ shall petition the board, in writing, at least ~~((forty-five))~~ thirty days prior to the end of the reporting period.

NEW SECTION

WAC 246-933-445 Categories and methods of continuing education. (1) Categories of continuing education:

(a) Scientific or clinical. A minimum of twenty scientific or clinical credit hours must be earned in any two-year reporting period. Credits must be obtained through education offered by an approved provider listed in WAC 246-933-460.

(b) Practice management or professional development. A maximum of ten practice management or professional development credit hours may be claimed in any two-year reporting period. Credits must be obtained through education offered by an approved provider listed in WAC 246-933-460.

(2) Methods by which continuing education may be obtained:

(a) Live attended course. There is no limit for credit hours earned through live courses attended remotely, provided that attendees have the documented opportunity to question the instructor, hear the questions of other attendees, and receive responses in real time. The course must be obtained through education offered by an approved provider listed in WAC 246-933-460.

(b) Teaching. A maximum of ten teaching credit hours may be claimed in any two-year reporting period. Qualifying courses must either meet the criteria under WAC 246-933-

460 or must be presented through an accredited health care learning institution. Courses must be presented to veterinarians, other credentialed health care providers, or students of health care professions. Three credit hours will be granted for each course hour taught. Credit will be granted for only the first time a course is taught.

(c) Preprogrammed materials. Preprogrammed educational materials are noninteractive and may be presented in any form of printed or electronic media. A maximum of ten credit hours may be claimed in any two-year reporting period for completion of preprogrammed educational materials. The materials must be obtained through education offered by an approved provider listed in WAC 246-933-460, and must require successful completion of an examination or assessment.

AMENDATORY SECTION (Amending WSR 16-09-119, filed 4/20/16, effective 5/21/16)

WAC 246-933-460 Organizations, institutions or individuals approved by the veterinary board to provide continuing education courses. ~~(((1) The veterinary board designates the following organizations, institutions or individuals as providing approved continuing veterinary medical education courses:~~

~~(a) The American Association of Veterinary State Boards (AAVSB);~~

~~(b) The American Veterinary Medical Association (AVMA);~~

~~(c) The Washington State Veterinary Medical Association;~~

~~(d) Any board approved college or school of veterinary medicine;~~

~~(e) Any state or regional veterinary association which is recognized by the licensing authority of its state as a qualified professional association or educational organization;~~

~~(f) The American Animal Hospital Association;~~

~~(g) Veterinary specialty boards recognized by the American Veterinary Medical Association;~~

~~(h) Conferences offered by regional or allied organizations recognized by AAVSB;~~

~~(i) The Registry of Approved Continuing Education (RACE);~~

~~(j) The Registry of Alternative and Integrative Veterinary Medical Education (RAIVE);~~

~~(k) The United States Animal Health Association;~~

~~(l) The American Association of Veterinary Laboratory Diagnosticians;~~

~~(m) The Washington state department of agriculture;~~

~~(n) A board certified veterinarian who is certified by a veterinary specialty board recognized by the American Veterinary Medical Association when teaching a course within his or her area of certification;~~

~~(o) A veterinarian who is a faculty member of an accredited college or school of veterinary medicine when teaching a course within his or her area of expertise;~~

~~(2) Continuing veterinary medical education courses offered by the organizations, institutions, or individuals listed in subsection (1) of this section are presumed to qualify as continuing veterinary medical education courses for purposes~~

of fulfillment of the requirements of WAC 246-933-420 without specific prior approval by the board.

~~(3) Other organizations, institutions, or individuals may submit course information to the board for determination whether the course qualifies as continuing veterinary medical education under WAC 246-933-401 through 246-933-480 for purposes of fulfillment of the requirements of WAC 246-933-420.)~~ The board approves continuing veterinary medical education courses provided by organizations, institutions, or individuals (providers) including, but not limited to, the following:

(1) The American Association of Veterinary Laboratory Diagnosticians (AAVLD);

(2) The American Association of Veterinary State Boards (AAVSB) Registry of Approved Continuing Education (RACE)-approved courses;

(3) The American Veterinary Medical Association (AVMA);

(4) AVMA Council on Education (COE) accredited veterinary medical colleges;

(5) AVMA recognized veterinary specialty organizations;

(6) A board certified veterinarian who is certified by a veterinary specialty organization recognized by the AVMA when teaching a course within his or her area of certification;

(7) Federal, state, or local governmental agencies;

(8) An instructor with credentials or qualifications in the health, husbandry, or therapy of minor species. "Minor species" are all animals other than humans that are not one of the major species and include, but are not limited to, animals such as zoo animals, ornamental fish, parrots, ferrets, guinea pigs, sheep, goats, catfish, game birds, and honey bees. Major species include horses, dogs, cats, cattle, pigs, turkeys, and chickens;

(9) An instructor with credentials or qualifications in practice management or professional development;

(10) Any international, national, state, provincial, regional or local veterinary medical association;

(11) The Resources for Alternative and Integrative Veterinary Education (RAIVE);

(12) A resident or intern in training for an AVMA recognized veterinary specialty organization;

(13) The United States Animal Health Association (USAHA);

(14) A veterinarian who is a faculty member of an accredited college of veterinary medicine when teaching a course within his or her area of expertise;

(15) The Washington physicians health program (WPHP).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-933-465 Self-study continuing veterinary medical education activities.

WAC 246-933-480 AIDS prevention and information education requirements.

WSR 19-02-036

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed December 24, 2018, 6:59 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: SSB 5152 (chapter 168, Laws of 2017) prohibits any establishment to provide pediatric transitional care services without a license after January 1, 2019. Rules must be effective by January 1, 2019, in order to allow the only existing establishment in Washington state to continue providing services.

Purpose: Chapter 246-337 WAC, Residential treatment facilities, the department of health (department) is amending and adding new sections to existing rule to establish licensure, construction requirements, and operational standards for pediatric transitional care facilities as directed by SSB 5152 (chapter 168, Laws of 2017).

Citation of Rules Affected by this Order: New WAC 246-337-081, 246-337-082 and 246-337-103; and amending WAC 246-337-005, 246-337-015, 246-337-021, 246-337-030, 246-337-040, 246-337-050, 246-337-055, 246-337-060, 246-337-065, 246-337-080, 246-337-095, 246-337-100, 246-337-110, 246-337-113, and 246-337-120.

Statutory Authority for Adoption: RCW 71.12.670, 71.12.684.

Other Authority: SSB 5152 (chapter 263, Laws of 2017), codified in chapter 71.12 RCW.

Adopted under notice filed as WSR 18-21-138 on October 19, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-337-040 (7)(a)(ii), added a reference to WAC 246-337-081 for those RTFs that provide pediatric transitional care services.

WAC 246-337-050 (6) and (6)(a), clarified that training is required for staff "providing direct care to infants."

WAC 246-337-060 (4)(a)(vi), removed a space that corrects an inappropriate hanging paragraph.

WAC 246-337-060 (4)(c)(i), removed the words "most current" as the referenced guideline has a 2018 date.

WAC 246-337-065, added the following language: "(6) Subsections (2)(a), (4)(b), and (5)(c) of this section do not apply to an RTF in its licensed capacity to provide pediatric transitional care services."

WAC 246-337-081 (2)(a), revised language to state infants "are less than twelve months of age."

WAC 246-337-081(4), added language to allow a facility to accept an infant with a complex medical condition if they chose to do so.

WAC 246-337-081(6), added the following language to the end of the sentence in (6) "... and with consent of the infant's parent, legal guardian, or state agency with placement and care authority."

WAC 246-337-081 (8)(b) and (c), revised language to state: "(b) An initial medical examination of the infant conducted and completed by a pediatrician, physician's assistant or pediatric ARNP within twenty-four hours, if on morphine, otherwise seventy-two hours of the infant's arrival unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;" "(c) Medical examinations of infants

conducted every three weeks by a pediatrician, physician's assistant, or pediatric ARNP unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;"

WAC 246-337-081 (8)(f), removed the words "most current" as the referenced guideline has a 2018 date.

WAC 246-337-081 (11)(e), revised language to state: "(e) Scales used for weighing infants" instead of "scales in each room used for weighing infants."

WAC 246-337-081 (11)(h), clarified title of the reference for the *Centers for Disease Control and Prevention "Vaccine Storage and Handling Toolkit, January 2018;"*.

WAC 246-337-081 (11)(i), removed requirement for an "infant automated external defibrillator."

WAC 246-337-103 (3)(f)(i), revised language to state: "(i) A plan to regularly communicate with the parents or guardian for a minimum of) six months after discharge to check on the infant's condition and offer consultation and community resource referrals as needed" instead of "Weekly phone calls to the family up to."

A final cost-benefit analysis is available by contacting John Hilger, P.O. Box 47853 [47852], Olympia, WA 98504-7852, phone 360-236-2929, fax 360-236-2321, TTY 360-833-6388 or 711, email john.hilger@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 3, Amended 15, Repealed 0.

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

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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 3, Amended 15, Repealed 0.

Date Adopted: December 24, 2018.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Administrator" means an individual person responsible for managing the day-to-day operations of the residential treatment facility.

(2) "Adult" means an individual eighteen years of age or older.

(3) "Authorized" means mandated or permitted, in writing, by the administrator to perform an act that is within a health care provider's lawful scope of practice, or that was lawfully delegated to the health care provider or to the unlicensed staff member.

(4) "Bathroom" means a room containing at least one bathtub or shower.

(5) "Child" or "minor" means an individual under the age of eighteen. A child or minor may include an infant as defined in subsection (17) of this section.

(6) "Communicable disease" means a disease caused by an infectious agent that can be transmitted from one person, animal, or object to another individual by direct or indirect means including transmission via an intermediate host or vector, food, water or air.

(7) "Confidential" means information that may not be disclosed except under specific conditions permitted or mandated by law or legal agreement between the parties concerned.

(8) "Construction" means:

(a) The erection of a facility;

(b) An addition, modification, alteration or change of an approved use to an existing facility; or

(c) The conversion of an existing facility or portion of a facility for use as an RTF.

(9) "Co-occurring services" means services certified by ~~((DSHS-DBHR))~~ the department that combine mental health services and substance use disorder services under a single RTF license.

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

~~((11))~~ ~~((**"DSHS-DBHR"** means the division of behavioral health and recovery within the Washington state department of social and health services.~~

~~((12))~~ "Facility" means a building, portion of a building, or multiple buildings under a single RTF license.

~~((13))~~ (12) "Health assessment" means a systematic physical examination of the person's body conducted by an allopathic physician, osteopathic physician, naturopathic physician, allopathic physician's assistant, osteopathic physician's assistant, advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under Title 18 RCW and operating within their scope of practice.

~~((14))~~ (13) "Health care" means any care, service, or procedure provided by a health care provider to diagnose, treat, or maintain a resident's physical or mental condition, or that affects the structure or function of the human body.

~~((15))~~ (14) "Health care prescriber" or "prescriber" means an allopathic physician, osteopathic physician, naturopathic physician, allopathic physician's assistant, osteopathic physician's assistant, or advanced registered nurse practitioner licensed under Title 18 RCW operating within their scope of practice who by law can prescribe drugs in Washington state.

~~((16))~~ (15) "Health care provider" means an individual who is licensed, registered or certified under Title 18 RCW to provide health care within a particular profession's statutorily authorized scope of practice.

~~((17))~~ (16) "Health care screen" means a systematic interview or use of a questionnaire approved by a health care prescriber to determine the health history and care needs of a resident.

(17) "Infant" means a resident less than twelve months of age at the time of admission for pediatric transitional care services.

(18) "Licensee" means the person, corporation, association, organization, county, municipality, public hospital district, or other legal entity, including any lawful successors to whom the department issues an RTF license.

(19) "Medication" means a legend drug prescribed for a resident by an authorized health care prescriber. Medication also means nonprescription drugs, also called "over-the-counter medications," that can be purchased by the general public without a prescription.

(20) "Medication administration" means the direct application of a medication or device by ingestion, inhalation, injection, or any other means, whether self-administered by a resident, or administered by a parent or guardian for a minor, or an authorized health care provider.

(21) "Medication administration error" means a resident failing to receive the correct medication, medication at the correct time, the correct dose, or medication by the correct route.

(22) "Mental health services" means services certified by ~~((DSHS-DBHR))~~ the department under chapter ~~((388-865 or 388-877A))~~ 246-341 WAC to evaluate, stabilize, or treat one or more residents for a mental disorder.

(23) "Parent or guardian" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under joint custody agreement; or

(b) An individual or agency judicially appointed as legal guardian or custodian of the child.

(24) "Pediatric transitional care services" or "PTCS" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter.

(25) "Pediatric transitional care services unit" means the distinct spaces within a facility used exclusively for the provision of pediatric transitional care services.

(26) "Resident" means an individual admitted to an RTF licensed under this chapter.

~~((25))~~ (27) "Residential treatment facility" or "RTF" means a facility in which twenty-four hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, ~~((or))~~ co-occurring disorders, or for drug exposed infants.

~~((26))~~ (28) "Restraint" means any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a resident to move his or her arms, legs, body or head freely; or a drug or medication when used as a restriction to manage the resident's behavior or restrict the resident's freedom of movement and is not a standard treatment or dosage for the resident's condition. Restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical or chemical restraint, accomplished with limited force and designed to:

(a) Prevent a resident from completing an act that would result in potential bodily harm to the resident or others or to damage property;

(b) Remove a disruptive resident who is unwilling to leave the area voluntarily; or

(c) Guide a resident from one location to another.

~~((27))~~ (29) "Seclusion" means the involuntary confinement of a resident alone in a room or area from which the resident is physically prevented from leaving.

~~((28))~~ (30) "Staff" means medical and administrative employees, independent contractors, trained caregivers, students, volunteers, and trainees performing duties at an RTF.

(31) "Substance use disorder services" means services certified by ~~((DSHS-DBHR))~~ the department under chapter ~~((388-877B))~~ 246-341 WAC to evaluate, stabilize, or treat one or more residents for alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

~~((29))~~ (32) "Survey" means an inspection or investigation conducted by the department to evaluate and monitor a licensee's compliance with chapter 71.12 RCW and this chapter.

~~((30))~~ (33) "Toilet room" means a room containing a water closet (toilet).

(34) "Trained caregiver" means a noncredentialed, unlicensed person who may not provide medical care to infants, working under the supervision of a registered nurse as defined in RCW 18.79.020(6).

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-015 Service types. A licensee must provide one or more of the following types of services in the RTF:

- (1) Mental health services;
- (2) Substance use disorder services; ~~((or))~~
- (3) Co-occurring services; or
- (4) Pediatric transitional care services.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-021 On-site surveys, complaint investigations, and enforcement. (1) To determine compliance with chapter 71.12 RCW and this chapter, the department may:

(a) Conduct unannounced on-site surveys after initial licensure; and

(b) Investigate complaints alleging noncompliance with chapter 71.12 RCW and this chapter.

(2) The licensee shall assist the department during on-site surveys and investigations in a cooperative manner.

(3) Notice of correction.

(a) When the department identifies deficiencies it does not determine to be major, broadly systemic, or of a recurring nature, the department will issue the administrator a notice of correction according to RCW 43.05.100.

(b) The "notice of correction" will include:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable law or rule;

(ii) A brief statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or other sources of technical assistance; and

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(4) Plan of correction.

(a) At the same time the department issues a notice of correction as identified in subsection (3) of this section, the department will provide instructions on how the administrator will complete and submit a plan of correction.

(b) The "plan of correction" must be approved by the department and include:

(i) A statement that the administrator:

(A) Has or will correct each cited deficiency; and

(B) Will maintain correction of each cited deficiency.

(ii) A place for the administrator to describe the specific action(s) that must be taken to correct each cited deficiency;

(iii) A place for the administrator to indicate the individual responsible for assuring correction of each deficiency; and

(iv) A place for the administrator to indicate the time frame in which to complete the corrections.

(c) Time frames to correct each cited deficiency in the notice of correction must be approved by the department.

(d) Implementation of the corrective action must be completed within the approved time frame and is subject to verification by the department.

(e) The administrator or the administrator's designee shall:

(i) Complete, sign, date, and submit a written plan of correction to the department within ten business days of receiving a notice of correction; and

(ii) Submit to the department updated plans of correction as needed.

(5) Directed plan of correction.

(a) When the department identifies deficiencies it determines to be broadly systemic, recurring, or of a significant threat to public health and safety, it will issue a directed plan of correction.

(b) The directed plan of correction will include:

(i) Direction from the department on the specific corrective action(s) required for the licensee to correct each cited deficiency; and

(ii) The time frames in which the department requires the licensee to complete each cited deficiency.

(c) The department may reduce the time frames in the directed plan of correction to the minimum necessary. Implementation of the directed corrective action(s) must be completed within the approved time frame and is subject to verification by the department.

(6) The department may deny, suspend, modify, or revoke an RTF license under chapters 71.12, 43.70, 34.05 RCW, and 246-10 WAC, if the applicant or licensees have:

(a) Failed to correct any deficiencies within the required time frames as described in subsections (3) through (5) of this section;

(b) Failed to comply with any other provision of chapter 71.12 RCW or this chapter;

(c) Failed to meet (~~(DSHS-DBHR)~~) certification standards under chapters 71.05, (~~(70-96A)~~) 71.24, and 71.34 RCW(~~(:)~~);

(d) Been denied a license to operate a health care, child care, group care or personal care facility in this state or elsewhere, had the license suspended or revoked, or been found civilly liable or criminally convicted of operating the facility without a license;

(e) Committed, aided or abetted an illegal act in connection with the operation of any RTF or the provision of health care or residential services;

(f) Abandoned, abused, neglected, assaulted, or demonstrated indifference to the welfare and well-being of a resident;

(g) Failed to take immediate corrective action in any instance of assault, abuse, neglect, or indifference to the welfare of a resident; or

(h) Retaliated against a staff member, resident, or other individual for reporting suspected abuse or other alleged improprieties(~~(s)~~);

(7) The department may summarily suspend a license pending a proceeding for revocation or other action if the department determines a deficiency is an imminent threat to a resident's health, safety, or welfare.

(8) A licensee may contest a department decision or action according to the provision of RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

AMENDATORY SECTION (Amending WSR 05-15-157, filed 7/20/05, effective 8/20/05)

WAC 246-337-030 Retroactivity. (1) Except as provided in subsections (2) and (3) of this section, any construction on or after ((the effective date of this chapter)) August 20, 2005, must comply with this chapter.

(2) RTFs that are licensed and operating on ((the effective date of this chapter)) August 20, 2005, may continue to operate without modifications to the facility, unless specifically required under this chapter, or as deemed necessary by either the local building official, the department, other licensing regulators, the state fire marshal, for the general safety and welfare of the occupants and public.

(3) Facilities providing pediatric transitional care services in a licensed capacity before January 1, 2019, are not subject to construction review by the department for an initial department of health license according to this chapter.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-040 Construction review services requirements. (1) Prior to beginning any construction or remodeling, the applicant or licensee must submit an application and fee specified in chapter 246-314 WAC, if applicable, to the department and receive written authorization by the department to proceed.

(2) The requirements of chapter 246-337 WAC in effect at the time the application and fee are submitted to the department, and the project number as assigned by the department, apply for the duration of the construction project.

~~(3) ((Standards for design and construction. Construction))~~ All facilities seeking to be licensed and existing licensed facilities seeking to renovate, alter, add, or relocate shall comply with

~~(a))~~ the state building code as adopted by the state building code council under the authority of chapter 19.27 RCW

~~and~~ (b) The.

(4) In addition to subsection (3) of this section, facilities, or any portion of the facility, licensed in their capacity to provide mental health, substance use disorder, or co-occurring services must follow physical environmental requirements in this chapter for new construction.

~~((4))~~ (5) In addition to subsection (3) of this section, facilities, or any portion of the facility, licensed in their capacity to provide pediatric transitional care services shall comply with the following physical environmental standards:

(a) The 2014 edition of the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* as developed by the Facilities Guidelines Institute and published by the American Society for Healthcare Engineering of the American Hospital Association, 155 North Wacker Drive, Chicago, IL 60606 for new construction; and

(b) The following specific construction standards:

(i) All doors accessing the pediatric transitional care services unit are locked doors in accordance with the Washington state adopted building code;

(ii) All resident sleeping rooms have windows in the hallway wall or door to promote high visibility;

(iii) Security cameras, video only, installed at all entry points into the PTCS unit, in hallways outside all resident sleeping rooms, and in all designated parent visitation areas;

(iv) Telephones installed in all resident sleeping rooms;

(v) A communication system, wired or wireless, that provides staff the means to summon on-duty staff assistance from key areas such as resident sleeping rooms, common rooms, corridors, nurse station, and administrative offices; and

(vi) Emergency power. The licensee must have an emergency generator that:

(A) Meets the definition in the NFPA 99, *Health care facilities*, as adopted by the state building code council; and

(B) Provides a minimum of seventy-two hours of effective facility operation.

(6) Preconstruction. The applicant or licensee must request and attend a presubmission conference with the department for projects with a construction value of two hundred fifty thousand dollars or more. The presubmission conference shall be scheduled to occur at the end of the design development phase or the beginning of the construction documentation phase of the project.

~~((5))~~ (7) Construction document review. The applicant or licensee must submit accurate and complete construction documents for proposed new construction to the department for review within ten days of submission to the local authorities. The construction documents must include:

(a) A written functional program, in accordance with RCW 71.12.470, outlining the types of services provided, types of residents to be served, and how the needs of the residents will be met including a narrative description of:

(i) Program goals;

(ii) Staffing and health care to be provided consistent with WAC 246-337-080 or 246-337-081, as applicable;

(iii) Infection control consistent with WAC 246-337-060;

(iv) Safety and security consistent with WAC 246-337-065;

(v) Restraint and seclusion consistent with WAC 246-337-110;

(vi) Laundry consistent with WAC 246-337-112;

(vii) Food and nutrition consistent with WAC 246-337-111;

(viii) Medication consistent with WAC 246-337-105; and

(ix) Housekeeping.

(b) Drawings prepared, stamped, and signed by an architect or engineer licensed by the state of Washington under chapter 18.08 RCW. The services of a consulting engineer licensed by the state of Washington may be used for the various branches of the work, if appropriate;

(c) Drawings with coordinated architectural, mechanical, and electrical work drawn to scale showing complete details for construction, including:

(i) Site plan(s) showing streets, driveways, parking, vehicle and pedestrian circulation, and location of existing and new buildings;

(ii) Dimensioned floor plan(s) with the function of each room and fixed/required equipment designated;

(iii) Elevations, sections, and construction details;

(iv) Schedules of floor, wall, and ceiling finishes;

(v) Schedules of doors and windows - Sizes and type, and door finish hardware;

(vi) Mechanical systems - Plumbing and heating/venting/air conditioning; and

(vii) Electrical systems, including lighting, power, and communication/notification systems

(d) Specifications that describe with specificity the workmanship and finishes;

(e) Shop drawings and related equipment specifications for:

(i) An automatic fire sprinkler system; and

(ii) An automatic fire alarm system.

(f) An interim life safety measures plan to ensure the health and safety of occupants during construction and renovation; and

(g) An infection control risk assessment indicating appropriate infection control measures, keeping the surrounding area free of dust and fumes, and ensuring rooms or areas are well ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors.

~~((6))~~ (8) Resubmittals. The licensee shall respond in writing when the department requests additional or corrected construction documents.

~~((7))~~ (9) Construction. The licensee or applicant shall comply with the following requirements during the construction phase:

(a) Assure conformance to the approved plans during construction;

(b) Submit addenda, change orders, construction change directives or any other deviation from the approved plans to the department prior to their installation; and

(c) Allow any necessary inspections for the verification of compliance with the construction documents, addenda, and modifications.

~~((8))~~ (10) Project closeout. The licensee or applicant shall not use any new or remodeled areas until:

(a) The department has approved construction documents;

(b) The local jurisdictions have completed all required inspections and approvals, when applicable or given approval to occupy; and

(c) The licensee or applicant notifies the department when construction is completed and includes:

(i) A copy of the local jurisdiction's approval for occupancy;

(ii) The completion date;

(iii) The actual construction cost; and

(iv) Additional information as required by the department.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-050 Management of human resources. (1) The licensee must ensure residents receive care from qualified staff authorized and competent to carry out assigned responsibilities.

(2) A sufficient number of staff must be present on a twenty-four hour per day basis to:

(a) Meet the care needs of the residents served;

(b) Manage emergency situations;

(c) Provide crisis intervention;

(d) Implement individual service plans; and

(e) Carry out required monitoring activities.

(3) At least one staff trained in basic first aid and age appropriate cardiopulmonary resuscitation (CPR) must be on-site twenty-four hours per day. Additionally, all staff providing hands-on care to infants must have a current certification in infant CPR.

(4) Staff must be trained, authorized, and where applicable credentialed to perform assigned job responsibilities consistent with scopes of practice, resident population characteristics and the resident's individual service plan.

(5) The licensee must document that staff receive the following training as applicable:

(a) Initial orientation and ongoing training to address the safety and health care needs of the residents served for all staff;

(b) Bloodborne pathogen training inclusive of HIV/AIDS training for staff involved in direct resident care or potential for having contact with blood or body fluids;

(c) If restraint or seclusion is used in the facility, initial and annual training in the proper and safe use of restraint or seclusion for staff required to perform restraint or seclusion procedures inclusive of:

(i) Techniques to identify staff and resident behaviors, events, and environmental factors that may trigger circumstances that require the use of restraint or seclusion;

(ii) The use of nonphysical intervention skills;

(iii) Choosing the least restrictive intervention based on an individualized assessment of the resident's medical or behavioral status or condition;

(iv) The safe application and use of all types of restraint or seclusion used in the RTF, including training in how to recognize and respond to signs of physical and psychological distress;

(v) Clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary; and

(vi) Monitoring the physical and psychological well-being of the resident who is restrained or secluded including, but not limited to, respiratory and circulatory status, skin integrity, and vital signs; and

(d) Current basic first aid and age appropriate cardiopulmonary resuscitation for staff required to provide first aid or CPR.

(6) In addition to the requirements in subsection (5) of this section, an RTF in its licensed capacity to provide pediatric transitional care services must document that staff providing direct care to infants have received the following training:

(a) For all staff providing direct care to infants:

(i) Infant safe sleep;

(ii) Period of infant crying which is at its peak, unexpected, resists soothing, done with a pain-like face, is long lasting, and during the evening (commonly referred to as P.U.R.P.L.E. crying);

(iii) Reading signs and signals;

(iv) Managing feeding difficulties;

(v) Managing stimulus;

(vi) Impact of drugs in utero on developmental milestones;

(vii) Recognizing symptoms in infants exposed to specific drugs;

(viii) Therapeutic management techniques;

(ix) Managing your stress; and

(x) Managing complex psychosocial family dynamics.

(b) In addition to (a) of this subsection, trained caregivers must also receive training on the care of infants:

(i) Linen changing;

(ii) Therapeutic handling;

(iii) Bathing;

(iv) Weighing and tracking weight;

(v) Proper charting;

(vi) Techniques for taking temperature;

(vii) Positioning;

(viii) Reading signs and signals;

(ix) Feeding techniques; and

(x) Infection control.

(7) The licensee shall have written documentation for each staff member including:

(a) Employment;

(b) Hire date;

(c) Verification of education and experience;

(d) Current signed job description;

(e) Criminal history disclosure statement and results of a background check, according to WAC 246-337-055, com-

pleted within the previous three months of hire date and annually thereafter;

(f) Current license, certification, or registration, if applicable;

(g) Current basic first aid and age appropriate CPR, if applicable;

(h) Current Washington state food and beverage service worker permit, if applicable;

(i) Current driver's license, if applicable;

(j) Initial and ongoing tuberculosis screening according to the facility risk assessment and tuberculosis written plan according to WAC 246-337-060; ~~((and))~~

(k) All vaccination documentation required by WAC 246-337-060; and

(l) Annual signed performance evaluation(s).

~~((7) For the purposes of this section staff includes: Independent contractors, consultants, students, volunteers and trainees providing direct care.))~~

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-055 Personnel criminal history, disclosure, and background inquiries. The licensee shall screen all prospective staff ~~((independent contractors, consultants, students, volunteers and trainees))~~ with unsupervised access to residents for criminal history disclosure and background requirements using a Washington state patrol background check consistent with RCW 43.43.830 through 43.43.842. All background check reports and signed disclosure statements must be made available to the department upon request.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-060 Infection control. The licensee must implement and maintain an infection control program that prevents the transmission of infections and communicable disease among residents, staff, and visitors by:

(1) Developing written policies and procedures for:

(a) Hand hygiene;

(b) Cleaning and disinfection;

(c) Standard precautions to prevent transmission of bloodborne pathogens in accordance with chapter 296-823 WAC;

(d) Resident hygiene;

(e) Preventing transmission of tuberculosis consistent with the department's *Washington State Tuberculosis Services Manual*, DOH 343-071 June 2012, and chapter 246-170 WAC;

(f) Management of staff with a communicable disease in an infectious stage;

(g) Environmental management; and

(h) Housekeeping functions.

(2) Complying with chapters 246-100 and 246-101 WAC.

(3) Providing all necessary supplies and equipment to implement the infection control program.

(4)(a) An RTF licensed to provide pediatric transitional care services must require all staff to provide proof of full

vaccination against, or show proof of acquired immunity for, the following:

(i) Chickenpox (Varicella);

(ii) German measles (Rubella);

(iii) Measles (Rubeola);

(iv) Mumps;

(v) Whooping cough (pertussis); and

(vi) Influenza (flu).

Influenza vaccination is annual and must be received within the first month it becomes publicly available.

(b) The licensee may exempt a person working at their facility from one or more of the vaccinations required by this subsection if acceptable medical documentation of a medical contraindication, signed by a health care provider, is provided to the licensee.

(c) For the purposes of this subsection:

(i) Full vaccination means vaccinations given at the ages and intervals according to the national Center for Disease Control and Prevention immunization guidelines in "Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Adults Aged 19 Years or Older—United States, 2018"; as published in the "Morbidity and Mortality Weekly Report (MMWR) 2018; 67(5):158-160."

(ii) Acquired immunity means a medically documented positive titer.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-065 Safety and security. The licensee must protect resident safety and security by developing written policies and procedures that are consistent with the requirements of this chapter and address:

(1) Management of disorderly residents, visitors, or staff.

(2) The safety of residents during transportation, including:

(a) Disorderly residents;

(b) Minimum qualifications for transport staff; ~~((and))~~

(c) Any additional equipment in transport vehicles to ensure safety such as car seats for infants and children, and first-aid kits; and

(d) Transportation that is safe, reliable, and in conformance with state and federal safety laws.

(3) Smoking, vaping, and tobacco use by residents, visitors, and staff.

(4) Security, including:

(a) Controlling all entrances and exits and accounting for access to and egress from the RTF; and

(b) Conducting resident searches.

(5) Reporting to the department and other appropriate agencies, by the end of the next business day of the incident occurring, serious or undesirable outcomes that occur in the facility including:

(a) Allegations of abuse;

(b) Death;

(c) Suicide;

(d) Injuries resulting in an inpatient hospital stay; and

(e) Disruption of services through internal or external emergency or disaster.

(6) Subsections (2)(a), (4)(b), and (5)(c) of this section do not apply to an RTF in its licensed capacity to provide pediatric transitional care services.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-080 Resident care services. Nothing in this section applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee must establish and implement policies and procedures that:

(a) Describe how the licensee meets the residents' health care needs by satisfying the requirements of this section; and

(b) Are reviewed and approved by a health care prescriber at least biennially.

(2) The licensee must:

(a) Limit admission, transfer, discharge, and referral processes to residents for whom the RTF is qualified by staff, services, equipment, building design and occupancy to give safe care;

(b) Conduct or accept a current health care screening of each resident upon admission including a tuberculosis risk assessment and symptom screening;

(c) Refer residents for health care provided outside of the RTF as needed such as, but not limited to, laboratory, dental, ambulatory care or specialty services as needed;

(d) Assist residents in following all prescribed treatments, modified diets, activities or activity limitations;

(e) Assist residents to keep health care appointments;

(f) Provide access to a health assessment by a health care prescriber any time a resident exhibits signs or symptoms of an injury, illness or abnormality for which a medical diagnosis and treatment are indicated;

(g) Provide access to tuberculosis testing if the resident is high-risk or symptomatic of tuberculosis;

(h) Address serious illness, medical emergencies, or threat to life, to include:

(i) Criteria for determining the degree of medical stability of residents;

(ii) Observing residents for signs and symptoms of illness or trauma;

(iii) Reporting abnormal signs and symptoms according to an established protocol;

(iv) Criteria requiring a resident's immediate transfer to a hospital;

(v) How staff transmits the resident's medical and related data in the event of a transfer;

(vi) How to notify the parent or guardian, personal representative or next of kin in the event of an emergency, threat to life, serious change in the resident's condition, transfer of a resident to another facility, or death; and

(vii) When to consult with internal or external resource agencies or entities such as poison control, fire department or police.

(i) Provide access to emergency and prenatal care for pregnant residents, and postnatal care services for residents and infants; and

(j) Assure provisions of each resident's personal care items and durable medical equipment including storing and labeling each resident's personal care items separately, preventing contamination, and preventing access by other residents.

(3)(a) RTFs performing the following duties must meet the staffing requirements in (b) of this subsection:

(i) Have a health care prescriber initiate or adjust medication that is administered by staff according to the resident's individual service plan;

(ii) Otherwise administer medications to the resident; or

(iii) Use restraint or seclusion.

(b) RTFs performing any duties described in (a) of this subsection must meet the following staffing requirements:

(i) A registered nurse, licensed practical nurse, or prescriber must be available on-site during medication administration or while restraint or seclusion is being used, and otherwise available by phone twenty-four hours per day, seven days per week; and

(ii) A prescriber or registered nurse who is responsible for the supervision of resident care and nursing services must be available on-site at least four hours per calendar week.

(4) RTFs which do not perform any duties described in subsection (3)(a) of this section but have a health care prescriber initiate or adjust medication for residents to self-administer according to the resident's individual service plan must have a registered nurse or licensed practical nurse available at least by phone twenty-four hours per day, seven days per week.

(5) RTFs which meet the conditions in subsection (3) or (4) of this section must:

(a) Perform a health assessment for each resident. A prescriber or licensed nurse operating within their scope of practice shall conduct and complete the assessment following the resident's admission to the RTF unless a health assessment was performed within the past three months and is available to the RTF upon admission; and

(b) Develop and implement the policies and procedures explaining how nursing staff will be ~~((utilized))~~ used including:

(i) Scheduling of hours on-site and availability by phone;

(ii) Supervision, assessment, and training of other staff;

(iii) Delegation to other staff;

(iv) Medication management;

(v) Treatment planning;

(vi) Health screenings;

(vii) Health assessments; and

(viii) If applicable, restraint or seclusion.

NEW SECTION

WAC 246-337-081 Residential services—Pediatric transitional care. This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee must establish and implement policies and procedures that:

(a) Describe how the licensee meets the infants' health care needs by satisfying the requirements of this section; and

(b) Are reviewed and approved by a pediatrician, a pediatric physician's assistant, or pediatric ARNP at least biennially.

(2) The licensee may only provide pediatric transitional care services to infants who:

- (a) Are less than twelve months of age;
- (b) Have been exposed to drugs before birth;
- (c) Require twenty-four-hour continuous residential care and skilled nursing services as a result of drug exposure; and
- (d) Are medically assessed by a pediatrician, physician's assistant, or pediatric ARNP and referred to the RTF by the department of children, youth, and families regional hospitals or private parties.

(3) The licensee may only admit drug exposed infants that primarily require withdrawal management services and whose condition has been determined by a pediatrician, physician's assistant, or pediatric ARNP to be otherwise medically stable and predictable.

Admissions must contain a complete discharge summary from the sending facility.

(4) The licensee shall not admit infants solely for treatment of complex medical conditions requiring specialized care, monitoring, and equipment including, but not limited to, respiratory compromise requiring assisted ventilation or continuous oxygen, conditions requiring a peripherally inserted central catheter line, or conditions requiring nasogastric tubes.

(5) The staffing and staffing ratios in this subsection apply at all times. The licensee shall provide twenty-four-hour medical supervision to infants according to the following minimum staffing requirements:

(a) One registered nurse shall be present and on duty at the facility at all times;

(b)(i) One registered nurse or licensed practical nurse shall be present and on duty for every eight infants requiring morphine or other controlled substances for treatment of condition;

(ii) One registered nurse or licensed practical nurse shall be present and on duty for every sixteen infants provided that the staffing ratio of subsection (3) of this section is not exceeded.

(c) One trained caregiver to four infants; and

(d) A pediatrician, physician's assistant, or pediatric ARNP responsible for the supervision of infant medical care and nursing services must be available by phone twenty-four hours a day for consultation and on-site for medical examinations.

(6) The licensee may provide services for an infant for up to forty-five days. Pediatric transitional care services may be extended beyond forty-five days if the pediatrician, physician's assistant, or pediatric ARNP on staff determines it to be medically necessary and with consent of the infant's parent, legal guardian, or state agency with placement and care authority. The assessment and determination must be conducted and entered into the infant's record no less than two days before the infant's forty-fifth day at the RTF and must include the medical reasons for the extended stay.

(7) The licensee shall provide trainings to parents or legal guardians, foster parents, and relatives on:

- (a) Reading your infant's signs and signals;

(b) Managing feeding difficulties;

(c) Managing stimulus in a family environment;

(d) Impact of drugs in utero on developmental milestones;

(e) Managing your stress and that of your family; and

(f) Therapeutic benefits of touch, sound and light in modulating infant behavior.

(8) The licensee shall provide for medical examinations and consultations by a pediatrician, physician's assistant, or pediatric ARNP for each infant with the frequency and regularity recommended by the American Academy of Pediatrics and according to the time frames in this subsection.

Medical assessments, examinations, screenings, and other services relevant to an infant's individual service plan shall include:

(a) An initial health assessment of the infant conducted and completed by a registered nurse upon the infant's arrival;

(b) An initial medical examination of the infant conducted and completed by a pediatrician, physician's assistant or pediatric ARNP within twenty-four hours, if on morphine, otherwise seventy-two hours of the infant's arrival unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;

(c) Medical examinations of infants conducted every three weeks by a pediatrician, physician's assistant, or pediatric ARNP unless a pediatrician, physician's assistant or pediatric ARNP orders a shorter time frame;

(d) A plan of management for neonatal abstinence syndrome (NAS). Licensees must use a NAS scoring tool approved by the department. NAS scoring must be conducted and completed based on the infant's condition and treatment by a trained licensed practical nurse, registered nurse, pediatrician, physician's assistant, or pediatric ARNP on staff at the RTF. A licensed practical nurse can gather NAS scoring data but cannot analyze the data to inform medication dosage and other treatment decisions;

(e) Infant developmental screening tests, approved by the department, within thirty days after the infant's arrival at the RTF; and

(f) If written consent is given by the parent or guardian, administration of all routinely recommended vaccinations to the infant at the ages and intervals according to the national immunization guidelines in the *"Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Children and Adolescents Aged 18 Years or Younger—United States, 2018"*; as published in the *"Morbidity and Mortality Weekly Report (MMWR) 2018; 67(5):156-157."*

(9) The licensee must:

(a) Provide transportation of the infant to and from the RTF, if needed. Transportation requirements shall include the following:

(i) All vehicles used for transportation must be in good working condition and insured by the licensee;

(ii) Drivers must be at least twenty-one years of age, have proof of a valid driver's license, and be employed by the RTF;

(iii) Drivers must be accompanied by a trained caregiver or licensed health care provider employed by the RTF to attend to the infant during transport; and

(iv) Child passenger restraint requirements must be in compliance with RCW 46.61.687.

(b) Limit admission, transfer, discharge, and referral processes to infants for whom the RTF is qualified by staff, services, equipment, building design and occupancy to provide safe care;

(c) Refer infants for health care provided outside of the RTF as needed such as, but not limited to, laboratory, dental, ambulatory care, or specialty services;

(d) Follow all prescribed treatments, modified diets, activities, or activity limitations;

(e) Keep health care appointments;

(f) Provide a health assessment any time an infant exhibits signs or symptoms of an injury, illness or abnormality for which a medical diagnosis and treatment are indicated;

(g) Address serious illness, medical emergencies, or threat to life, to include:

(i) Criteria for determining the degree of medical stability of infants;

(ii) Observing infants for signs and symptoms of illness or trauma;

(iii) Reporting abnormal signs and symptoms according to an established protocol;

(iv) Criteria requiring an infant's immediate transfer to a hospital;

(v) How staff transmits the infant's medical and related data in the event of a transfer;

(vi) How to notify the parent or guardian, personal representative, or next of kin in the event of an emergency, threat to life, serious change in the infant's condition, transfer of an infant to another facility, or death; and

(vii) When to consult with internal or external resource agencies or entities such as poison control, fire department, or police.

(h) Assure provisions of each infant's personal care items and durable medical equipment including storing and labeling each resident's personal care items separately, preventing contamination, and preventing access by other residents;

(i) Develop and implement the policies and procedures explaining how nursing staff will be used including:

(i) Scheduling of hours on-site and availability by phone;

(ii) Supervision, assessment, and training of other staff;

(iii) Delegation to other staff;

(iv) Medication management;

(v) Treatment planning;

(vi) Health screenings; and

(vii) Health assessments.

(10) In satisfying the requirements of this chapter, the licensee must also collaborate with the department of children, youth, and families regarding individual safety plans and to meet family and medical needs as contractually required.

(11) The licensee shall have equipment to support infants receiving pediatric transitional care services in adequate supply to meet the medical needs of the population:

(a) Cardiac respiratory monitors for each infant receiving morphine or as medically indicated;

(b) Pediatric pulse oximeter in each infant room;

(c) Plumbed or portable oxygen tanks and suction devices in an adequate supply to meet infant needs;

(d) Digital thermometers designed for pediatric use in each infant room;

(e) Scales used for weighing infants;

(f) Warming beds in adequate supply to meet infant needs;

(g) Refrigerator with thermometer for storing infant formula;

(h) Refrigerator with thermometer, approved for storing medications and vaccinations consistent with *Centers for Disease Control and Prevention "Vaccine Storage and Handling Toolkit, January 2018"*; and

(i) Infant first-aid kit.

(12) The licensee must develop and implement policies and procedures that ensure unauthorized persons do not access the pediatric transitional care services unit.

NEW SECTION

WAC 246-337-082 Pediatric transitional care services—Parent-infant visitation. This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee, in collaboration with the infant's family, and the department of children, youth, and families, if applicable, shall identify persons who are authorized to visit the infant or call and receive verbal updates on the infant's condition.

(2) The licensee shall make all reasonable efforts to provide an initial visit between parents and infants at the facility within seventy-two hours of admission to the RTF, unless directed otherwise by a court order.

(3) At the first initial visit, the licensee shall develop a written visitation plan in collaboration with the infant's family and the department of children, youth, and families, if applicable.

(4) The licensee shall develop and implement policies and procedures regarding how to address safety concerns that are identified with persons visiting or wanting to visit an infant receiving pediatric transitional care services.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-095 Resident health care records. The licensee must ensure the RTF meets the following requirements:

(1) Develop and implement procedures for maintaining current health care records as required by chapter 70.02 RCW and other applicable laws.

(2) Health care records may be integrated into a resident's individual service plan so long as the requirements of this section are met.

(3) Make health care records accessible for review by appropriate direct care staff, the resident, the parent or guardian, and the department in accordance with applicable law.

(4) Document health care information in a standardized manner.

(5) Record health care information by the health care provider or direct care staff with resident contact to include typed or legible handwriting in ink, verified by signature or unique identifier, title, date and time.

(6) Maintain the confidentiality and security of health care records in accordance with applicable law.

(7) Maintain health care records in chronological order in their entirety or chronologically by sections.

(8) Keep health care records current with all documents filed according to the licensee's written timeline policy.

(9) Include the following, at a minimum, in each health care record:

(a) Resident's name, date of birth, sex, marital status, date of admission, voluntary or other commitment, name of health care prescriber, diagnosis, date of discharge, previous address and phone number, if any;

(b) Resident's receipt of notification of resident's rights;

(c) Resident's consent for health care provided by the RTF, unless the resident is admitted under an involuntary court order;

(d) A copy of any authorizations, advance directives, powers of attorney, letters of guardianship, or other similar documentation;

(e) Original reports, where available or, if not available, durable, legible copies of original reports on all tests, procedures, and examinations performed on the resident;

(f) Individual service plan according to WAC 246-337-100 or 246-337-103, as applicable;

(g) Individuals whom the resident consents for the RTF to freely communicate with regarding the health care of the resident including the individual's name, relationship to the resident, and address;

(h) Dated and signed notes describing all health care provided for each contact with the resident pertinent to the resident's individual service plan including:

(i) Physical and psychosocial history;

(ii) Health screening;

(iii) Health care service and treatment provided, including resident's response to treatment and any adverse reactions and resolution of health care issues and when applicable;

(iv) Medication administration, and medical staff notification of medication administration errors, adverse effects, or side effects;

(v) Use of restraint or seclusion consistent with WAC 246-337-110;

(vi) Staff actions or response to health care needs;

(vii) Instructions or teaching provided to the resident in connection with his or her health care; and

(viii) Discharge summary, including:

(A) Summary of the resident's physical and mental history, as applicable;

(B) Condition upon discharge;

(C) List of current medications;

(D) Recommendations for services, follow-up or continuing care; and

(E) Date and time of discharge.

(10) Retain the health care records at least six years beyond the resident's discharge or death date, whichever occurs sooner, and at least six years beyond the age of eighteen.

(11) Destroy the health care records in accordance with applicable law and in a manner that preserves confidentiality.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-100 Resident's individual service plan. This section does not apply to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(1) The licensee must develop and implement an individual service plan for each resident based on the resident's:

(a) Initial health on admission; and

(b) Health assessment(s).

(2) Individual service plans must:

(a) Be prepared by one or more staff involved in the resident's care with participation by the resident and by either his or her personal representative or parent or guardian when minors are involved;

(b) Address the needs of a mother and baby during pregnancy and after delivery, if applicable;

(c) Include work assignments given to a resident as part of their individual service plan, if applicable;

(d) Be updated as additional needs are identified during treatment; and

(e) Include a discharge health care plan.

NEW SECTION

WAC 246-337-103 Individual service plan—Pediatric transitional care services. (1) This section only applies to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter.

(2) The licensee must develop, implement, and update at least weekly an individual service plan for each infant receiving pediatric transitional care services based on the infant's:

(a) Initial health on admission; and

(b) Health assessment(s) described in WAC 246-337-081.

(3) Each individual service plan must:

(a) Establish a plan of management for neonatal abstinence syndrome prepared by a health care provider who is:

(i) Involved with the infant's care; and

(ii) Working within their scope of practice.

(b) Be prepared in accordance with the infant's standing orders;

(c) Include short-term goals;

(d) Establish timelines for initial and ongoing visitation between the infant and parents, guardians, or identified family resources according to WAC 246-337-082;

(e) Include a discharge plan that addresses, at minimum, the following:

(i) Medical release from a pediatrician, physician's assistant, or pediatric ARNP indicating that the infant is medically stable and appropriate for discharge;

(ii) Verification of a receiving physician, pediatrician, physician's assistant, or ARNP who will assume infant care and receive relevant health care records;

(iii) Verification from a registered nurse that the infant has achieved weight and feeding milestones appropriate for discharge;

(iv) Written after care plan for the infant, developed in collaboration with the parents, which includes specific tasks

for parents. Parents must sign the after care plan prior to infant discharge; and

(v) Assessment that the home environment and family dynamics are appropriate to receive and care for the infant.

(f) Include an aftercare plan that addresses, at minimum, the following:

(i) A plan to regularly communicate with the parents or guardian for a minimum of six months after discharge to check on the infant's condition and offer consultation and community resource referrals as needed; and

(ii) Provide the infant's family appropriate staff contacts in case family needs consultation.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-110 Use of restraint and seclusion. (1)

This section only applies to an RTF that uses restraint or seclusion. This section does not apply to an RTF in its licensed capacity to provide pediatric transitional care services according to this chapter, nor are any of the practices described in this section permitted when providing services to infants. The licensee shall have policies and procedures addressing the application and use of restraint or seclusion consistent with this chapter.

(2) The following facilities must have a minimum of one seclusion room for seclusion or temporary holding of residents awaiting transfer:

(a) Any RTF certified under chapter 388-865 WAC as an evaluation and treatment facility, competency restoration facility or involuntary crisis triage facility; or

(b) Any RTF certified under chapter 388-877B WAC as a detoxification facility providing secure detoxification services as defined in RCW 70.96B.010.

(3)(a) At admission, the incoming resident must be informed and provided a copy of the RTF's policy regarding the use of restraint or seclusion. An acknowledgment that the information and policy has been received must be obtained in writing from the resident; or

(b) In the case of a minor, the resident's parent(s) or guardian(s) must be informed and provided a copy of the RTF policy and acknowledge in writing that the information has been received.

(4) Restraint or seclusion must be safe, based on:

(a) Assessment of behavior;

(b) Chronological and developmental age;

(c) Size;

(d) Gender;

(e) Physical, medical, and psychiatric condition; and

(f) Personal history.

(5) Restraint or seclusion must only be used in emergency situations to ensure the physical safety of the individual resident or other residents or staff of the RTF, and when less restrictive measures have been found to be ineffective to protect the resident or others from harm.

(6) A prescriber must authorize use of the restraint or seclusion.

(7) If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or licensed practical nurse.

(8) "Whenever needed" or "as needed" orders for use of restraint or seclusion are prohibited.

(9) In emergency situations in which an order cannot be obtained prior to the application of restraint or seclusion, the order must be obtained either during the emergency application of the restraint or seclusion, or immediately after the restraint or seclusion has been applied. Policies and procedures must identify who can initiate the emergency application of restraint or seclusion prior to obtaining an order from a health care prescriber.

(10) Restraint and seclusion cannot be used simultaneously with persons under twenty-one years of age.

(11) Staff shall continuously observe and monitor residents in restraint or seclusion using:

(a) Face-to-face observation and monitoring; or

(b) Both direct sight video and two-way audio communications.

(12) The health care prescriber must:

(a) Limit each order of restraint or seclusion as follows:

(i) Adults: Four hours;

(ii) Children and adolescents at least nine years old but less than eighteen years old: Two hours; and

(iii) Children under nine years of age: One hour~~(±)~~.

(b) Be available to staff for consultation, at least by phone, throughout the period of emergency safety intervention;

(c) Examine the resident before the restraint or seclusion exceeds more than twenty-four hours; and

(d) Only renew the original order in accordance with the limits in (a) of this subsection for up to a total of twenty-four hours. For each subsequent twenty-four hour period of restraint or seclusion, repeat the examination.

(13) A health care prescriber or registered nurse must, within one hour of initiation of restraint or seclusion, conduct a face-to-face assessment of the resident including the residents' physical and psychological status, behavior, appropriateness of intervention, and any complications resulting from the intervention of the resident and consult the ordering health care prescriber. If restraint or seclusion is discontinued before the face-to-face assessment is performed, the face-to-face assessment must still be performed.

(14) The following documentation must be included in the residents' individual service plan when restraint or seclusion is used:

(a) The original and any subsequent order for the restraint or seclusion including name of the health care prescriber;

(b) The date and time the order was obtained;

(c) The specific intervention ordered including length of time and behavior that would terminate the intervention;

(d) Time the restraint or seclusion began and ended; and

(e) Time and results of the one hour face-to-face assessment.

(15) During the period a resident is placed in restraint or seclusion, appropriately trained staff must assess the client and document in the individual service plan at a minimum of every fifteen minutes:

(a) Resident's behavior and response to the intervention used including the rationale for continued use of the intervention;

- (b) Food/nutrition offered;
- (c) Toileting; and
- (d) Physical condition of the resident.

(16) Additional documentation in the individual service plan must include:

- (a) Alternative methods attempted or the rationale for not using alternative methods;
- (b) Resident behavior prior to initiation of the restraint or seclusion;
- (c) Any injuries sustained during the restraint or seclusion;
- (d) Post intervention debriefing with the resident to include the names of staff who were present for the debriefing, and any changes to the resident's individual service plan that result from the debriefing; and

(e) In the case of a minor, notification of the parent or guardian including the date and time of notification, and the name of the staff person providing the notification.

(17) Within twenty-four hours after the initiation of the restraint or seclusion, staff and the resident shall have a face-to-face discussion. This discussion must, to the extent possible, include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or guardian(s) may participate in the discussion when it is deemed appropriate by the RTF. Discussions must be conducted in a language that is understood by the resident and by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and the staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the resident, or others that could prevent the future use of restraint or seclusion.

(18) Restraint or seclusion must be provided in a safe environment. Every licensee must:

- (a) Perform a risk assessment that identifies risks in the physical environment to residents, staff and the public when any level of restraint or seclusion is carried out;
- (b) Identify location(s) in the RTF where restraint or seclusion is performed;
- (c) Ensure that risks in the physical environment are mitigated as appropriate to the type of restraint or seclusion used and the planned population; and
- (d) Ensure that restraint or seclusion rooms are constructed as required in WAC 246-337-127. Previously reviewed and approved seclusion rooms are permitted to comply with the requirements of the rule under which they were constructed.

(19) A seclusion room may be used for multiple purposes but must be equipped to allow immediate use for seclusion purposes.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-113 Resident sleeping room accommodations. In resident rooms used for sleeping, the licensee shall provide furniture appropriate for the age and physical condition of each resident, including:

(1) A bed at least thirty-six or more inches wide for adults and appropriate size for children, spaced at least thirty-six inches apart.

(2) No more than two infants per room using two single level nonstacking cribs or bassinets for licensees providing pediatric transitional care services.

(3) Equipping each bed with:

(a) A mattress that is clean, in good repair, and fits the frame;

(b) One or more pillows that are clean, and in good repair for each resident over two and one-half years of age;

(c) Bedding that includes a tight-fitting sheet or cover for the sleeping surface, and a clean blanket or suitable cover; and

(d) Bedding that is in good repair, changed weekly or more often as necessary to maintain cleanliness.

~~((3))~~ (4) A single level nonstacking crib, infant bed, bassinet or playpen for children twenty-four months of age and younger meeting chapter 70.111 RCW, and including:

(a) Sleep equipment having secure latching devices; and

(b) A mattress that is:

(i) Snug-fitting to prevent the infant from becoming entrapped between the mattress and crib side rails;

(ii) Waterproof and easily sanitized; and

(iii) Free of crib bumpers, stuffed toys or pillows.

~~((4))~~ (5) A youth bed or regular bed for children twenty-five months of age and older.

~~((5))~~ (6) If bunk beds are used, prohibit children six years of age or less from using the upper bunk.

AMENDATORY SECTION (Amending WSR 18-06-092, filed 3/6/18, effective 4/16/18)

WAC 246-337-120 Facility and environment requirements. (1) The licensee must maintain the facility, exterior grounds, and component parts such as fences, equipment, outbuildings, and landscape items in a manner that is safe, free of hazards, clean, and in good repair.

(2) Each facility must be located on a site which is accessible by emergency vehicles on at least one street, road or driveway usable under all weather conditions and free of major potholes or obstructions.

(3) ~~((Policies [Policies]))~~ Policies and procedures must be developed and implemented for routine preventative maintenance, including:

(a) Heating ventilation and air conditioning, plumbing and electrical equipment;

(b) Certification and calibration of biomedical and therapeutic equipment; and

(c) Documentation of all maintenance.

(4) Stairways must be equipped with more than one riser and ramps with slopes greater than one in twenty with handrails on both sides. Ends of handrails must be designed in a manner that eliminates a hooking hazard.

(5) Excluding child care, school facilities serving residents on the same grounds as the RTF must meet all requirements for health and safety and comply with chapter 246-366 WAC.

(6) Access and egress control devices must be ~~((utilized))~~ used to support the policies of the RTF.

WSR 19-02-038
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed December 26, 2018, 8:08 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: Table 1604.5: The purpose is to close an unanticipated loophole regarding daycares.

Mass Timber: The purpose is to comply with ESB 5450.

1613.5: The purpose is to address a structural seismic engineering concern for structures between one hundred sixty feet and two hundred forty feet.

IBC/IFC 3101/3801: The purpose is to resolve inconsistent and conflicting code requirements between NFPA 130, the IBC and IFC as they pertain to passenger rail systems.

Citation of Rules Affected by this Order: New 14; and amending 9.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Adopted under notice filed as WSR 18-21-100 on October 11 [16], 2018.

A final cost-benefit analysis is available by contacting Richard Brown, 1500 Jefferson Street S.E., Olympia, WA 98504, phone 360-407-9277, email richard.brown@des.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 14, Amended 9, 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: December 1, 2018.

Doug Orth
Council Chair

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

ASSISTED LIVING FACILITY. A home or other institution, licensed by the state of Washington, providing housing, basic services and assuming general responsibility for the safety and well-being of residents under chapters 18.20 RCW and

388-78A WAC. These facilities may provide care to residents with symptoms consistent with dementia requiring additional security measures.

BOTTLE FILLING STATION. A plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 mm) in height. Such fixtures can be separate from or integral to a drinking fountain and can incorporate a water filter and a cooling system for chilling the drinking water.

CHILD CARE. The care of children during any period of a 24-hour day.

CHILD CARE, FAMILY HOME. A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

CLIMATE ZONE. A geographical region that has been assigned climatic criteria as specified in the Washington State Energy Code.

CLUSTER. Clusters are multiple *portable school classrooms* separated by less than the requirements of the building code for separate buildings.

EFFICIENCY DWELLING UNIT. A dwelling unit containing only one habitable room.

HOSPICE CARE CENTER. A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

MASS TIMBER. Structural elements of Type IV construction primarily of solid, built-up, panelized or engineered wood products that meet minimum cross section dimensions of Type IV construction.

NIGHTCLUB. An A-2 Occupancy use under the 2006 *International Building Code* in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

NONCOMBUSTIBLE PROTECTION (See MASS TIMBER). Non-combustible material, in accordance with Section 703.5, designed to increase the fire-resistance rating and delay the combustion of mass timber.

PORTABLE SCHOOL CLASSROOM. A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections and is designed to be used as an educational space with or without a permanent foundation. The structure shall be capable of being demounted and relocated to other locations as needs arise.

SMALL BUSINESS. Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other

businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

STAGED EVACUATION. A method of emergency response, that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves moving or holding certain occupants at temporary locations for a brief period of time before evacuating the building. This response is used by ambulatory surgery facility and assisted living facilities to protect the health and safety of fragile occupants and residents.

WALL, LOAD-BEARING. Any wall meeting either of the following classifications:

1. Any metal or wood stud wall that supports more than 100 pounds per linear foot (1459 N/m) of vertical load in addition to its own weight.
2. Any masonry or concrete, or mass timber wall that supports more than 200 pounds per linear foot (2919 N/m) of vertical load in addition to its own weight.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0403 Section 403—High-rise buildings.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0504 Section 504—Building height and number of stories.

403.3.2 Water supply to required fire pumps. In all buildings that are more than 420 feet (128 m) in *building height*, and buildings of Type IV-A and IV-B that are more than 120 feet in *building height*, required fire pumps shall be supplied by connections to not fewer than two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

EXCEPTION: Two connections to the same main shall be permitted provided that the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through not fewer than one of the connections.

403.5.4 Smokeproof enclosures. Every required interior exit stairway serving floors more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be a smokeproof enclosure in accordance with Sections 909.20 and 1023.11.

EXCEPTION: Unless required by other sections of this code, portions of such stairways which extend to serve floors below the level of exit discharge need not comply with Sections 909.20 and 1023.11 provided the portion of the stairway below is separated from the level of exit discharge with a 1-hour fire barrier.

Table 504.3
Allowable Building Height in Feet Above Grade Plane^a

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A, B, E, F, M, S, U	NS ^b	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	270	180	85	85	70	60
H-1, H-2, H-3, H-5	NS ^{c,d}	UL	160	65	55	65	55	120	90	65	65	50	40
	S												
H-4	NS ^{c,d}	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	140	100	85	85	70	60
I-1 Condition 1, I-3	NS ^{d,e}	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
I-1 Condition 2, I-2	NS ^{d,e,f}	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85									
I-4	NS ^{d,g}	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
R	NS ^d	UL	160	65	55	65	55	65	65	65	65	50	40
	S13R	60	60	60	60	60	60	60	60	60	60	60	60
	S	UL	180	85	75	85	75	270	180	85	85	70	60

For SI: 1 foot = 304.8 mm.

UL = Unlimited; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.

- a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- d The NS value is only for use in evaluation of existing building height in accordance with the International Existing Building Code.
- e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the *International Fire Code*.
- g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.
- h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.

Table 504.4
Allowable Number of Stories Above Grade Plane^{ab}

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A-1	NS	UL	5	3	2	3	2	3	3	3	3	2	1
	S	UL	6	4	3	4	3	9	6	4	4	3	2
A-2	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2
A-3	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2
A-4	NS	UL	11	3	2	3	2	3	3	3	3	2	1
	S	UL	12	4	3	4	3	18	12	6	4	3	2
A-5	NS	UL	UL	UL	UL	UL	UL	1	1	1	UL	UL	UL
	S	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
B	NS	UL	11	5	3	5	3	5	5	5	5	3	2
	S	UL	12	6	4	6	4	18	12	9	6	4	3
E	NS	UL	5	3	2	3	2	3	3	3	3	1	1
	S	UL	6	4	3	4	3	9	6	4	4	2	2
F-1	NS	UL	11	4	2	3	2	3	3	3		2	1
	S	UL	12	5	3	4	3	10	7	5	5	3	2
F-2	NS	UL	11	5	3	4	3	5	5	5	5	3	2
	S	UL	12	6	4	5	4	12	8	6	6	4	3
H-1	NS ^{c,d}	1	1	1	1	1	1	NP	NP	NP	1	1	NP
	S							1	1	1			
H-2	NS ^{c,d}	UL	3	2	1	2	1	1	1	1	2	1	1
	S							2	2	2			
H-3	NS ^{c,d}	UL	6	4	2	4	2	3	3	3	4	2	1
	S							4	4	4			
H-4	NS ^{c,d}	UL	7	5	3	5	3	5	5	5	5	3	2
	S	UL	8	6	4	6	4	8	7	6	6	4	3
H-5	NS ^{c,d}	4	4	3	3	3	3	2	2	2	3	3	2
	S							3	3	3			

Occupancy Classification	Type of Construction												
	See Footnotes	Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
I-1 Condition 1	NS ^{d,e}	UL	9	4	3	4	3	4	4	4	4	3	2
	S	UL	10	5	4	5	4	10	7	5	5	4	3
I-1 Condition 2	NS ^{d,e}	UL	9	4	3	4	3	3	3	3	4	3	2
	S	UL	10	5				10	6	4			
I-2	NS ^{d,f}	UL	4	2	1	1	NP	NP	NP	NP	1	1	NP
	S	UL	5	3				7	5	1			
I-3	NS ^{d,e}	UL	4	2	1	2	1	2	2	2	2	2	1
	S	UL	5	3	2	3	2	7	5	3	3	3	2
I-4	NS ^{d,g}	UL	5	3	2	3	2	3	3	3	3	1	1
	S	UL	6	4	3	4	3	9	6	4	4	2	2
M	NS	UL	11	4	2	4	2	4	4	4	4	3	1
	S	UL	12	5	3	5	3	12	8	6	5	4	2
R-1h	NS ^d	UL	11	4	4	4	4	4	4	4	4	3	2
	S13R	4	4									4	3
	S	UL	12	5	5	5	5	18	12	8	5	4	3
R-2h	NS ^d	UL	11	4	4	4	4	4	4	4	4	3	2
	S13R	4	4	4								4	3
	S	UL	12	5	5	5	5	18	12	8	5	4	3
R-3h	NS ^d	UL	11	4	4	4	4	4	4	4	4	3	3
	S13D	4	4									3	3
	S13R	4	4									4	4
	S	UL	12	5	5	5	5	18	12	5	5	4	4
R-4h	NS ^d	UL	11	4	4	4	4	4	4	4	4	3	2
	S13D	4	4									3	2
	S13R	4	4									4	3
	S	UL	12	5	5	5	5	18	12	5	5	4	3
S-1	NS	UL	11	4	2	3	2	4	4	4	4	3	1
	S	UL	12	5	3	4	3	10	7	5	5	4	2
S-2	NS	UL	11	5	3	4	3	4	4	4	4	4	2
	S	UL	12	6	4	5	4	12	8	5	5	5	3
U	NS	UL	5	4	2	3	2	4	4	4	4	2	1
	S	UL	6	5	3	4	3	9	6	5	5	3	2

UL = Unlimited; NP = Not permitted; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.

- ^a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- ^b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- ^c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- ^d The NS value is only for use in evaluation of existing building height in accordance with the International Existing Building Code.
- ^e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- ^f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the *International Fire Code*.
- ^g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.

^h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.

504.4.1 Stair enclosure pressurization increase. For Group R1 and R2 occupancies in buildings of Type VA construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the maximum number of stories permitted in Section 504.2 may be increased by one provided the interior exit stairways and ramps are pressurized in accordance with Section 909. Legally required standby power shall be provided for buildings constructed in compliance with this section and be connected to stairway shaft pressurization equipment, elevators and lifts used for accessible means of egress, hoistway pressurization equipment (if provided) and other life safety equipment as determined by the authority having jurisdiction. For the purposes of this section, legally required standby power shall comply with 2014 NEC Section 701.12, options (A), (B), (C), (D), (F), or (G) or subsequent revised section number(s).

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-0506 ((Reserved:)) Section 506—Building area.

Table 506.2

Allowable Area Factor (At = NS, S1, S13R, S13D or SM, as applicable) In Square Feet^{a,b}

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A-1	NS	UL	UL	15,500	8,500	14,000	8,500	45,000	30,000	18,000	15,000	11,500	5,500
	S1	UL	UL	62,000	34,000	56,000	34,000	180,000	120,000	75,000	60,000	46,000	22,000
	SM	UL	UL	46,500	25,500	42,000	25,500	135,000	90,000	56,250	45,000	34,500	16,500
A-2	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,250	45,000	34,500	18,000
A-3	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,000	45,000	34,500	18,000
A-4	NS	UL	UL	15,500	9,500	14,000	9,500	45,000	30,000	18,750	15,000	11,500	6,000
	S1	UL	UL	62,000	38,000	56,000	38,000	180,000	120,000	75,000	60,000	46,000	24,000
	SM	UL	UL	46,500	28,500	42,000	28,500	135,000	90,000	56,250	45,000	34,500	18,000
A-5	NS	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
	S1												
	SM												
B	NS	UL	UL	37,500	23,000	28,500	19,000	108,000	75,000	45,000	36,000	18,000	9,000
	S1	UL	UL	150,000	92,000	114,000	76,000	432,000	288,000	180,000	144,000	72,000	36,000
	SM	UL	UL	112,500	69,000	85,500	57,000	324,000	216,000	135,000	108,000	54,000	27,000
E	NS	UL	UL	26,500	14,500	23,500	14,500	76,500	51,000	31,875	25,500	18,500	9,500
	S1	UL	UL	106,000	58,000	94,000	58,000	306,000	204,000	127,500	102,000	74,000	38,000
	SM	UL	UL	79,500	43,500	70,500	43,500	229,500	153,000	95,625	76,500	55,500	28,500
F-1	NS	UL	UL	25,000	15,500	19,000	12,000	100,500	67,000	41,875	33,500	14,000	8,500
	S1	UL	UL	100,000	62,000	76,000	48,000	402,000	268,000	167,500	134,000	56,000	34,000
	SM	UL	UL	75,000	46,500	57,000	36,000	301,500	201,000	125,625	100,500	42,000	25,500
F-2	NS	UL	UL	37,500	23,000	28,500	18,000	151,500	101,000	63,125	50,500	21,000	13,000
	S1	UL	UL	150,000	92,000	114,000	72,000	606,000	404,000	252,500	202,000	84,000	52,000
	SM	UL	UL	112,500	69,000	85,500	54,000	454,500	303,000	189,375	151,500	63,000	39,000
H-1	NS ^c	21,000	16,500	11,000	7,000	9,500	7,000	10,500	10,500	10,000	10,500	7,500	NP
	S1												
H-2	NS ^c	21,000	16,500	11,000	7,000	9,500	7,000	10,500	10,500	10,000	10,500	7,500	3,000
	S1												
	SM												

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
H-3	NS ^e	UL	60,000	26,500	14,000	17,500	13,000	25,000	25,000	25,000	25,500	10,000	5,000
	S1												
	SM												
H-4	NS ^{e,d}	UL	UL	37,500	17,500	28,500	17,500	75,000	54,000	40,500	36,000	18,000	6,500
	S1	UL	UL	150,000	70,000	114,000	70,000	288,000	216,000	162,000	144,000	72,000	26,000
	SM	UL	UL	112,500	52,500	85,500	52,500	216,000	162,000	121,500	108,000	54,000	19,500
H-5	NS ^{e,d}	UL	UL	37,500	23,000	28,500	19,000	72,000	54,000	40,500	36,000	18,000	9,000
	S1	UL	UL	150,000	92,000	114,000	76,000	288,000	216,000	162,000	144,000	72,000	36,000
	SM	UL	UL	112,500	69,000	85,500	57,000	216,000	162,000	121,500	108,000	54,000	27,000

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
I-1	NS ^{d,e}	UL	55,000	19,000	10,000	16,500	10,000	54,000	36,000	18,000	18,000	10,500	4,500
	S1	UL	220,000	76,000	40,000	66,000	40,000	216,000	144,000	72,000	72,000	42,000	18,000
	SM	UL	165,000	57,000	30,000	49,500	30,000	162,000	108,000	54,000	54,000	31,500	13,500
I-2	NS ^{d,f}	UL	UL	15,000	11,000	12,000	NP	36,000	24,000	12,000	12,000	9,500	NP
	S1	UL	UL	60,000	44,000	48,000	NP	144,000	96,000	48,000	48,000	38,000	NP
	SM	UL	UL	45,000	33,000	36,000	NP	108,000	72,000	36,000	36,000	28,500	NP
I-3	NS ^{d,e}	UL	UL	15,000	10,000	10,500	7,500	36,000	24,000	12,000	12,000	7,500	5,000
	S1	UL	UL	45,000	40,000	42,000	30,000	144,000	96,000	48,000	48,000	30,000	20,000
	SM	UL	UL	45,000	30,000	31,500	22,500	108,000	72,000	36,000	36,000	22,500	15,000
I-4	NS ^{d,g}	UL	60,500	26,500	13,000	23,500	13,000	76,500	51,000	25,500	25,500	18,500	9,000
	S1	UL	121,000	106,000	52,000	94,000	52,000	306,000	204,000	102,000	102,000	74,000	36,000
	SM	UL	181,500	79,500	39,000	70,500	39,000	229,500	153,000	76,500	76,500	55,500	27,000
M	NS	UL	UL	21,500	12,500	18,500	12,500	61,500	41,000	25,625	20,500	14,000	9,000
	S1	UL	UL	86,000	50,000	74,000	50,000	246,000	164,000	102,500	82,000	56,000	36,000
	SM	UL	UL	64,500	37,500	55,500	37,500	184,500	123,000	76,875	61,500	42,000	27,000
R-1	NS ^{d,h}	UL	UL	24,000	16,000	24,000	16,000	61,500	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000
R-2	NS ^{d,h}	UL	UL	24,000	16,000	24,000	16,000	61,500	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000
R-3	NS ^{d,h}	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL	UL
	S13R												
	S1												
	SM												
R-4	NS ^{d,h}	UL	UL	24,000	16,000	24,000	16,000	61,000	41,000	25,625	20,500	12,000	7,000
	S13R												
	S1	UL	UL	96,000	64,000	96,000	64,000	246,000	164,000	102,500	82,000	48,000	28,000
	SM	UL	UL	72,000	48,000	72,000	48,000	184,500	123,000	76,875	61,500	36,000	21,000
S-1	NS	UL	48,000	26,000	17,500	26,000	17,500	76,500	51,000	31,875	25,500	14,000	9,000
	S1	UL	192,000	104,000	70,000	104,000	70,000	306,000	204,000	127,500	102,000	56,000	36,000
	SM	UL	144,000	78,000	52,500	78,000	52,500	229,500	153,000	95,625	76,500	42,000	27,000

Occupancy Classification	See Footnotes	Type of Construction											
		Type I		Type II		Type III		Type IV				Type V	
		A	B	A	B	A	B	A	B	C	HT	A	B
S-2	NS	UL	79,000	39,000	26,000	39,000	26,000	115,500	77,000	48,125	38,500	21,000	13,500
	S1	UL	316,000	156,000	104,000	156,000	104,000	462,000	308,000	192,500	154,000	84,000	54,000
	SM	UL	237,000	117,000	78,000	117,000	78,000	346,500	231,000	144,375	115,500	63,000	40,500
U	NS	UL	35,500	19,000	8,500	14,000	8,500	54,000	36,000	22,500	18,000	9,000	5,500
	S1	UL	142,000	76,000	34,000	56,000	34,000	216,000	144,000	90,000	72,000	36,000	22,000
	SM	UL	106,500	57,000	25,500	42,000	25,500	162,000	108,000	67,500	54,000	27,000	16,500

For SI: 1 square foot = 0.0929 m².

UL = Unlimited; NP = Not permitted; NS = Buildings not equipped throughout with an automatic sprinkler system; S1 = Buildings a maximum of one story above grade plane equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; SM = Buildings two or more stories above grade plane equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2; S13D = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.3.

- a See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.
- b See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.
- c New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.
- d The NS value is only for use in evaluation of existing building area in accordance with the International Existing Building Code.
- e New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies Condition 1, see Exception 1 of Section 903.2.6.
- f New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the International Fire Code.
- g For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.
- h New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.
- i The maximum allowable area for a single-story nonsprinklered Group U greenhouse is permitted to be 9,000 square feet, or the allowable area shall be permitted to comply with Table C102.1 of Appendix C.

NEW SECTION

WAC 51-50-0508 Section 508—Mixed use and occupancy.

508.4.4.1 Construction. Required separations shall be fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both, so as to completely separate adjacent occupancies. Mass timber elements serving as fire barriers or horizontal assemblies to separate occupancies in Type IV-B or IV-C construction shall be separated from the interior of the building with an approved thermal barrier consisting of a minimum of 1/2 inch (12.7 mm) gypsum board or a material that is tested in accordance with and meets the acceptance criteria of both the Temperature Transmission Fire Test and the Integrity Fire Test of NFPA 275.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

WAC 51-50-0509 Section 509—Incidental uses.

509.4.1.1 Type IV-B and IV-C construction. Where Table 509 specifies a fire-resistance-rated separation, mass timber elements serving as fire barriers or a horizontal assembly in Type IV-B or IV-C construction shall be separated from the interior of the incidental use with an approved thermal barrier consisting of a minimum of 1/2 inch (12.7 mm) gypsum board or a material that is tested in accordance with and

meets the acceptance criteria of both the Temperature Transmission Fire Test and the Integrity Fire Test of NFPA 275.

**Table 509
Incidental Uses**

Room or Area	Separation and/or Protection
Dry type transformers over 112.5 kVA and required to be in a fire resistant room per NEC (NFPA 70) Section 450.21 (B) ¹	1 hour or provide automatic sprinkler system

¹ Dry type transformers rated over 35,000 volts and oil-insulated transformers shall be installed in a transformer vault complying with NFPA 70.

(Remainder of table unchanged)

NEW SECTION

WAC 51-50-0601 Section 601—General.

**Table 601
Fire-resistance Rating Requirements for Building Elements (hours)**

Building Element	Type I		Type II		Type III		Type IV				Type V	
	A	B	A	B	A	B	A	B	C	HT	A	B
Primary structural frame ^f (see Section 202)	3 ^a	2 ^a	1	0	1 ^b	0	3 ^a	2 ^a	2 ^a	HT	1	0
Bearing walls												
Exterior ^{e, f}	3	2	1	0	2	2	3	2	2	2	1	0
Interior	3 ^a	2 ^a	1	0	1	0	3	2	2	1/HT	1	0
Nonbearing walls and partitions exterior	See Table 602											
Nonbearing walls and partitions interior ^d	0	0	0	0	0	0	0	0	0	See Section 602.4.4.6	0	0
Floor construction and associated secondary members (see Section 202)	2	2	1	0	1	0	2	2	2	HT	1	0
Roof construction and associated secondary members (see Section 202)	1 1/2 ^b	1 ^{b,c}	1 ^{b,c}	0 ^c	1 ^{b,c}	0	1 1/2	1	1	HT	1 ^{b,c}	0

For SI: 1 foot = 304.8 mm.

- a Roof supports: Fire-resistance ratings of primary structural frame and bearing walls are permitted to be reduced by 1 hour where supporting a roof only.
- b Except in Groups F-1, H, M and S-1 occupancies, fire protection of structural members in roof construction shall not be required, including protection of primary structural frame members, roof framing and decking where every part of the roof construction is 20 feet or more above any floor immediately below. Fire-retardant-treated wood members shall be allowed to be used for such unprotected members.
- c In all occupancies, heavy timber complying with Section 2304.11 shall be allowed where a 1-hour or less fire-resistance rating is required.
- d Not less than the fire-resistance rating required by other sections of this code.
- e Not less than the fire-resistance rating based on fire separation distance (see Table 602).
- f Not less than the fire-resistance rating as referenced in Section 704.10.

NEW SECTION

WAC 51-50-0602 Section 602—Construction classification.

**Table 602
Fire-resistance Rating Requirements for Exterior Walls Based on Fire Separation Distance^{a,d,g}**

Fire Separation Distance = X (feet)	Type of Construction	Occupancy Group H ^c	Occupancy Group F-1, M, S-1 ^f	Occupancy Group A, B, E, F-2, I, R ⁱ , S-2, U ^h
X < 5 ^b	All	3	2	1
5 ≤ X < 10	IA, IVA	3	2	11
	Others	2	1	
10 ≤ X < 30	IA, IB, IVA, IVB	2	1	1 ^c
	IIB, VB	1	0	0
	Others	1	1	1 ^c
X ≥ 30	All	0	0	0

For SI: 1 foot = 304.8 mm.

- a Load-bearing exterior walls shall also comply with the fire-resistance rating requirements of Table 601.
- b See Section 706.1.1 for party walls.
- c Open parking garages complying with Section 406 shall not be required to have a fire-resistance rating.
- d The fire-resistance rating of an exterior wall is determined based upon the fire separation distance of the exterior wall and the story in which the wall is located.
- e For special requirements for Group H occupancies, see Section 415.6.
- f For special requirements for Group S aircraft hangars, see Section 412.3.1.
- g Where Table 705.8 permits nonbearing exterior walls with unlimited area of unprotected openings, the required fire-resistance rating for the exterior walls is 0 hours.
- h For a building containing only a Group U occupancy private garage or carport, the exterior wall shall not be required to have a fire-resistance rating where the fire separation distance is 5 feet (1523 mm) or greater.

602.4 Type IV. Type IV construction is that type of construction in which the building elements are mass timber or noncombustible materials and have fire-resistance ratings in accordance with Table 601. Mass timber elements shall meet the fire-resistance rating requirements of this section based on either the fire-resistance rating of the noncombustible protection, the mass timber, or a combination of both and shall be determined in accordance with Section 703.2 or 703.3. The minimum dimensions and permitted materials for building elements shall comply with the provisions of this section including Table 602.4.4 and Section 2304.11. Mass timber elements of Types IV-A, IV-B and IV-C construction shall be protected with noncombustible protection applied directly to the mass timber in accordance with Sections 602.4.1 through 602.4.3. The time assigned to the noncombustible protection shall be determined in accordance with Section 703.8 and comply with 722.7.

Cross-laminated timber shall be labeled as conforming to ANSI/APA PRG 320 as referenced in Section 2303.1.4.

Exterior load-bearing walls and nonload-bearing walls shall be mass timber construction, or shall be of noncombustible construction.

EXCEPTION: Exterior load-bearing walls and nonload-bearing walls of Type IV-HT Construction in accordance with Section 602.4.4.

The interior building elements, including nonload-bearing walls and partitions, shall be of mass timber construction or of noncombustible construction.

EXCEPTION: Interior building elements and nonload-bearing walls and partitions of Type IV-HT Construction in accordance with Section 602.4.4.

Combustible concealed spaces are not permitted except as otherwise indicated in Sections 602.4.1 through 602.4.4. Combustible stud spaces within light frame walls of Type IV-HT construction shall not be considered concealed spaces, but shall comply with Section 718.

In buildings of Type IV-A, B, and C, construction with an occupied floor located more than 75 feet above the lowest level of fire department access, up to and including 12 stories or 180 feet above grade plane, mass timber interior exit and elevator hoistway enclosures shall be protected in accordance with Section 602.4.1.2. In buildings greater than 12 stories or 180 feet above grade plane, interior exit and elevator hoist-

way enclosures shall be constructed of noncombustible materials.

602.4.1 Type IV-A. Building elements in Type IV-A construction shall be protected in accordance with Sections 602.4.1.1 through 602.4.1.6. The required fire-resistance rating of noncombustible elements and protected mass timber elements shall be determined in accordance with Section 703.2 or Section 703.3.

602.4.1.1 Exterior protection. The outside face of exterior walls of mass timber construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering, shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m², a total heat release of less than 20 MJ/m² and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m².

602.4.1.2 Interior protection. Interior faces of all mass timber elements, including the inside faces of exterior mass timber walls and mass timber roofs, shall be protected with materials complying with Section 703.5.

602.4.1.2.1 Protection time. Noncombustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2), shall be permitted to be used for compliance with Section 722.7.1.

602.4.1.3 Floors. The floor assembly shall contain a noncombustible material not less than 1 inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the noncombustible material. The underside of floor assemblies shall be protected in accordance with 602.4.1.2.

602.4.1.4 Roofs. The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.1.2. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

602.4.1.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected in accordance with Section 602.4.1.2.

602.4.1.6 Shafts. Shafts shall be permitted in accordance with Sections 713 and 718. Both the shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.

602.4.2 Type IV-B. Building elements in Type IV-B construction shall be protected in accordance with Sections 602.4.2.1 through 602.4.2.6. The required fire-resistance rating of noncombustible elements or mass timber elements shall be determined in accordance with Section 703.2 or 703.3.

602.4.2.1 Exterior protection. The outside face of exterior walls of mass timber construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m², a total heat release of less than 20 MJ/m² and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354, and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m².

602.4.2.2 Interior protection. Interior faces of all mass timber elements, including the inside face of exterior mass timber walls and mass timber roofs, shall be protected, as required by this section, with materials complying with Section 703.5.

602.4.2.2.1 Protection time. Noncombustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2), shall be permitted to be used for compliance with Section 722.7.1.

602.4.2.2.2 Protected area. All interior faces of all mass timber elements shall be protected in accordance with Section 602.4.2.2.1, including the inside face of exterior mass timber walls and mass timber roofs.

EXCEPTION: Unprotected portions of mass timber ceilings and walls complying with Section 602.4.2.2.4 and the following:

1. Unprotected portions of mass timber ceilings, including attached beams, shall be permitted and shall be limited to an area equal to 20% of the floor area in any dwelling unit or fire area; or

2. Unprotected portions of mass timber walls, including attached columns, shall be permitted and shall be limited to an area equal to 40% of the floor area in any dwelling unit or fire area; or

3. Unprotected portions of both walls and ceilings of mass timber, including attached columns and beams, in any dwelling unit or fire area shall be permitted in accordance with Section 602.4.2.2.3.

4. Mass timber columns and beams which are not an integral portion of walls or ceilings, respectively, shall be permitted to be unprotected without restriction of either aggregate area or separation from one another.

602.4.2.2.3 Mixed unprotected areas. In each dwelling unit or fire area, where both portions of ceilings and portions of walls are unprotected, the total allowable unprotected area shall be determined in accordance with Equation 6-1.

(Equation 6-1)

$$(U_{tc}/U_{ac}) + (U_{tw}/U_{aw}) \leq 1$$

where:

- | | | |
|----------|---|--|
| U_{tc} | = | Total unprotected mass timber ceiling areas; |
| U_{ac} | = | Allowable unprotected mass timber ceiling area conforming to Section 602.4.2.2.2, Exception 1; |
| U_{tw} | = | Total unprotected mass timber wall areas; |
| U_{aw} | = | Allowable unprotected mass timber wall area conforming to Section 602.4.2.2.2, Exception 2. |

602.4.2.2.4 Separation distance between unprotected mass timber elements. In each dwelling unit or fire area, unprotected portions of mass timber walls and ceilings shall be not less than 15 feet from unprotected portions of other walls and ceilings, measured horizontally along the ceiling and from other unprotected portions of walls measured horizontally along the floor.

602.4.2.3 Floors. The floor assembly shall contain a noncombustible material not less than 1 inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the noncombustible material. The underside of floor assemblies shall be protected in accordance with Section 602.4.1.2.

602.4.2.4 Roofs. The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.2.2 except, in nonoccupiable spaces, they shall be treated as a concealed space with no portion left unprotected. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

602.4.2.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming

concealed spaces shall be protected in accordance with Section 602.4.1.2.

602.4.2.6 Shafts. Shafts shall be permitted in accordance with Sections 713 and 718. Both the shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.

602.4.3 Type IV-C. Building elements in Type IV-C construction shall be protected in accordance with Sections 602.4.3.1 through 602.4.3.6. The required fire-resistance rating of building elements shall be determined in accordance with Sections 703.2 or 703.3.

602.4.3.1 Exterior protection. The exterior side of walls of combustible construction shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering, shall be of noncombustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m², a total heat release of less than 20 MJ/m² and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m².

602.4.3.2 Interior protection. Mass timber elements are permitted to be unprotected.

602.4.3.3 Floors. Floor finishes in accordance with Section 804 shall be permitted on top of the floor construction.

602.4.3.4 Roofs. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.

602.4.3.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the *International Mechanical Code*, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1.

602.4.3.6 Shafts. Shafts shall be permitted in accordance with Sections 713 and 718. Shafts and elevator hoistway and interior exit stairway enclosures shall be protected with noncombustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1, on both the inside of the shaft and the outside of the shaft.

602.4.4 Type IV-HT. Type IV-HT construction (Heavy Timber, HT) is that type of construction in which the exterior walls are of noncombustible materials and the interior building elements are of solid wood, laminated heavy timber or structural composite lumber (SCL), without concealed spaces. The minimum dimensions for permitted materials including solid timber, glued-laminated timber, structural

composite lumber (SCL) and cross-laminated timber (CLT) and details of Type IV construction shall comply with the provisions of this section, including Table 602.4.4 and Section 2304.11. Exterior walls complying with Section 602.4.4.1 or 602.4.4.2 shall be permitted. Interior walls and partitions not less than 1 hour fire-resistance rating or heavy timber conforming with Section 602.4.4.8.1 shall be permitted. Cross-laminated timber (CLT) dimensions used in this section are actual dimensions. Lumber decking shall be in accordance with Section 2304.9.

602.4.4.1 Fire-retardant-treated wood in exterior walls. Fire-retardant-treated wood framing and sheathing complying with Section 2303.2 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a 2-hour rating or less.

602.4.4.2 Cross-laminated timber in exterior walls. Cross-laminated timber complying with Section 2303.1.4 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a 2-hour rating or less, provided the exterior surface of the cross-laminated timber is protected by one of the following:

1. Fire-retardant-treated wood sheathing complying with Section 2303.2 and not less than 15/32 inch (12 mm) thick;
 2. Gypsum board not less than 1/2 inch (12.7 mm) thick;
- or
3. A noncombustible material.

602.4.4.3 Columns. Wood columns shall be sawn or glued laminated and shall be not less than 8 inches (203 mm), nominal, in any dimension where supporting floor loads and not less than 6 inches (152 mm) nominal in width and not less than 8 inches (203 mm) nominal in depth where supporting roof and ceiling loads only. Columns shall be continuous or superimposed and connected in an approved manner. Protection in accordance with Section 704.2 is not required.

602.4.4.4 Floor framing. Wood beams and girders shall be of sawn or glued-laminated timber and shall be not less than 6 inches (152 mm) nominal in width and not less than 10 inches (254 mm) nominal in depth. Framed sawn or glued-laminated timber arches, which spring from the floor line and support floor loads, shall be not less than 8 inches (203 mm) nominal in any dimension. Framed timber trusses supporting floor loads shall have members of not less than 8 inches (203 mm) nominal in any dimension.

602.4.4.5 Roof framing. Wood-frame or glued-laminated arches for roof construction, which spring from the floor line or from grade and do not support floor loads, shall have members not less than 6 inches (152 mm) nominal in width and have not less than 8 inches (203 mm) nominal in depth for the lower half of the height and not less than 6 inches (152 mm) nominal in depth for the upper half. Framed or glued-laminated arches for roof construction that spring from the top of walls or wall abutments, framed timber trusses and other roof framing, which do not support floor loads, shall have members not less than 4 inches (102 mm) nominal in width and not less than 6 inches (152 mm) nominal in depth. Spaced members shall be permitted to be composed of two or more pieces not less than 3 inches (76 mm) nominal in thickness

where blocked solidly throughout their intervening spaces or where spaces are tightly closed by a continuous wood cover plate of not less than 2 inches (51 mm) nominal in thickness secured to the underside of the members. Splice plates shall be not less than 3 inches (76 mm) nominal in thickness. Where protected by approved automatic sprinklers under the roof deck, framing members shall be not less than 3 inches (76 mm) nominal in width.

602.4.4.6 Floors. Floors shall be without concealed spaces. Wood floors shall be constructed in accordance with Section 602.4.4.6.1 or 602.4.4.6.2.

602.4.4.6.1 Sawn or glued-laminated plank floors. Sawn or glued-laminated plank floors shall be one of the following:

1. Sawn or glued-laminated planks, splined or tongue-and-groove, of not less than 3 inches (76 mm) nominal in thickness covered with 1 inch (25 mm) nominal dimension tongue-and-groove flooring, laid crosswise or diagonally, 15/32 inch (12 mm) wood structural panel or 1/2 inch (12.7 mm) particleboard.

2. Planks not less than 4 inches (102 mm) nominal in width set on edge close together and well spiked and covered with 1 inch (25 mm) nominal dimension flooring or 15/32 inch (12 mm) wood structural panel or 1/2 inch (12.7 mm) particleboard.

The lumber shall be laid so that no continuous line of joints will occur except at points of support. Floors shall not extend closer than 1/2 inch (12.7 mm) to walls. Such 1/2 inch (12.7 mm) space shall be covered by a molding fastened to the wall and so arranged that it will not obstruct the swelling or shrinkage movements of the floor. Corbelling of masonry walls under the floor shall be permitted to be used in place of molding.

602.4.4.6.2 Cross-laminated timber floors. Cross-laminated timber shall be not less than 4 inches (102 mm) in thickness. Cross-laminated timber shall be continuous from support to support and mechanically fastened to one another. Cross-laminated timber shall be permitted to be connected to walls without a shrinkage gap providing swelling or shrinking is considered in the design. Corbelling of masonry walls under the floor shall be permitted to be used.

602.4.4.7 Roofs. Roofs shall be without concealed spaces and wood roof decks shall be sawn or glued laminated, splined or tongue-and-groove plank, not less than 2 inches (51 mm) nominal in thickness; 1 1/8 inch thick (32 mm) wood structural panel (exterior glue); planks not less than 3 inches (76 mm) nominal in width, set on edge close together and laid as required for floors; or of cross-laminated timber. Other types of decking shall be permitted to be used if providing equivalent fire resistance and structural properties.

Cross-laminated timber roofs shall be not less than 3 inches (76 mm) nominal in thickness and shall be continuous from support to support and mechanically fastened to one another.

602.4.4.8 Partitions and walls. Partitions and walls shall comply with Section 602.4.4.8.1 or 602.4.4.8.2.

602.4.4.8.1 Interior walls and partitions. Interior walls and partitions shall be of solid wood construction formed by not

less than two layers of 1 inch (25 mm) matched boards or laminated construction 4 inches (102 mm) thick, or of 1 hour fire-resistance-rated construction.

602.4.4.8.2 Exterior walls. Exterior walls shall be of one of the following:

1. Noncombustible materials.

2. Not less than 6 inches (152 mm) in thickness and constructed of one of the following:

2.1. Fire-retardant-treated wood in accordance with Section 2303.2 and complying with Section 602.4.4.1.

2.2. Cross-laminated timber complying with Section 602.4.4.2.

602.4.4.9 Exterior structural members. Where a horizontal separation of 20 feet (6096 mm) or more is provided, wood columns and arches conforming to heavy timber sizes complying with Table 602.4.4 shall be permitted to be used externally.

NEW SECTION

WAC 51-50-0603 Section 603—Combustible material in Types I and II construction.

603.1 Allowable materials. Combustible materials shall be permitted in buildings of Type I or II construction in the following applications and in accordance with Sections 603.1.1 through 603.1.3:

1. *Fire-retardant-treated wood* shall be permitted in:

1.1. Nonbearing partitions where the required *fire-resistance rating* is 2 hours or less.

1.2. Nonbearing *exterior walls* where fire-resistance-rated construction is not required.

1.3. Roof construction, including girders, trusses, framing and decking.

EXCEPTION: In buildings of Type I-A construction exceeding two *stories above grade plane*, *fire-retardant-treated wood* is not permitted in roof construction where the vertical distance from the upper floor to the roof is less than 20 feet (6096 mm).

2. Thermal and acoustical insulation, other than foam plastics, having a *flame spread index* of not more than 25.

EXCEPTIONS: 1. Insulation placed between two layers of noncombustible materials without an intervening airspace shall be allowed to have a *flame spread index* of not more than 100.

2. Insulation installed between a finished floor and solid decking without intervening airspace shall be allowed to have a *flame spread index* of not more than 200.

3. Foam plastics in accordance with Chapter 26.

4. Roof coverings that have an A, B or C classification.

5. *Interior floor finish* and floor covering materials installed in accordance with Section 804.

6. Millwork such as doors, door frames, window sashes and frames.

7. *Interior wall and ceiling finishes* installed in accordance with Sections 801 and 803.

8. *Trim* installed in accordance with Section 806.

9. Where not installed greater than 15 feet (4572 mm) above grade, show windows, nailing or furring strips and

wooden bulkheads below show windows, including their frames, aprons and show cases.

10. Finish flooring installed in accordance with Section 805.

11. Partitions dividing portions of stores, offices or similar places occupied by one tenant only and that do not establish a *corridor* serving an *occupant load* of 30 or more shall be permitted to be constructed of *fire-retardant-treated wood*, 1-hour fire-resistance-rated construction or of wood panels or similar light construction up to 6 feet (1829 mm) in height.

12. Stages and platforms constructed in accordance with Sections 410.3 and 410.4, respectively.

13. Combustible *exterior wall coverings*, balconies and similar projections and bay or oriel windows in accordance with Chapter 14.

14. Blocking such as for handrails, millwork, cabinets and window and door frames.

15. Light-transmitting plastics as permitted by Chapter 26.

16. Mastics and caulking materials applied to provide flexible seals between components of *exterior wall* construction.

17. Exterior plastic veneer installed in accordance with Section 2605.2.

18. Nailing or furring strips as permitted by Section 803.13.

19. Heavy timber as permitted by Note^c to Table 601 and Sections 602.4.4.9 and 1406.3.

20. Aggregates, component materials and admixtures as permitted by Section 703.2.2.

21. Sprayed fire-resistant materials and intumescent and mastic fire-resistant coatings, determined on the basis of *fire resistance* tests in accordance with Section 703.2 and installed in accordance with Sections 1705.14 and 1705.15, respectively.

22. Materials used to protect penetrations in fire-resistance-rated assemblies in accordance with Section 714.

23. Materials used to protect joints in fire-resistance-rated assemblies in accordance with Section 715.

24. Materials allowed in the concealed spaces of buildings of Types I and II construction in accordance with Section 718.5.

25. Materials exposed within plenums complying with Section 602 of the *International Mechanical Code*.

26. Wall construction of freezers and coolers of less than 1,000 square feet (92.9 m²), in size, lined on both sides with noncombustible materials and the building is protected throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1.

NEW SECTION

WAC 51-50-0703 Section 703—Fire-resistance ratings and fire tests.

703.8 Determination of noncombustible protection time contribution. The time, in minutes, contributed to the fire-resistance rating by the noncombustible protection of mass timber building elements, components, or assemblies, shall be established through a comparison of assemblies tested

using procedures set forth in ASTM E119 or UL 263. The test assemblies shall be identical in construction, loading, and materials, other than the noncombustible protection. The two test assemblies shall be tested to the same criteria of structural failure.

1. Test Assembly 1 shall be without protection.

2. Test Assembly 2 shall include the representative noncombustible protection. The protection shall be fully defined in terms of configuration details, attachment details, joint sealing details, accessories and all other relevant details.

The noncombustible protection time contribution shall be determined by subtracting the fire resistance time, in minutes, of Test Assembly 1 from the fire resistance time, in minutes, of Test Assembly 2.

703.9 Sealing of adjacent mass timber elements. In buildings of Type IV-A, IV-B, and IV-C construction, sealant or adhesive shall be provided to resist the passage of air in the following locations:

1. At abutting edges and intersections of mass timber building elements required to be fire-resistance-rated.

2. At abutting intersections of mass timber building elements and building elements of other materials where both are required to be fire-resistance-rated.

Sealants shall meet the requirements of ASTM C920. Adhesives shall meet the requirements of ASTM D3498.

EXCEPTION: Sealants or adhesives need not be provided where a fire-resistance-rated assembly does not include them as a required component.

NEW SECTION

WAC 51-50-0718 Section 718—Concealed spaces.

718.2.1 Fireblocking materials. *Fireblocking* shall consist of the following materials:

1. Two inch (51 mm) nominal lumber.

2. Two thicknesses of 1 inch (25 mm) nominal lumber with broken lap joints.

3. One thickness of 0.719 inch (18.3 mm) wood structural panels with joints backed by 0.719 inch (18.3 mm) wood structural panels.

4. One thickness of 0.75 inch (19.1 mm) particleboard with joints backed by 0.75 inch (19 mm) particleboard.

5. One half inch (12.7 mm) gypsum board.

6. One fourth inch (6.4 mm) cement-based millboard.

7. Batts or blankets of mineral wool, mineral fiber or other approved materials installed in such a manner as to be securely retained in place.

8. Cellulose insulation installed as tested for the specific application.

9. Mass timber complying with Section 2304.11.

NEW SECTION

WAC 51-50-0722 Section 722—Calculated fire resistance.

722.7 Fire-resistance rating of mass timber. The required fire resistance of mass timber elements in Section 602.4 shall be determined in accordance with Section 703.2 or 703.3.

The fire-resistance rating of building elements shall be as required in Tables 601 and 602 and as specified elsewhere in this code. The fire-resistance rating of the mass timber elements shall consist of the fire resistance of the unprotected element added to the protection time of the noncombustible protection.

722.7.1 Minimum required protection. When required by Sections 602.4.1 through 602.4.3, noncombustible protection shall be provided for mass timber building elements in accordance with Table 722.7.1(1). The rating, in minutes, contributed by the noncombustible protection of mass timber building elements, components, or assemblies, shall be established in accordance with Section 703.8. The protection contributions indicated in Table 722.7.1(2) shall be deemed to comply with this requirement when installed and fastened in accordance with Section 722.7.2.

Table 722.7.1(1)

Protection Required from Noncombustible Covering Material

Required Fire-Resistance Rating of Building Element per Tables 601 and 602 (hours)	Minimum Protection Required from Noncombustible Protection (minutes)
1	40
2	80
3 or more	120

Table 722.7.1(2)

Protection Provided by Noncombustible Covering Material

Noncombustible Protection	Protection Contribution (minutes)
1/2 inch Type X Gypsum board	25
5/8 inch Type X Gypsum board	40

722.7.2 Installation of gypsum board noncombustible protection. Gypsum board complying with Table 722.7.1(2) shall be installed in accordance with this section.

722.7.2.1 Interior surfaces. Layers of Type X gypsum board serving as noncombustible protection for interior surfaces of wall and ceiling assemblies determined in accordance with Table 722.7.1(1) shall be installed in accordance with the following:

1. Each layer shall be attached with Type S drywall screws of sufficient length to penetrate the mass timber at least 1 inch when driven flush with the paper surface of the gypsum board.

EXCEPTION: The third layer, where determined necessary by Section 722.7, shall be permitted to be attached with 1 inch #6 Type S drywall screws to furring channels in accordance with ASTM C645.

2. Screws for attaching the base layer shall be 12 inches on center in both directions.

3. Screws for each layer after the base layer shall be 12 inches on center in both directions and offset from the screws of the previous layers by 4 inches in both directions.

4. All panel edges of any layer shall be offset 18 inches from those of the previous layer.

5. All panel edges shall be attached with screws sized and offset as in items 1 through 4 above and placed at least 1 inch but not more than 2 inches from the panel edge.

6. All panels installed at wall-to-ceiling intersections shall be installed such that the ceiling panel(s) is installed first and the wall panel(s) is installed after the ceiling panel has been installed and is fitted tight to the ceiling panel. Where multiple layers are required, each layer shall repeat this process.

7. All panels installed at a wall-to-wall intersection shall be installed such that the panel(s) covering an exterior wall or a wall with a greater fire-resistance rating shall be installed first and the panel(s) covering the other wall shall be fitted tight to the panel covering the first wall. Where multiple layers are required, each layer shall repeat this process.

8. Panel edges of the face layer shall be taped and finished with joint compound. Fastener heads shall be covered with joint compound.

9. Panel edges protecting mass timber elements adjacent to unprotected mass timber elements in accordance with Section 602.4.2.2 shall be covered with 1 1/4 inch metal corner bead and finished with joint compound.

722.7.2.2 Exterior surfaces. Layers of Type X gypsum board serving as noncombustible protection for the outside of the exterior heavy timber walls determined in accordance with Table 722.7.1(a) shall be fastened 12 inches on center each way and 6 inches on center at all joints or ends. All panel edges shall be attached with fasteners located at least 1 inch but not more than 2 inches from the panel edge. Fasteners shall comply with one of the following:

1. Galvanized nails of minimum 12 gage with a 7/16 inch head of sufficient length to penetrate the mass timber a minimum of 1 inch.
2. Screws that comply with ASTM C1002 (Type S, Type W, or Type G) of sufficient length to penetrate the mass timber a minimum of 1 inch.

NEW SECTION

WAC 51-50-0803 Section 803—Wall and ceiling finishes.

803.3 Heavy timber exemption. Exposed portions of building elements complying with the requirements for buildings of Type IV construction in Section 602.4 shall not be subject to interior finish requirements except in interior exit stairways, interior exit ramps, and exit passageways.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-1004 Section 1004.

Table 1004.1.2, Maximum Floor Area Allowances

Table 1004.1.2
Maximum Floor Area Allowances Per Occupant

<u>FUNCTION OF SPACE</u>	<u>OCCUPANT LOAD FACTOR^a</u>
<u>Accessory storage areas, mechanical equipment room</u>	<u>300 gross</u>
<u>Agricultural building</u>	<u>300 gross</u>
<u>Aircraft hangars</u>	<u>500 gross</u>
<u>Airport terminal</u>	
<u>Baggage claim</u>	<u>20 gross</u>
<u>Baggage handling</u>	<u>300 gross</u>
<u>Concourse</u>	<u>100 gross</u>
<u>Waiting areas</u>	<u>15 gross</u>
<u>Assembly</u>	
<u>Gaming floors (keno, slots, etc.)</u>	<u>11 gross</u>
<u>Exhibit gallery and museum</u>	<u>30 net</u>
<u>Assembly with fixed seats</u>	<u>See Section 1004.4</u>
<u>Assembly without fixed seats</u>	
<u>Concentrated (chairs only - Not fixed)</u>	<u>7 net</u>
<u>Standing space</u>	<u>5 net^b</u>
<u>Unconcentrated (tables and chairs)</u>	<u>15 net</u>
<u>Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas</u>	<u>7 net</u>
<u>Business areas</u>	<u>100 gross</u>
<u>Courtrooms - Other than fixed seating areas</u>	<u>40 net</u>
<u>Day care</u>	<u>35 net</u>
<u>Dormitories</u>	<u>50 gross</u>
<u>Educational</u>	
<u>Classroom area</u>	<u>20 net</u>
<u>Shops and other vocational room areas</u>	<u>50 net</u>
<u>Exercise rooms</u>	<u>50 gross</u>
<u>Group H-5 - Fabrication and manufacturing areas</u>	<u>200 gross</u>
<u>Industrial areas</u>	<u>100 gross</u>
<u>Institutional areas</u>	
<u>Inpatient treatment areas</u>	<u>240 gross</u>
<u>Outpatient areas</u>	<u>100 gross</u>
<u>Sleeping areas</u>	<u>120 gross</u>
<u>Kitchens, commercial</u>	<u>200 gross</u>
<u>Library</u>	
<u>Reading rooms</u>	<u>50 net</u>
<u>Stack area</u>	<u>100 gross</u>
<u>Locker rooms</u>	<u>50 gross</u>

<u>FUNCTION OF SPACE</u>	<u>OCCUPANT LOAD FACTOR^a</u>
<u>Mall buildings - Covered and open</u>	<u>See Section 402.8.2</u>
<u>Mercantile</u>	<u>60 gross</u>
<u>Storage, stock, shipping areas</u>	<u>300 gross</u>
<u>Parking garages</u>	<u>200 gross</u>
<u>Residential</u>	<u>200 gross</u>
<u>Skating rinks, swimming pools</u>	
<u>Rink and pool</u>	<u>50 gross</u>
<u>Decks</u>	<u>15 gross</u>
<u>Stages and platforms</u>	<u>15 net</u>
<u>Warehouses</u>	<u>500 gross</u>

For SI: 1 square foot = 0.0929 m², 1 foot = 304.8 mm.

^a Floor area in square feet per occupant.

^b The occupant load factor for fixed guideway transit and passenger rail systems shall be 15 net in accordance with NFPA 130.

1004.2 Increased occupant load. The *occupant load* permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.1.2, provided that all other requirements of the code are also met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m²) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted. See WAC 170-295-0080 (1)(b) for day care licensed by the state of Washington.

NEW SECTION

WAC 51-50-1406 Section 1406—Combustible materials on the exterior sides of exterior walls.

1406.3 Balconies and similar projections. Balconies and similar projections of combustible construction other than fire-retardant-treated wood shall be fire-resistance-rated where required by Table 601 for floor construction or shall be of Type IV construction in accordance with Section 602.4.4. The aggregate length of the projections shall not exceed 50 percent of the building's perimeter on each floor.

NEW SECTION

WAC 51-50-1604 Section 1604—General design requirements.

Table 1604.5
Risk Category of Buildings and Other Structures

<u>RISK CATEGORY</u>	<u>NATURE OF OCCUPANCY</u>
I	Buildings and other structures that represent a low hazard to human life in the event of

RISK CATEGORY	NATURE OF OCCUPANCY
	failure including, but not limited to: <ul style="list-style-type: none"> • Agricultural facilities. • Certain temporary facilities. • Minor storage facilities.
II	Buildings and other structures except those listed in Risk Categories I, III, and IV.
III	Buildings and other structures that represent a substantial hazard to human life in the event of failure including, but not limited to: <ul style="list-style-type: none"> • Buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300. • Buildings and other structures containing Group E or Group I-4 occupancies with an occupant load greater than 250. • Buildings and other structures containing educational occupancies for students above the 12th grade with an occupant load greater than 500. • Group I-2 occupancies with an occupant load of 50 or more resident care recipients but not having surgery or emergency treatment facilities. • Group I-3 occupancies. • Any other occupancy with an occupant load greater than 5,000.^a • Power-generating stations, water treatment facilities for potable water, wastewater treatment facilities and other public utility facilities not included in Risk Category IV. • Buildings and other structures not included in Risk Category IV containing quantities of toxic or explosive materials that: <p style="margin-left: 40px;">Exceed maximum allowable quantities per control area as given in Table 307.1(1) or 307.1(2) or per outdoor control area in accordance with the <i>International Fire Code</i>; and</p> <p style="margin-left: 40px;">Are sufficient to pose a threat to the public if released.^b</p>
IV	Buildings and other structures designated as essential facilities including, but not limited to: <ul style="list-style-type: none"> • Group I-2 occupancies having surgery or emergency treatment facilities. • Fire, rescue, ambulance and police stations, and emergency vehicle garages.

RISK CATEGORY	NATURE OF OCCUPANCY
	<ul style="list-style-type: none"> • Designated earthquake, hurricane, or other emergency shelters. • Designated emergency preparedness, communications and operations centers, and other facilities required for emergency response. • Power-generating stations and other public utility facilities required as emergency backup facilities for Risk Category IV structures. • Buildings and other structures containing quantities of highly toxic materials that: <p style="margin-left: 40px;">Exceed maximum allowable quantities per control area as given in Table 307.1(2) or per outdoor control area in accordance with the <i>International Fire Code</i>; and</p> <p style="margin-left: 40px;">Are sufficient to pose a threat to the public if released.^b</p> • Aviation control towers, air traffic control centers, and emergency aircraft hangars. • Buildings and other structures having critical national defense functions. • Water storage facilities and pump structures required to maintain water pressure for fire suppression.

^a For purposes of occupant load calculation, occupancies required by Table 1004.1.2 to use gross floor area calculations shall be permitted to use net floor areas to determine the total occupant load.

^b Where approved by the building official, the classification of buildings and other structures as Risk Category III or IV based on their quantities of toxic, highly toxic or explosive materials is permitted to be reduced to Risk Category II, provided it can be demonstrated by a hazard assessment in accordance with Section 1.5.3 of ASCE 7 that a release of the toxic, highly toxic or explosive materials is not sufficient to pose a threat to the public.

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

WAC 51-50-1613 ((Reserved-)) Section 1613.5—Amendments to ASCE 7.

1613.5 Amendments to ASCE 7. The provisions of Section 1613.5 shall be permitted as an amendment to the relevant provisions of ASCE 7. The text of ASCE 7 shall be amended as indicated in Sections 1613.5.2 through 1613.5.4.

1613.5.1 Transfer of anchorage forces into diaphragm. Modify ASCE 7 Section 12.11.2.2.1 as follows:

12.11.2.2.1 Transfer of anchorage forces into diaphragm. Diaphragms shall be provided with continuous ties

or struts between diaphragm chords to distribute these anchorage forces into the diaphragms. Diaphragm connections shall be positive, mechanical or welded. Added chords are permitted to be used to form subdiaphragms to transmit the anchorage forces to the main continuous cross-ties. The maximum length-to-width ratio of a wood, wood structural panel or topped steel deck sheathed structural subdiaphragm that serves as part of the continuous tie system shall be 2.5 to 1. Connections and anchorages capable of resisting the prescribed forces shall be provided between the diaphragm and the attached components. Connections shall extend into the diaphragm a sufficient distance to develop the force transferred into the diaphragm.

1613.5.2 Increased structural height limit. Modify ASCE 7 Section 12.2.5.4 as follows:

12.2.5.4 Increased structural height limit for steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained braced frames, steel special plate shear walls, and special reinforced concrete shear walls. The limits on height, h_n , in Table 12.2-1 are permitted to be increased from 160 ft (50 m) to 240 ft (75 m) for structures assigned to Seismic Design Categories D or E and from 100 ft (30 m) to 160 ft (50 m) for structures assigned to Seismic Design Category F, if all of the following are satisfied:

1. The structure shall not have an extreme torsional irregularity as defined in Table 12.3-1 (horizontal structural irregularity Type 1b).

2. The steel eccentrically braced frames, steel special concentrically braced frames, steel buckling-restrained

braced frames, steel special plate shear walls or special reinforced concrete shear walls in any one plane shall resist no more than 60 percent of the total seismic forces in each direction, neglecting accidental torsional effects.

3. Where floor and roof diaphragms transfer forces from the vertical seismic force-resisting elements above the diaphragm to other vertical force-resisting elements below the diaphragm, these in-plane transfer forces shall be amplified by the over-strength factor, Ω_o , for the design of the diaphragm flexure, shear, and collectors.

4. The earthquake force demands in foundation mat slabs, grade beams, and pile caps supporting braced frames and/or walls arranged to form a shear-resisting core shall be amplified by 2 for shear and 1.5 for flexure.

5. The earthquake shear force demands in special reinforced concrete shear walls shall be amplified by the over-strength factor, Ω_o .

1613.5.3 Analysis procedure selection. Modify ASCE 7 Section 12.6.1 and Table 12.6-1 as follows:

12.6.1 Analysis procedure. The structural analysis required by Chapter 12 shall consist of one of the types permitted in Table 12.6-1, based on the structure's seismic design category, structural system, dynamic properties, and regularity, or with the approval of the authority having jurisdiction, an alternative generally accepted procedure is permitted to be used. The analysis procedure selected shall be completed in accordance with the requirements of the corresponding section referenced in Table 12.6-1.

Table 12.6-1 Permitted Analytical Procedures

<u>Seismic Design Category</u>	<u>Structural Characteristics</u>	<u>Equivalent Lateral Force Procedure, Section 12.8^a</u>	<u>Modal Response Spectrum Analysis, Section 12.9^a</u>	<u>Linear Seismic Response History Procedures, Chapter 16^a</u>	<u>Nonlinear Seismic Response History Procedures, Chapter 16^b</u>
<u>B, C</u>	<u>All structures</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>D, E, F</u>	<u>Risk Category I or II buildings not exceeding two stories above the base</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures of light frame construction</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures with no structural irregularities and not exceeding 160 ft in structural height</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures exceeding 160 ft in structural height with no structural irregularities and with $T < 3.5T_s$</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Structures not exceeding 160 ft in structural height and having only horizontal irregularities of Type 2, 3, 4, or 5 in Table 12.3-1 or vertical irregularities of Type 4, 5a, or 5b in Table 12.3-2</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

<u>Seismic Design Category</u>	<u>Structural Characteristics</u>	<u>Equivalent Lateral Force Procedure, Section 12.8^a</u>	<u>Modal Response Spectrum Analysis, Section 12.9^a</u>	<u>Linear Seismic Response History Procedures, Chapter 16^a</u>	<u>Nonlinear Seismic Response History Procedures, Chapter 16^b</u>
	Structures not exceeding 160 ft in structural height and having only horizontal irregularities of Type 2, 3, 4, or 5 in Table 12.3-1 or vertical irregularities of Type 4, 5a, or 5b in Table 12.3-2	P	P	P	P
	All other structures < 240 ft in height	NP	P	P	P
	All structures > 240 ft in height	NP	NP	NP	P ^c

^a P: Permitted; NP: Not Permitted; $T_s = S_{DI}/S_{DS}$.

^b When nonlinear response history procedure is used, one of the linear procedures shall also be performed.

^c Refer to Section 12.6.2 for additional requirements.

1613.5.4 Nonlinear response history procedure for buildings in excess of 240 ft (75 m) in height. Modify ASCE 7 Section 12.6.2 as follows:

In addition to any of the linear analysis procedures in Table 12.6-1, a nonlinear dynamic analysis in accordance with ASCE 7 Chapter 16 shall be performed, except that analysis shall be conducted for MCER ground motions. Acceptance criteria shall be compatible with providing not greater than a 10 percent, 5 percent or 2-1/2 percent risk of collapse for Risk Category II, III and IV structures, respectively. In addition, proportioning of the seismic force-resisting system shall incorporate a capacity-based approach that identifies the mechanism of nonlinear lateral displacement of the structure, those structural actions expected to yield, and those intended to remain elastic. Design shall be subject to an approved independent structural design review.

NEW SECTION [AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)]

WAC 51-50-1705 Section 1705—Required special inspections and tests.

1705.5.3 Mass timber construction. *Special inspections of mass timber construction in buildings, structures, or portions thereof greater than 85 feet above grade plane shall be in accordance with Table 1705.5.3.*

**Table 1705.5.3
Required Special Inspections of Mass Timber Construction**

Type	Continuous Special Inspection	Periodic Special Inspection
1. Inspection of anchorage and connections of mass timber construction to timber deep foundation systems.		X
2. Inspect erection and sequence of mass timber construction.		X
3. Inspection of connections where installation methods are required to meet design loads.		
a. Threaded fasteners.		
1. Verify use of proper installation equipment.		X
2. Verify use of predrilled holes where required.		X
3. Inspect screws, including diameter, length, head type, spacing, installation angle, and depth.		X
b. Adhesive anchors installed in horizontal or upwardly inclined orientation to resist sustained tension loads.	X	

Type	Continuous Special Inspection	Periodic Special Inspection
c. Bolted connections.		X
d. Other proprietary concealed connection.		X

1705.11.1 Structural wood. *Continuous special inspection* is required during field gluing operations of elements of the main windforce-resisting system. *Periodic special inspection* is required for nailing, bolting, anchoring and other fastening of elements of the main windforce-resisting system, including wood shear walls, wood diaphragms, drag struts, braces and hold-downs.

EXCEPTION: *Special inspections* are not required for wood shear walls, shear panels and diaphragms, including nailing, bolting, anchoring and other fastening to other elements of the main windforce-resisting system, where the lateral resistance is provided by sheathing of wood structural panels, and the fastener spacing of the sheathing is more than 4 inches (102 mm) on center.

1705.12.2 Structural wood. For the seismic force-resisting systems of structures assigned to *Seismic Design Category C, D, E, or F*:

1. *Continuous special inspection* shall be required during field gluing operations of elements of the seismic force-resisting system.

2. *Periodic special inspection* shall be required for nailing, bolting, anchoring and other fastening of elements of the seismic force-resisting system, including wood shear walls, wood diaphragms, drag struts, braces, shear panels and hold-downs.

EXCEPTION: *Special inspections* are not required for wood shear walls, shear panels and diaphragms, including nailing, bolting, anchoring and other fastening to other elements of the seismic force-resisting system, where the lateral resistance is provided by sheathing of wood structural panels, and the fastener spacing of the sheathing is more than 4 inches (102 mm) on center.

1705.19 Sealing of mass timber. Periodic special inspections of sealants or adhesives shall be conducted where sealant or adhesive required by Section 703.9 is applied to mass timber building elements as designated in the approved construction documents.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 51-50-2303 Section 2303—Minimum standards and quality.

2303.1.4 Structural glued cross-laminated timber. Cross-laminated timbers shall be manufactured and identified in accordance with ANSI/APA PRG 320. Cross-laminated timbers in Construction Types IV-A, IV-B, and IV-C shall be manufactured and identified in accordance with ANSI/APA PRG 320 - 18.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-2900 Chapter 29—Plumbing systems.

SECTION 2901—GENERAL.

2901.1 Scope. The provisions of this chapter and the state plumbing code shall govern the erection, installation, *alteration*, repairs, relocation, replacement, *addition* to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the state plumbing code.

2901.2 Health codes. In food preparation, serving and related storage areas, additional fixture requirements may be dictated by health codes.

SECTION 2902—MINIMUM PLUMBING FACILITIES.

2902.1 Minimum number of fixtures. Plumbing fixtures shall be provided in the minimum number shown in Table 2902.1. Uses not shown in Table 2902.1 shall be determined individually by the *building official* based on the occupancy which most nearly resembles the proposed occupancy. The number of occupants shall be determined by this code. Plumbing fixtures need not be provided for unoccupied buildings or facilities.

2902.1.1 Fixture calculations. To determine the *occupant load* of each sex, the total *occupant load* shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the *occupant load* of each sex in accordance with Table 2902.1. Fractional numbers resulting from applying the fixture ratios of Table 2902.1 shall be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy shall first be summed and then rounded up to the next whole number.

EXCEPTION: The total *occupant load* shall not be required to be divided in half where *approved* statistical data indicate a distribution of the sexes of other than 50 percent of each sex.

2902.1.1.1 Private offices. Fixtures only accessible to private offices shall not be counted to determine compliance with this section.

2902.1.1.2 Urinals. Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases shall not be reduced to less than one quarter (25%) of the minimum specified. For men's facilities serving 26 or more persons, not less than one urinal shall be provided.

2902.1.2 Family or assisted-use toilet and bath fixtures. Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.

2902.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex.

- EXCEPTIONS:
1. Separate facilities shall not be required for *dwelling units* and *sleeping units*.
 2. Separate facilities shall not be required in structures or tenant spaces with a total *occupant load*, including both employees and customers, of 15 or less.
 3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.
 4. Separate facilities shall not be required in spaces primarily used for drinking or dining with a total occupant load, including both employees and customers, of 30 or fewer.

2902.2.1 Family or assisted-use toilet facilities serving as separate facilities. Where a building or tenant space requires a separate toilet facility for each sex and each toilet facility is required to have only one water closet, two family or assisted-use toilet facilities shall be permitted to serve as the required separate facilities. Family or assisted-use toilet facilities shall not be required to be identified for exclusive use by either sex as required by Section 2902.4.

2902.3 Employee and public toilet facilities. Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 2902.1 for all users. Employees shall be provided with toilet facilities in all occupancies. Employee toilet facilities shall either be separate or combined employee and public toilet facilities.

- EXCEPTION:
1. Open or enclosed parking garages where there are no parking attendants.
 2. Structures and tenant spaces intended for quick transactions, including takeout, pickup and drop-off, having a public access area less than or equal to 300 square feet (28 m²).
 3. Fixed guideway transit and passenger rail systems constructed in accordance with Section 3112.

2902.3.1 Access. The route to the public toilet facilities required by Section 2902.3 shall not pass through kitchens, food preparation areas, unpackaged food storage areas, storage rooms or closets. Access to the required facilities shall be from within the building or from the exterior of the building. Access to toilets serving multiple tenants shall be through a common use area and not through an area controlled by a tenant. All routes shall comply with the accessibility requirements of this code. The public shall have access to the required toilet facilities at all times that the building is occupied. For other requirements for plumbing facilities, see Chapter 11.

2902.3.2 Location of toilet facilities in occupancies other than malls. In occupancies other than covered and open mall buildings, the required *public* and employee toilet facilities shall be located in each building not more than one story above or below the space required to be provided with toilet facilities, or conveniently in a building adjacent thereto on the same property, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

- EXCEPTION:
- The location and maximum distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum distance of travel are *approved*.

2902.3.3 Location of toilet facilities in malls. In covered and open mall buildings, the required *public* and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91,440 mm). In mall buildings, the required facilities shall be based on total square footage (m²) within a covered mall building or within the perimeter line of an open mall building, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum distance of travel to central toilet facilities in mall buildings shall be measured from the main entrance of any store or tenant space. In mall buildings, where employees' toilet facilities are not provided in the individual store, the maximum distance of travel shall be measured from the employees' work area of the store or tenant space.

2902.3.4 Pay facilities. Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

2902.3.5 Door locking. Where a toilet room is provided for the use of multiple occupants, the egress door for the room shall not be lockable from the inside of the room. This section does not apply to family or assisted-use toilet rooms.

2902.3.6 Prohibited toilet room location. Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

2902.4 Signage. Required public facilities shall be provided with signs that designate the sex as required by Section 2902.2. Signs shall be readily visible and located near the entrance to each toilet facility. Signs for accessible toilet facilities shall comply with Section 1111.

2902.4.1 Directional signage. Directional signage indicating the route to the public toilet facilities shall be posted in a lobby, corridor, aisle or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space.

2902.5 Drinking fountain location. Drinking fountains shall not be required to be located in individual tenant spaces provided that public drinking fountains are located within a distance of travel of 500 feet of the most remote location in the tenant space and not more than one story above or below the tenant space. Where the tenant space is in a covered or open mall, such distance shall not exceed 300 feet. Drinking fountains shall be located on an accessible route. Drinking fountains shall not be located in toilet rooms.

2902.5.1 Drinking fountain number. Occupant loads over 30 shall have one drinking fountain for the first 150 occupants, then one per each additional 500 occupants.

EXCEPTIONS: 1. Sporting facilities with concessions serving drinks shall have one drinking fountain for each 1000 occupants.
 2. A drinking fountain need not be provided in a drinking or dining establishment.

2902.5.2 Multistory buildings. Drinking fountains shall be provided on each floor having more than 30 occupants in schools, dormitories, auditoriums, theaters, offices and public buildings.

2902.5.3 Penal institutions. Penal institutions shall have one drinking fountain on each cell block floor and one on each exercise floor.

2902.5.4 Bottle filling stations. Bottle filling stations shall be provided in accordance with Sections 2902.5.4.1 through 2902.5.4.3.

2902.5.4.1 Group E occupancies. In Group E occupancies with an occupant load over 30, a minimum of one bottle filling station shall be provided on each floor. This bottle filling station may be integral to a drinking fountain.

2902.5.4.2 Substitution. In all occupancies that require more than two drinking fountains per floor or secured area, *bottle*

filling stations shall be permitted to be substituted for up to 50 percent of the required number of drinking fountains.

2902.5.4.3 Accessibility. At least one of the required bottle filling stations shall be located in accordance with Section 309 ICC A117.1.

2902.6 Dwelling units. Dwelling units shall be provided with a kitchen sink.

2902.7 Water closet space requirements. The water closet stool in all occupancies shall be located in a clear space not less than 30 inches (762 mm) in width, with a clear space in front of the stool of not less than 24 inches (610 mm).

2902.8 Water. Each required sink, lavatory, bathtub and shower stall shall be equipped with hot and cold running water necessary for its normal operation.

2902.9 Small occupancies. Drinking fountains shall not be required for an occupant load of 15 or fewer.

SECTION 2903—RESERVED.

SECTION 2904—RESERVED.

Table 2902.1
Minimum Number of Required Plumbing Fixtures^a
 (See Sections 2902.2 and 2902.3)

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs/ Showers	
				Male	Female	Male	Female		
1	Assembly	A-1 ^d	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	
		A-2 ^d	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	
		A-3 ^d	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	
		A-4	Coliseums, arenas, skating rinks, pools, and tennis courts for indoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150		—
		A-5	Stadiums amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150		—

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathubs/ Showers
				Male	Female	Male	Female	
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for first 80 and 1 per 80 for remainder exceeding 80		—
3	Educational	E ^s	Educational facilities	1 per 35	1 per 25	1 per 85	1 per 50	—
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		Check State (UPC)
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8
		I-2	Hospitals, ambulatory nursing home care recipient ^b	1 per room ^c		1 per room ^c		1 per 15
			Employees, other than residential care ^b	1 per 25		1 per 35		—
			Visitors other than residential care	1 per 75		1 per 100		—
		I-3	Prisons ^b	1 per cell		1 per cell		1 per 15
			Reformatories, detention centers and correctional centers ^b	1 per 15		1 per 15		1 per 15
			Employees ^b	1 per 25		1 per 35		—
I-4	Adult day care and child day care	1 per 15		1 per 15		1		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8
			Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per 10		1 per dwelling unit
			Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8
R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8		
8	Storage	S-1 S-2	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100		Check State (UPC)

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code, except with respect to Group E occupancies the provisions of note "e" shall apply.
- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. For Group E occupancies: The number of occupants shall be determined by using a calculation of 100 square feet gross building area per student for the minimum number of plumbing fixtures.

NEW SECTION

WAC 51-50-3102 Section 3102—Membrane structures.

3102.3 Type of construction. Noncombustible membrane structures shall be classified as Type II-B construction. Non-combustible frame or cable-supported structures covered by an *approved* membrane in accordance with Section 3102.3.1 shall be classified as Type II-B construction. Heavy timber frame-supported structures covered by an *approved* membrane in accordance with Section 3102.3.1 shall be classified as Type IV-HT construction. Other membrane structures shall be classified as Type V construction.

EXCEPTION: Plastic less than 30 feet (9144 mm) above any floor used in greenhouses, where occupancy by the general public is not authorized, and for aquaculture pond covers is not required to meet the fire propagation performance criteria of Test Method 1 or 2, as appropriate, of NFPA 701.

3102.6.1.1 Membrane. A membrane meeting the fire propagation performance criteria of Test Method 1 or 2, as appropriate, of NFPA 701 shall be permitted to be used as the roof or as a skylight on buildings of Type II-B, III, IV-HT and V construction, provided that the membrane is not less than 20 feet (6096 mm) above any floor, balcony or gallery.

AMENDATORY SECTION (Amending WSR 16-03-064, filed 1/19/16, effective 7/1/16)

WAC 51-50-3500 Chapter 35—(~~Reserved~~) Referenced standards. Add the reference standards as follows:

Standard reference number	Title	Referenced in code section number
ANSI/APA PRG-320-18	Standard for Performance-Rated Cross-Laminated Timber (revised 2018)	602.4, 2303.1.4
NFPA 130	Standard for Fixed Guideway Transit and Passenger Rail Systems	3101.1, 3112

NEW SECTION

WAC 51-50-4700 Appendix D.

D102.2.5 Structural fire rating. Walls, floors, roofs and their supporting structural members shall be not less than 1 hour fire-resistance-rated construction.

- EXCEPTIONS:**
1. Buildings of Type IV-HT construction.
 2. Buildings equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1.
 3. Automobile parking structures.
 4. Buildings surrounded on all sides by a permanently open space of not less than 30 feet (9144 mm).
 5. Partitions complying with Section 603.1, Item 11.

WSR 19-02-039

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 26, 2018, 9:15 a.m., effective January 26, 2019]

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

Purpose: This rule-making order amends chapter 16-230 WAC, Use of chemicals and chemically treated materials in certain counties; chapter 16-231 WAC, Use restricted herbicides; and chapter 16-232 WAC, Use restricted herbicides in certain counties, by:

1. Adopting the ASABE (American Society of Agricultural and Biological Engineers) standards as a national consensus code;
2. Amending nozzle and pressure requirements to reflect current standards that applications must be made by creating a droplet spectrum size (e.g., medium, coarse or very coarse) that is in conformance with ASABE standards;
3. Repealing the requirement in individual counties for landowners to inform aerial applicators of nearby sensitive crops;
4. Repealing the requirement in Spokane County for applicators to inform commercial greenhouses within 1/2 mile forty-eight hours in advance of any use restricted herbicide application;
5. Repealing the allowance to use "approved ground rigs" at higher wind speeds;
6. Repealing the redundant prohibition on the use of high volatile and dust formulations of use restricted herbicides that are already prohibited in chapter 16-228 WAC, General pesticide rules;
7. Deleting the reference to "critical weed control" and 2,4-D committees on Washington state department of agriculture's ability to issue permits;
8. Adding a reminder that applicators in Benton County must comply with state rules and general pesticide rules;
9. Repealing the redundant prohibition in individual counties of aerial applications within one mile of commercial vineyards;
10. Repealing the restrictions in Areas 1 and 3 of Whitman County prohibiting application of use restricted herbicides from April 15 to October 31 when wind speed exceeds seven mph.
11. Adding a definition for "ready-to-use liquid formulations" and an exception for "ready-use-liquid formulations" to the definition of use restricted herbicides in individual counties;
12. Repealing the eighty-five degree Fahrenheit cut-off requirement in individual county rules since it is already a requirement in the statewide rules;
13. Repealing restrictions in statewide rules that limits the addition of oil carriers and adjuvants to one pint per acre;
14. Repealing restrictions in individual county rules that prohibit use of oil type carriers for brush control during certain times of the year;
15. Repealing restriction in statewide rules that prohibits mixing, loading and equipment decontamination (also aircraft takeoff and landing) in a manner that causes damage to susceptible crops;
16. Repealing restrictions in counties and specific "areas" of counties that limit mixing loading of aircraft to for-

mulations that can be applied in the area where the airstrip is located;

17. Repealing the prohibition in statewide rules on turning or flying low over cities, towns, residences and other sensitive sites;

18. Repealing the prohibition in the statewide rules for storing use-restricted herbicides in "areas" where their use is prohibited unless they are in a sealed container and the outside of the container is not contaminated;

19. Repealing the provision in the statewide rules that indicates application of use-restricted herbicides through irrigation is subject to the same requirements as ground applications except for nozzle size and pressure requirements;

20. Expanding the boundaries of Area 1 in Kittitas County as a result of a petition for rule making; and

21. Changing the section titles that are in a Q&A format to a statement/phrase format to be consistent throughout the chapters.

Citation of Rules Affected by this Order: New WAC 16-230-005, 16-230-008, 16-231-085, 16-231-090, 16-231-095, 16-232-0010, 16-232-002, 16-232-003 and 16-232-004; repealing WAC 16-230-440, 16-230-450, 16-230-460, 16-230-510, 16-230-625, 16-230-630, 16-230-635, 16-230-660, 16-230-673, 16-230-675, 16-230-813, 16-230-863, 16-230-864, 16-230-866, 16-231-110, 16-231-140, 16-231-174, 16-231-177, 16-231-180, 16-231-210, 16-231-230, 16-231-310, 16-231-335, 16-231-410, 16-231-525, 16-231-610, 16-231-715, 16-231-725, 16-231-830, 16-231-835, 16-231-930, 16-232-030, 16-232-050, 16-232-068, 16-232-071, 16-232-074, 16-232-110 and 16-232-120; and amending WAC 16-230-010, 16-230-015, 16-230-030, 16-230-075, 16-230-076, 16-230-078, 16-230-079, 16-230-082, 16-230-084, 16-230-086, 16-230-088, 16-230-150, 16-230-160, 16-230-170, 16-230-180, 16-230-190, 16-230-400, 16-230-410, 16-230-420, 16-230-430, 16-230-470, 16-230-520, 16-230-600, 16-230-605, 16-230-610, 16-230-615, 16-230-640, 16-230-645, 16-230-650, 16-230-655, 16-230-665, 16-230-670, 16-230-800, 16-230-810, 16-230-815, 16-230-820, 16-230-825, 16-230-830, 16-230-835, 16-230-836, 16-230-840, 16-230-845, 16-230-850, 16-230-855, 16-230-860, 16-230-861, 16-230-868, 16-231-100, 16-231-105, 16-231-107, 16-231-115, 16-231-119, 16-231-125, 16-231-130, 16-231-135, 16-231-145, 16-231-149, 16-231-153, 16-231-156, 16-231-159, 16-231-162, 16-231-165, 16-231-168, 16-231-171, 16-231-183, 16-231-200, 16-231-205, 16-231-215, 16-231-220, 16-231-225, 16-231-235, 16-231-300, 16-231-305, 16-231-315, 16-231-320, 16-231-325, 16-231-330, 16-231-340, 16-231-400, 16-231-405, 16-231-413, 16-231-415, 16-231-420, 16-231-425, 16-231-500, 16-231-505, 16-231-510, 16-231-515, 16-231-520, 16-231-530, 16-231-600, 16-231-605, 16-231-613, 16-231-615, 16-231-620, 16-231-700, 16-231-705, 16-231-710, 16-231-720, 16-231-800, 16-231-805, 16-231-810, 16-231-815, 16-231-820, 16-231-825, 16-231-840, 16-231-900, 16-231-905, 16-231-910, 16-231-912, 16-231-915, 16-231-920, 16-231-925, 16-231-935, 16-232-001, 16-232-005, 16-232-007, 16-232-010, 16-232-015, 16-232-020, 16-232-025, 16-232-027, 16-232-035, 16-232-041, 16-232-044, 16-232-047, 16-232-053, 16-232-056, 16-232-059, 16-232-062, 16-232-065, 16-232-077, 16-232-100, 16-232-105, 16-232-115, 16-232-200, 16-232-205, 16-232-210, 16-232-215, 16-232-220, 16-232-

225, 16-232-300, 16-232-305, 16-232-310, 16-232-315, 16-232-400, 16-232-410, 16-232-420, 16-232-430, 16-232-440, and 16-232-450.

Statutory Authority for Adoption: RCW 15.58.040 and 17.21.030.

Adopted under notice filed as WSR 18-22-130 on November 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 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 9, Amended 150, Repealed 38.

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

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

Date Adopted: December 26, 2018.

Derek I. Sandison
Director

NEW SECTION

WAC 16-230-005 Adoption of national consensus code. Adoption of provisions under the American Society of Agricultural and Biological Engineers (ASABE) standards in this chapter is adoption of the provisions in the July 2018 version.

NEW SECTION

WAC 16-230-008 Order of precedence. If there is a conflict between the spray droplet spectrum size required in these rules and that which is required by the pesticide label, the applicator must use the largest droplet spectrum size required.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-010 (~~What are the~~) Restrictions on insecticides used on blossoming alfalfa, clover and mint(~~?~~). For the purposes of WAC 16-230-010 through 16-230-079, the following pesticides have additional statewide use restrictions when applied to blossoming alfalfa, clover and mint.

COMMON CHEMICAL NAME	ALSO KNOWN AS*
acephate	Orthene
azinphos-methyl	Guthion
carbaryl	Sevin
carbofuran	Furadan
chlorpyrifos	Lorsban

COMMON CHEMICAL NAME	ALSO KNOWN AS*
diazinon	
dimethoate	Cygon
disulfoton	Di-Syston
endosulfan	Thiodan
fluvalinate	Spur
formetanate hydrochloride	Carzol
malathion	Fyfanon
methidathion	Supracide
methomyl	Lannate, Nudrin
methoxychlor	Marlate
methyl parathion	
naled	Dibrom
oxamyl	Vydate
oxydemeton-methyl	Metasystox-R
phorate	Thimet
phosmet	Imidan
trichlorfon	Dylox

* This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-015 (~~What definitions apply to this section?~~) **Definitions and terms.** (1) The term "blossoming alfalfa, mint or clover" as used in WAC 16-230-010 through ~~((16-230-083))~~ 16-230-082 shall apply when there are five or more blooms per square yard on the average in a given field: Provided, That following the first cutting the bloom count shall be taken only on the current crop. For the purpose of this rule, a "bloom" on clover or alfalfa is defined as any alfalfa raceme or clover head containing one or more open flowers. A "bloom" on mint is defined as any head or spike with one or more open (florets) flowers.

(2) The term "pollen shedding corn" as used in WAC 16-230-082 through 16-230-088 shall be that stage of growth when ten percent or more of the corn plants in any one quarter portion of a field are showing spike anthers.

(3) The time of sunrise and sunset shall be that of the official tables, U.S. Weather Bureau, Yakima, Washington.

(4) "Ready-to-use" means a pesticide that is applied directly from its original container consistent with label directions.

(5) "Picloram" means all registered pesticide products containing 4-amino-3,5,6-trichloropicolinic acid as the potassium salt. This formulation may be known as Tordon.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-030 (~~What are the~~) **Use restrictions for alfalfa and clover pesticide applications**(~~(?)~~). (1) The use or application of any formulation (except where the for-

mulation is specified) of the following listed pesticides is prohibited on blossoming alfalfa and clover crops within seven days to blossoming: Provided, That methidathion (Supracide) when used in Kittitas County on timothy hay mixed with alfalfa and/or clover shall only be prohibited within three days to blossoming. See WAC 16-230-076 and 16-230-078 for additional restrictions in certain areas of Walla Walla County.

- (a) Azinphos-methyl (Guthion)
- (b) Carbaryl (Sevin)
- (c) Carbofuran (Furadan)
- (d) Dimethoate (Cygon)
- (e) Methidathion (Supracide)

(2) The use or application of liquid formulations of chlorpyrifos (Lorsban), wettable powder formulations of malathion (Fyfanon) and phorate (Thimet) applied as sprays on blossoming alfalfa or clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight of the same day.

(3) The use or application of any formulation (except where the formulation is specified) of the following pesticides is prohibited on blossoming alfalfa and clover crops:

- (a) Carbaryl (Sevin) see ~~((number (1) above))~~ subsection (1) of this section
- (b) Diazinon
- (c) Fenthion (Baytex)
- (d) Malathion (Fyfanon) ULV and dust
- (e) Methyl parathion
- (f) Naled (Dibrom) dust
- (g) Phosmet (Imidan)

(4) The use or application of the following listed pesticides or any formulation thereof (except where the formulation is specified) on blossoming alfalfa and clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning: Provided, That methomyl (Lannate or Nudrin) shall only be applied to blossoming clover crops pursuant to this rule, and its application to blossoming alfalfa is further restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight the same day: Provided further, That the application of the following use restricted pesticides on blossoming alfalfa in Walla Walla County is further restricted to applications only within the period beginning at sunset and ending at two hours after midnight the following morning:

- (a) Formetanate hydrochloride (Carzol)
- (b) Naled (Dibrom) emulsifiable concentrate
- (c) Disulfoton (Di-Syston)
- (d) Endosulfan (Thiodan)
- (e) Oxydemeton-methyl (Metasystox-R)
- (f) Methomyl (Lannate or Nudrin)
- (g) Methoxychlor (Marlate)
- (h) Phorate (Thimet) granular
- (i) Trichlorfon (Dylox)
- (j) Oxamyl (Vydate)
- (k) Fluvalinate (Spur)

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-075 (~~(What are the)~~ Restrictions for blossoming mint pesticide applications(?)). The use or application of malathion dust on blossoming mint is prohibited. The use or application of malathion (Fyfanon) liquid, oxydemeton-methyl (Metasystox-R), and methomyl (Lannate or Nudrin) liquid on blossoming mint is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning. The use or application of any formulation of acephate (Orthene) on blossoming mint is restricted to applications only within the period beginning at two and one-half hours prior to sunset and ending at midnight of the same day.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-076 (~~(What are the)~~ Boundaries and restrictions for blossoming alfalfa, clover and mint for Area 1(?)). (1) Area 1 description. South central Walla Walla County - All lands lying within a line starting at the junction of the Washington-Oregon border and the Rainville Road; thence north along the Rainville Road to the Frog Hollow Road; thence west along the Frog Hollow Road to the McDonald Road; thence north along the McDonald and Bridge Road to State Highway 12; thence west along Highway 12 to the Woodward Canyon Road; thence north and west along the Woodward Canyon Road to the northeast corner of Section 24, T7N, R33E; thence west along the section lines to the northwest corner of Section 23, T7N, R32E; thence south along the section lines to the Walla Walla River; thence southerly along the Walla Walla River to its intersection with the west section line of Section 7, T6N, R33E; thence south along the section lines to the Washington-Oregon border; thence east along the border to the point of beginning.

(2) Area 1 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), phosmet (Imidan), chlorpyrifos (Lorsban), and methidathion (Supracide) on alfalfa and clover crops, is prohibited after May 23rd of each year, and the use or application of dimethoate (Cygon) on alfalfa and clover crops is prohibited after May 30th of each year.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-078 (~~(What are the)~~ Boundaries and restrictions for blossoming alfalfa, clover and mint for Area 2(?)). (1) Area 2 description. South central Walla Walla County - All lands lying within a line starting at the junction of the Rainville Road and the Washington-Oregon border; thence north to the Frog Hollow Road; thence east along the Frog Hollow Road to the Valley Chapel Road; thence south along the Valley Chapel Road to the Washington-Oregon border; thence west along the border to the point of beginning.

(2) Area 2 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), phosmet (Imidan), chlorpyrifos (Lorsban), and methidathion (Supracide) on alfalfa and clover crops, is prohibited after May 30th of each year, and the use or application of dimethoate (Cygon) on alfalfa and clover crops is prohibited after June 6th of each year.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-079 (~~(Can the department issue)~~ Special permits(?) for blossoming alfalfa, clover and mint pesticide applications). The department may issue a permit upon receipt of a written request to apply use restricted pesticides listed in WAC 16-230-010 in variation of any restrictions listed in WAC 16-230-015, 16-230-030, and 16-230-075 through 16-230-078. The department will consider the hazard to pollinating insects before a permit is issued.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-082 (~~(What are the use)~~ Restrictions on pesticides used on pollen shedding corn(?)). (1) ~~(The term "pollen shedding corn" as used in WAC 16-230-082 through 16-230-088 shall be that stage of growth when ten percent or more of the corn plants in any one quarter portion of a field are showing spike anthers.~~

~~(2))~~ (2) The insecticides* carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion (Fyfanon), methomyl (Lannate or Nudrin), methyl parathion, parathion, and permethrin (Ambush or Pounce) are by this order declared to be use restricted insecticides. Such insecticides are restricted in their use in Areas 1, 2 and 3 in eastern Washington.

~~((3))~~ (2) Area under order. Area 1 - Yakima County; Area 2 - Franklin, Adams and Grant counties; Area 3 - Area within Area 2 in Grant County.

* Listed trade names are to be used as a guide and may not include all the trade or brand names under which the chemicals are distributed.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-084 (~~(What are the)~~ Restrictions in Areas 1 and 2(?) for pollen shedding corn insecticide applications). (1) Area 1 description - Yakima County. This area includes all of the irrigable lands encompassed by a line beginning at the southwest corner of Section 18, T8N, R21E; thence north nine miles more or less to the southeast corner of Section 36, T10N, R20E; thence fifteen miles west more or less to the southwest corner of Section 34, T10N, R18E; thence north fifteen miles more or less to the northwest corner of Section 22, T12N, R18E; thence east four miles more or less to the Northern Pacific Railroad tracks; thence following the tracks southeast to the Oldenway Road; thence north along the Oldenway Road and section lines to the Yakima River; thence southeast along the Yakima River to Highway 22 north of Toppenish; thence north along Highway 22 to Highway 12 at Buena; thence southeasterly along Highway

12 to the southern section line of Section 31, T11N, R21E; thence south one-quarter mile more or less to the Yakima River; thence southeast along the Yakima River to the Sunnyside-Mabton Road; thence south one mile to the Boundary Road; thence southwest along the Boundary Road and the Yakima Indian reservation boundary to the northern section line of Section 22, T8N, R22E; thence west nine miles more or less to the point of beginning.

(2) Area 2 description - Franklin, Adams and Grant counties. This area includes all of the irrigable lands encompassed by a line beginning at Highway 12 and the Columbia River; thence north and west following the river the length of Franklin County and into Grant County to the junction of Grant-Douglas County line; thence north on Grant-Douglas County line to the fifth standard parallel north; thence east twenty-five miles more or less to Highway 17; thence southeast seventeen miles more or less on Highway 17 to Highway 90; thence east twelve miles more or less to Grant-Adams County line; thence south on county line twelve miles more or less to the southeast corner of Section 36, T17N, R30E (southeast corner of Grant County); thence south twelve miles more or less (in Adams County) along east boundary of Section 1, 12, 13, 24, 25, 36, T16N, R30E; thence south along east boundary of Sections 1, 12, 13, 24, 25, 36, T15N, R30E continuing south into Franklin County along east boundary of Section 1 and 12, T14N, R30E to southeast corner of said Section 12; thence west one mile to Highway 17 (Franklin County); thence south on Highway 17 seventeen miles more or less to junction with Highway 395; thence south on Highway 395 fifteen miles more or less to Highway 12; thence west and south four miles more or less to Columbia River to the point of beginning.

(3) Area 1 and 2 restrictions.

(a) On and after August 1st to October 1st of any given year, application of carbaryl (Sevin) (except Sevin XLR), methyl parathion and malathion dust in any combination on pollen shedding corn is prohibited.

(b) On and after August 1st to August 15th of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 7:00 a.m. and 2:00 p.m.

(c) On and after August 15th to September 1st of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion (Fyfanon) liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 8:30 a.m. and 3:30 p.m.

(d) On and after September 1st to October 1st of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion (Fyfanon) liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 10:00 a.m. and 4:00 p.m.

(e) The application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-086 (~~What are the~~) Restrictions in Area 3(?) for pollen shedding corn insecticide applications. (1) Area 3 description - Area within Area 2 in Grant County. This area includes all of the irrigable lands encompassed by a line beginning at the junction of West 645 wasteway and White Trail Road and proceeding east four miles more or less on White Trail Road to Winchester wasteway; thence southeast four miles more or less along Winchester wasteway to I-90; thence east on I-90 nine miles more or less to Potholes Reservoir; thence following the west shoreline southeast to the Frenchmen Hills wasteway; thence west along Frenchmen Hills wasteway fourteen miles more or less to its junction with West 645 wasteway; thence northwest and north fourteen miles more or less along West 645 wasteway to junction with White Trail Road, the point of beginning.

(2) Area 3 restriction. This area is unrestricted as to the use of carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion (Fyfanon), methomyl (Lannate or Nudrin), methyl parathion, and permethrin (Ambush or Pounce) on pollen shedding corn: Provided, That the application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-088 (~~May a permit be issued for~~) Permits granting a variance from restrictions(?). Upon receipt of a written request and justification for a variance, the director of the Washington state department of agriculture may issue a permit granting a variance from restrictions pertaining to pollen shedding corn.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-150 (~~What areas are~~) Areas under order for use restricted desiccants and defoliant(?). (1) Area under order: All counties located east of the crest of the Cascade Mountains.

(2) Use restricted desiccants and defoliant: The following desiccants and defoliant are declared to be use restricted desiccants and defoliant in the area under order: Diquat; Paraquat; and Endothall.

(3) Additional restrictions apply for certain areas of Walla Walla County (see WAC 16-230-190).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-160 Desiccants and defoliant—Ground equipment—(~~Nozzle and pressure~~) Droplet spectrum requirements for the entire area under order. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) ~~(Nozzle requirements—A minimum orifice diameter of .052 inches shall be used for application of all use restricted desiccants and defoliant: Provided, That a RD-2 Raindrop nozzle shall be allowed.~~

~~(2) Pressure requirements—Maximum pressure at the nozzles for all applications of use restricted desiccants and defoliant shall be 30 psi.~~

~~(3)) Ground applications of use restricted desiccants and defoliant shall conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the medium (or larger) range as defined by the ASABE standards.~~

~~(2) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply use restricted desiccants and defoliant within the area as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives, and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.~~

~~((4)) (3) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliant.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-170 Desiccants and defoliant—Aerial equipment—Boom length, pressure, nozzle requirement, nozzle height of discharge and smoke device requirements for the entire area under order. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Boom length restrictions:

(a) Fixed wing: The working boom length shall not exceed 3/4 of the distance from the center of aircraft to wing tip on each side of aircraft.

(b) Helicopters: The working boom length shall not exceed 6/7 of the distance from the center of rotor to rotor tip on each side of the aircraft for rotors 40 feet or under or 3/4 of the distance from the center of rotor to rotor tip on each side of the aircraft where the rotor exceeds 40 feet while applying use restricted desiccants and defoliant.

~~(2) (Pressure restrictions: Maximum pressure at the nozzles for all aerial applications of use restricted desiccants and defoliant shall be 25 psi.~~

~~(3) Nozzle requirements for applications of use restricted desiccants and defoliant:~~

~~(a) Fixed wing:~~

~~(i) Aircraft shall not be equipped with core plates or any device or mechanism which would cause a sheet, cone, fan or other dispersion of the discharged material. Nozzle orifices shall not be less than 0.094 inches: Provided, That the RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of 0.156 inches;~~

~~(ii) Nozzles shall be directed downward and backward 135 degrees from the direction of flight.~~

~~(b) Helicopter:~~

~~(i) Straight stream jet nozzles, without core plates, with a minimum orifice diameter of 0.063 inches;~~

~~(ii) Straight stream jet nozzles with a minimum orifice diameter of 0.125 inches with No. 46 core plates or larger;~~

~~(iii) RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of .075 inches;~~

~~(iv) Nozzles shall be directed downward and backward 135 degrees from the direction of flight for applications over 50 miles per hour and 90 degrees downward and backward for applications under 50 miles per hour.~~

~~(4)) Aircraft applications shall conform to the manufacturer's specified combination of nozzles, pressure (psi), plates, nozzle orientation, and aircraft speed that produces a droplet class that falls within the coarse (or larger) range as defined by the ASABE standards.~~

~~(3) Height of discharge requirements by aircraft of use restricted desiccants and defoliant: The nozzles must be closed while either descending onto or ascending from the target field, and also ascending or descending over an obstacle or obstruction within the target field that would alter the height of application more than ten feet.~~

~~((5)) (4) Smoke device requirements: All aircraft applying use restricted desiccants and defoliant shall utilize a smoke device to determine wind directions and temperature inversion situations.~~

~~((6)) (5) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply use restricted desiccants and defoliant within the area under order as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.~~

~~((7)) (6) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliant.~~

~~((8)) (7) Aerial applications of desiccants and defoliant are prohibited within a distance of one mile of the city limits of any incorporated city or town and the same distance from the center of any unincorporated city or town comprised of ten or more inhabited, closely grouped residences.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-180 ((What are the)) Weather and evening cutoff requirements for desiccants and defoliant((?)). The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Weather conditions: Use restricted desiccants and defoliant shall not be applied when there is a temperature inversion, or if wind or weather conditions are such that damage could result to susceptible crops or ornamentals: Provided, That aircraft applications of Paraquat shall be prohibited until the temperature inversion ceiling at the site of application is 1,000 feet or greater. Aircraft must be equipped with thermometers to detect the height of the inversion.

(2) Evening cutoff: All applications of use restricted desiccants and defoliant are prohibited from three hours prior to sunset to one hour after sunrise the following morning: Provided, That ground applications in Area 2 of Walla Walla County may begin at sunrise: Provided further, That ground

applications may be allowed at other times by obtaining a written permit from the department.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-190 (~~(What are the)~~) Restrictions on the use of desiccants and defoliants in Walla Walla County(~~(?)~~). The following restrictions shall apply in Walla Walla County:

(1) Area 1 description - Town of Walla Walla and vicinity: This area includes all lands lying within the town of Walla Walla and vicinity beginning at the Washington-Oregon border and the west section line of Section 15, T6N, R34E; thence north along section lines and McDonald Road approximately seven miles to the southwest corner of Section 3, T7N, R36E; thence east along section lines approximately twenty miles to the southeast corner of Section 1, T7N, R37E; thence south approximately seven miles to the Washington-Oregon border; thence west approximately fifteen miles to point of beginning.

(2) Area 1 restrictions:

During the period of February 15th through November 1st of any year, any aerial application of use restricted desiccants and defoliants must have prior approval by obtaining a written permit from the Washington state department of agriculture.

(3) Area 2 description - Southern portion of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington-Oregon border and the west section line of Section 18, T6N, R33E; thence north along section lines approximately eight miles to the northwest corner of Section 7, T7N, R33E; thence west along section lines approximately nine miles to the southeast corner of Section 4, T7N, R34E; thence south along section lines approximately eight miles to the Washington-Oregon border; thence west along the border approximately nine miles to the point of beginning.

(4) Area 2 restrictions:

(a) Paraquat restrictions:

During the period of February 15th through November 1st of any year, any aerial application of Paraquat or any mixture containing Paraquat must have prior approval by obtaining a written permit from the Washington state department of agriculture.

(b) Diquat restrictions:

During the period of February 15th through November 1st of any year, any application of Diquat or any mixture containing Diquat is restricted to ground apparatus only.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-400 (~~(What is the)~~) Area under order for use restricted herbicides in Spokane County(~~(?)~~). (1) The area under order includes all lands lying within the borders of Spokane County. WAC 16-230-410 through 16-230-470 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and

rules relating to use restricted herbicides in WAC 16-230-600 through (~~(16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 09-21-006, filed 10/8/09, effective 11/8/09)

WAC 16-230-410 (~~(What are)~~) Use restricted herbicides in Spokane County(~~(?)~~). All formulations of phenoxy hormone-type herbicides, (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba are declared as use restricted herbicides except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf;

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-420 (~~(What are the)~~) Boundaries and restrictions for Spokane County Area 2(~~(?)~~). (1) This area includes all lands lying within a boundary line starting at the intersection of state Highway 2 and Christianson Road; thence north two miles more or less to the northwest corner of Section 17, T25N, R41E; thence east five miles more or less to Hayford Road; thence north eight miles more or less to the northwest corner of Section 6, T26N, R41E; thence east ten miles more or less to the northeast corner of Section 3, T26N, R43E; thence south five miles more or less to the northeast corner of Section 34, T26N, R43E; thence east fourteen miles more or less to the Idaho-Washington border; thence south seven miles more or less to the common boundary line between T24N and 25N; thence west six miles more or less to Chapman Road; thence south one mile more or less along Chapman Road to the common boundary line between Sections 1 and 12, T24N, R44E; thence east thirteen miles more or less to the Cheney-Spokane Road; thence southwesterly along the Cheney-Spokane Road two miles more or less to the common boundary line between Sections 14 and 15, T24N, R42E; thence south one and one-half miles more or less to the southeast corner of Section 22, T24N, R42E; thence west one and one-half miles more or less to the Cheney-Spokane Highway; thence southerly one mile more or less along the Cheney-Spokane Highway to the common boundary line between Section 28 and 33, T24N, R42E; thence east six miles more or less to Interstate 90; thence southerly three miles more or less to the intersection of Interstate 90 and Salnave Road; thence northwesterly along the Salnave Road three miles more or less to its intersection with the Medical Lake-Tyler Road; thence north four miles more or less to the intersection of Hallet and Richey Road; thence east one mile more or less along Hallet Road to the intersection of Hallet Road and Brooks Road; thence north three miles more or less on Brooks Road to the intersection of

Brooks Road and Highway 2; thence east one mile more or less along Highway 2 to the point of beginning.

(2) Area 2 restrictions.

(a) ~~((On and after May 1 through October 15, ground applications of use restricted herbicides shall be made with nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(b) For roadside and right of way application drift reduction type systems such as direct spray, raindrop or invert systems must be used.~~

~~(e)) The use or application of low volatile ester formulations of use restricted herbicides is prohibited from May 1st through October 15th: Provided, That the department, upon written request, may issue a permit for the use of low volatile formulations for special weed control.~~

~~((d)) (b) The application of use restricted herbicides is prohibited from three hours prior to sunset to sunrise the next day: Provided, That lawn and turf residential weed control, using nonvolatile formulations are exempt from the evening cutoff.~~

~~((e)) (c) The aerial application of use restricted herbicides is prohibited within Area 2: Provided, That the department may issue a special permit, upon written request, for special weed control.~~

~~((f) Use restricted herbicides shall not be applied on or after May 1 through October 15 when the temperature is 85° or above at the point of application.~~

~~(g) Ground applications of use restricted herbicides are allowed when using No. 2RD or 2RA raindrop nozzles: Provided, That the mean sustained wind velocity is fifteen miles per hour or less.)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-430 ((What are the)) Boundaries and restrictions for Spokane County Area 3((?)). (1) An area within a distance of two-thirds of a mile of the city limits of incorporated cities and towns and the same distance from the center of any unincorporated town comprised of ten or more inhabited, closely grouped residences within Area 4 exclusive of Area 2.

(2) Area 3 restrictions. ~~((a))~~ The aerial application of use restricted herbicides is prohibited within Area 3: Provided, That the department, upon written request, may issue a permit to allow aerial applications of nonvolatile formulations of use restricted herbicides up to one-half mile of the city limits of incorporated towns and cities and up to one-half mile of the center of any unincorporated towns comprised of ten or more inhabited closely grouped residences.

~~((b) On and after May 1 through October 15, aerial applications shall be made using the danger area restrictions (see WAC 16-230-675).~~

~~(c) Ground applications of use restricted herbicides shall be made with nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(d) Ground applications of use restricted herbicides shall be allowed when using No. 2RD or 2RA raindrop nozzles: Provided, That the mean sustained wind velocity is fifteen miles per hour or less.)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-470 ((When is the)) Application of use restricted herbicides prohibited in Spokane County due to wind conditions((?)). The use or application of use restricted herbicides shall be prohibited in the area under order when the mean sustained wind velocity is over twelve miles per hour throughout the year~~((: Provided, That applications of use restricted herbicides shall be allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data)).~~

AMENDATORY SECTION (Amending WSR 79-07-091, filed 6/29/79)

WAC 16-230-520 Use and application of picloram in Spokane County. Picloram (Tordon) is hereby declared to be a restricted use pesticide and the use or application of any formulation of picloram shall be prohibited in the following portion of Spokane County: An area beginning at the intersection of Brooks Road and state Highway 902; thence northerly along the Brooks Road four miles more or less to state Highway 2; thence easterly along state Highway 2 four miles more or less to the Craig Road; thence northerly on Craig Road for 1/2 mile more or less to the Airway Heights city limits; thence easterly one mile more or less along the north boundary of the Airway Heights city limits; thence southerly 1/2 mile more or less along the east boundary of the Airway Heights city limits to state Highway 2; thence easterly one mile along state Highway 2 to the Hayford Road; thence southerly three miles more or less along the Hayford Road to state Highway 902; thence westerly along state Highway 902 to the point of beginning.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-600 ((Can high volatile ester and dust formulations be used in Washington and what are the)) Areas under order for use restricted herbicides((?)). ~~((+)) The distribution, use and application of all high volatile ester and dust formulations of restricted use herbicides are prohibited throughout the state.~~

~~((2))~~ WAC 16-230-605 through ~~((16-230-675))~~ 16-230-670 apply to all counties located east of the crest of the Cascade Mountains.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-605 ((Can)) Additional county rules ((be applied to)) for use restricted herbicides((?)). The rules in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670 shall not preclude any additional restrictions on the application of use restricted herbicides provided for in the rules for specific counties located east of the Cascade Mountains.

AMENDATORY SECTION (Amending WSR 14-08-095, filed 4/2/14, effective 5/3/14)

WAC 16-230-610 ~~((What are))~~ Use restricted herbicides in eastern Washington~~((?))~~. All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below are use restricted herbicides.

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf~~((:))~~;

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less. ~~((For purposes of this subsection, "ready-to-use" means a pesticide that is applied directly from its original container consistent with label directions.))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-615 ~~((What are the))~~ Restrictions on the sale and distribution of use restricted phenoxy-hormone type herbicides and dicamba in eastern Washington~~((?))~~. Phenoxy-hormone type herbicides and dicamba shall be sold and distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives except those listed in WAC 16-230-610 (1) and (2).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-640 Use restricted herbicides—Eastern Washington—Weather and temperature conditions. Use restricted herbicides shall not be applied on and after April 1st through October 31st of each year when there is a temperature inversion; or throughout the year if weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops and plantings through physical drift or volatilization, or the temperature is 85°F. or above at the point of application: Provided, That application at the rate of fifty gallons or more per acre ~~((using nozzles having a minimum orifice diameter of .072 inches))~~ and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards shall be exempt from the 85°F. temperature cutoff requirement: Provided further, That when using ~~((the))~~ an invert system, applications may ~~((continue))~~ occur up to 95°F. with a maximum wind velocity of fifteen miles per hour and with water carrier at twelve or more gallons per acre.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-645 ~~((What is the))~~ Evening cutoff for use restricted herbicides~~((?))~~ in eastern Washington. On and after May 1st through October 31st of each year, the application of use restricted herbicides is prohibited daily from three hours prior to sunset to sunrise the following morning: Provided, That if there is a mean sustained legal wind velocity of not less than five miles per hour the application of use restricted herbicides is allowed in Areas 3 and 4 up to one hour prior to sunset in all counties as restricted by rule except Benton, Franklin, Yakima, and Walla Walla counties.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-650 ~~((Can a permit be issued))~~ Permits for the application of certain use restricted herbicides~~((?))~~. The Washington state department of agriculture may issue a permit, upon receipt of a written request, to mix, load and apply certain use restricted herbicides ~~((for purposes of critical weed control when such activities are restricted by rule. The director may consider recommendations of the 2,4-D committee for the county in question: Provided, That the 2,4-D committee is kept current for each county))~~ with nozzles, nozzle type, control additives, or arrangements other than those required by rule.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-655 Use restricted herbicides—Eastern Washington—Ground equipment ~~((pressure))~~ application requirements. ~~((Pressure shall not exceed twenty-five pounds per square inch at the nozzles: Provided, That pressure up to fifty pounds per square inch at the nozzle may be used for equipment with handguns, up to ninety pounds per square inch at the nozzle manifold for an invert system: Provided further, That when using a LP-8002 nozzle instead of a regular 8004 or equivalent, the maximum pressure shall be fifteen pounds per square inch at the nozzle.))~~ Ground applications of use restricted herbicides shall conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the medium (or larger) range as defined by the ASABE standards: Provided, That a pressure of 50 psi at the nozzle is the maximum that can be used for handgun applications when no manufacturer specified combination of nozzle and pressure for droplet size are available for that equipment. Upon request by the department the applicator shall provide all data which supports the nozzle configuration is compliant with the spray droplet classifications of medium or larger.

AMENDATORY SECTION (Amending WSR 10-15-015, filed 7/8/10, effective 8/8/10)

WAC 16-230-665 ~~((What are the))~~ Restrictions on aerial applications near vineyards~~((?))~~. (1) Aerial application of use restricted herbicides is prohibited within one mile

of any commercial vineyard: Provided, That the Washington state department of agriculture may approve written requests and issue permit for aerial application of use restricted herbicides that may be applied to lands located one-half to one mile from commercial vineyards: Provided further, That no distance restrictions shall apply to aerial applications of use restricted herbicides near vineyards during the grape dormant season if written permission of the vineyard owner/manager is obtained. ~~((EXCEPTIONS are found in Franklin and Grant County restrictions.))~~

(2) Commercial vineyard means a parcel of land from which the grape crop is intended to be sold to a processor, or intended to be used for commercial wine making, or intended for the commercial fresh market.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-670 Use restricted herbicides—Eastern Washington—Aircraft boom length and ~~((pressure))~~ application requirements. In all ~~((Areas 1 and 2, of all))~~ counties restricted by rule the working boom length on fixed wing aircraft shall not exceed 3/4 of the wing span and the working boom length on helicopters shall not exceed 6/7 of the total rotor length or 3/4 of the total rotor length where the rotor length exceeds forty feet.

~~((Pressure for aerial equipment shall not exceed 25 psi at the nozzles: Provided, That helicopters shall be allowed to use up to 35 psi in Areas 3 and 4 of all counties restricted by rule: Provided further, That pressure up to 50 psi at the nozzle may be used with invert systems which are allowed by written permit only.))~~ Aerial applications of use restricted herbicides shall conform to a combination of nozzles, pressure (psi), plates, nozzle orientation, and aircraft speed that produces a spray droplet class that falls within the coarse (or larger) range as defined by the ASABE standards. Upon request by the department the applicator shall provide all data which supports the nozzle configuration is compliant with spray droplet classifications of coarse (or larger).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-800 ~~((What is the))~~ Area under order and restrictions for Benton County~~((?))~~. (1) The area under order includes: All lands lying within the boundaries of Benton County.

(2) The distribution, use, and application of use restricted pesticides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-810 ~~((What are the))~~ Restrictions on the application of certain pesticides in Benton County~~((?))~~. For the purposes of WAC 16-230-800 through ~~((16-230-870))~~ 16-230-868, the following pesticides are declared to be use restricted pesticides:

(1) Use restricted herbicides:*

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothal);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy hormone-type herbicides (such as 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)), except:

(i) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(ii) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf;

(iii) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

(e) Dicamba (such as Banvel);

(f) Bromoxynil except that the cutoff date of April 5th does not apply.

(2) Use restricted insecticides:

(a) Aerial applications of category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations;

(b) Aerial applications of category I insecticides, except granular and pellet formulations in Area I and Area 1A.

*Listed trade names are to be used as a guide and may not include all the trade or brand names under which the chemicals are distributed.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-815 ~~((Can))~~ Application of Paraquat and Diquat ~~((be applied))~~ by air in Benton County~~((?))~~. Aerial application of Paraquat or Diquat is prohibited in the entire area under order listed in WAC 16-230-800.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-820 ~~((Can))~~ Application of sulfonylurea herbicides ~~((be applied))~~ by air in Benton County~~((?))~~. Application of sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort) to fallow land or to land during the time between harvest and emergence above the furrows of the subsequent cereal grain crop is prohibited.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-825 ~~((What are the))~~ Conditions applying to permits in Benton County~~((?))~~. The following conditions will apply to all permits issued under the authority of WAC 16-230-800 through ~~((16-230-870))~~ 16-230-868.

(1) Application for a permit may be made to the Washington State Department of Agriculture, Compliance Branch, 21 N. First Avenue Suite 236, Yakima, Washington 98902.

Applications may also be taken in person or by facsimile. Permits will not be granted by telephone.

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

(3) No permit shall be issued to apply any pesticide unless that permit is consistent with existing department laws and rules.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-830 ((Can)) Application of use restricted pesticides ((be applied)) in an emergency((?)) in Benton County. In the event of an emergency, as declared by the director, the department may issue permits for the use of use restricted pesticides in variation of any restrictions contained in the area under order as defined in WAC 16-230-800. An emergency under this section may be declared if the director determines that the risk and amount of economic harm to any agriculture crop substantially outweighs the risk and amount of damage likely to occur if a variance permit is issued.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-835 ((What are the)) Boundaries and restrictions for Benton County Area 1((?)), (1) Area 1 description (North Horse Heaven Hills). An area including all lands lying within a boundary line beginning at the northwest corner of Section 31, T8N, R24E; thence east two miles along section lines to the northwest corner of Section 33, T8N, R24E; thence north one mile along section lines to the northwest corner of Section 28, T8N, R24E; thence east seven miles along section lines to the northwest corner of Section 27, T8N, R25E; thence north two miles along section lines to the northwest corner of Section 15, T8N, R25E; thence east eight miles along section lines to the northwest corner of Section 13, T8N, R26E; thence south two miles along section lines to the northwest corner of Section 25, T8N, R26E; thence east two miles along section lines to the northwest corner of Section 29, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 32, T8N, R27E; thence east three miles along section lines to the northwest corner of Section 35, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 2, T7N, R27E; thence east one mile along section lines to the northwest corner of Section 1, T8N, R27E; thence south two miles along section lines to the northwest corner of Section 13, T7N, R27E; thence east four miles along section lines to the northwest corner of Section 15, T7N, R28E; thence south one mile along section lines to the northwest corner of Section 22, T7N, R28E; thence east ten miles along section lines to the

northwest corner of Section 20, T7N, R30E; thence south two miles along section lines to the northwest corner of Section 32, T7N, R30E; thence east seven miles along section lines to the Columbia River in Section 29, T7N, R31E; thence south approximately two miles along the Columbia River to the south section line of Section 5, T6N, R31E; thence west approximately eight miles along section lines to the southwest corner of Section 1, T6N, R29E; thence north two miles along section lines to the southwest corner of Section 25, T7N, R29E; thence west thirteen miles along section lines to the southeast corner of Section 27, T7N, R27E; thence north one mile along the section line to the northeast corner of Section 27, T7N, R27E; thence west one mile along the section line to the northwest corner of Section 27, T7N, R27E; thence north two miles along section lines to the northeast corner of Section 16, T7N, R27E; thence west one mile along the section line to the southeast corner of Section 8, T7N, R27E; thence north one mile along the section line to the northeast corner of Section 8, T7N, R27E; thence west approximately twenty miles along section lines to the Benton-Yakima County line at the southwest corner of Section 6, T7N, R24E; thence north two miles along the county line to the point of beginning.

(2) Area 1 restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-230-810 is prohibited: Provided, That the department may issue written permits for application of insecticides not containing the signal words danger/poison on the label.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, all applications of use restricted herbicides are prohibited daily from three hours prior to sunset to sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset restrictions when using an application rate of forty gallons of water carrier or greater per treated acre ~~((at twenty pounds of pressure or less at the nozzle))~~ and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-836 ((What are the)) Boundaries and restrictions in Benton County Area 1A((?)), (1) Area 1A description. All lands lying within a boundary line beginning at the northwest corner of Section 31, T8N, R24E; thence east two miles along section lines to the northwest corner of Sec-

tion 33, T8N, R24E; thence north one mile along section lines to the northwest corner of Section 28, T8N, R24E; thence east seven miles along section lines to the northwest corner of Section 27, T8N, R25E; thence north two miles along section lines to the northwest corner of Section 15, T8N, R25E; thence east eight miles along section lines to the northwest corner of Section 13, T8N, R26E; thence south two miles along section lines to the northwest corner of Section 25, T8N, R26E; thence east two miles along section lines to the northwest corner of Section 29, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 32, T8N, R27E; thence east three miles along section lines to the northwest corner of Section 35, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 2, T7N, R27E; thence east one mile along section lines to the northwest corner of Section 1, T8N, R27E; thence south two miles along section lines to the northwest corner of Section 13, T7N, R27E; thence east four miles along section lines to the northwest corner of Section 15, T7N, R28E; thence south one mile along section lines to the northwest corner of Section 22, T7N, R28E; thence east ten miles along section lines to the northwest corner of Section 20, T7N, R30E; thence south two miles along section lines to the northwest corner of Section 32, T7N, R30E; thence east seven miles along section lines to the Columbia River in Section 29, T7N, R31E; thence north approximately three miles to the Kennewick Irrigation District (K.I.D.) Division Four Canal in Section 8, T7N, R31E; thence westerly along the K.I.D. Division Four Canal to the intersection with the K.I.D. Main Irrigation Canal at the Amon Pumping Station located in Section 7, T8N, R29E; thence westerly along the K.I.D. Main Irrigation Canal to its intersection with the east section line of Section 14, T9N, R26E; thence south approximately one mile along the section line to the northwest corner of Section 25, T9N, R26E; thence northwest approximately one and four tenths miles diagonally across Section 23 to the northwest corner of Section 23, T9N, R26E; thence west two miles along section lines to the northwest corner of Section 21, T9N, R26E; thence southwest approximately one and four tenths miles diagonally across Section 20 to the northwest corner of Section 29, T9N, R26E; thence west one mile along section lines to the northwest corner of Section 30, T9N, R26E; thence south one mile along section lines to the northwest corner of Section 31, T9N, R26E; thence west two miles along section lines to the northwest corner of Section 35, T9N, R25E; thence southwest approximately one and four tenths miles diagonally across Section 34 to the northwest corner of Section 3, T8N, R25E; thence west one mile along section lines to the northwest corner of Section 4, T8N, R25E; thence southwest approximately one and four tenths miles diagonally across Section 5 to the northwest corner of Section 8, T8N, R25E; thence west one mile along section lines to the northwest corner of Section 7, T8N, R25E; thence south one mile along section lines to the northwest corner of Section 18, T8N, R25E; thence west two miles along section lines to the northwest corner of Section 14, T8N, R24E; thence south one mile along section lines to the northwest corner of Section 23, T8N, R24E; thence west four miles to the northwest corner of Section 19, T8N, R24E; thence south two miles along the county line to the point of beginning.

(2) Area 1A restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-230-810 is prohibited: Provided, That the department may issue written permits for application of insecticides not containing the signal words danger/poison on the label.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year: Provided, That phenoxy hormone-type sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-840 (~~What are the~~) Boundaries and restrictions for Benton County Area 2(?). (1) Area 2 description. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence south approximately five miles along section lines to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence northwesterly along the Columbia River until its intersection with the United States Department of Energy Hanford Site south boundary line; thence west approximately one mile and south approximately two and one-half miles along the south boundary line to the southeast corner of Section 27, T10N, R28E; thence west seven miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(2) Area 2 restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-230-810 is prohibited.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-845 (~~What are the~~) Boundaries and restrictions for Benton County Area 3(~~2~~)₂ (1) Area 3 description.

(a) Eastern Yakima Valley. An area including all lands lying within a boundary line beginning at the northwest corner of Section 19, T8N, R24E; thence east four miles along section lines to the southwest corner of Section 14, T8N, R24E; thence north one mile along the section line to the northwest corner of Section 14, T8N, R24E; thence east two miles along section lines to the southwest corner of Section 7, T8N, R25E; thence north one mile along the section line to the northwest corner of Section 7, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 5, T8N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 5 to the northeast corner of Section 5, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 34, T9N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 34 to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southwest corner of Section 30, T9N, R26E; thence north one mile along the section line to the northwest corner of Section 30, T9N, R26E; thence east one mile along the section line to the southwest corner of Section 20, T9N, R26E; thence northeast approximately one and four-tenths of a mile diagonally across Section 20 to the northeast corner of Section 20, T9N, R26E; thence east two miles along section lines to the northwest corner of Section 23, T9N, R26E; thence southeast approximately one and four-tenths of a mile diagonally across Section 23 to the southeast corner of Section 23, T9N, R26E; thence north six miles along section lines to the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the

intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence south approximately eleven miles along the Benton-Yakima county line to the point of beginning.

(b) Cold Creek Area. An area including all lands lying within a boundary line beginning at the intersection of the Benton-Yakima County line and the Columbia River in Section 7, T13N, R24E; thence south approximately six and one-half miles along the Benton-Yakima County line to the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence west approximately five miles along the Columbia River to the point of beginning.

(c) Horse Heaven Hills southwest buffer zone. An area near Patterson starting at the southeast corner of Section 7, T5N, R26E following section lines north five miles to the northeast corner of Section 19, T6N, R26E; thence west two miles to the northwest corner of Section 24, T6N, R25E; thence south one-half mile along section line; thence west two miles to the common boundary of Sections 21 and 22, T6N, R25E; thence north one-half mile to the northeast corner of Section 21, T6N, R25E; thence west three miles to the northwest corner of Section 19, T6N, R25E; thence south three miles to the southwest corner of Section 31, T6N, R25E; thence east three miles to the southeast corner of Section 33, T6N, R25E; thence south three miles to the southeast corner of Section 16, T5N, R25E; thence west one mile to the northwest corner of Section 21, T5N, R25E; thence south one mile to the southwest corner of Section 21, T5N, R25E; thence east two miles to the southeast corner of Section 22, T5N, R25E; thence north one mile to the northeast corner of Section 22, T5N, R25E; thence east two miles to the southeast corner of Section 13, T5N, R25E; thence north one mile to the northeast corner of Section 13, T5N, R25E; thence east one mile to the point of origin.

(2) Area 3 restrictions.

(a) Application by air of use restricted herbicides as defined in WAC 16-230-810 is prohibited.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the

sunset and sunrise restrictions: Provided further, That applications of the use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-850 (~~What are the~~) **Boundaries and restrictions for Benton County Area 4**(?)₂ (1) Area 4 description.

(a) Tri-Cities northwest buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence north two miles along section lines to the northwest corner of Section 13, T10N, R26E; thence east one mile along the section line to the northeast corner of Section 13, T10N, R26E; thence north approximately one-half mile along the section line to the United States Department of Energy Hanford Site south boundary line; thence easterly approximately ten miles and south approximately two and one-half miles along the south boundary line to the south section line of Section 27, T10N, R28E; thence west approximately six and three-fourths miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(b) Tri-Cities northeast buffer zone. An area including all lands lying within a boundary line beginning at the intersection of the Esquatzel Diversion Channel drain and the Columbia River; thence east along the Esquatzel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south approximately four miles along section lines and portions of Fraser Drive and Dent Road to the southwest corner of Section 6, T9N, R29E; thence east approximately eight and one-half miles along section lines and a portion of Foster Wells Road to its intersection with the Bonneville Power Administration power line in Section 4, T9N, R30E; thence southeasterly approximately seven miles along the power line to its intersection with SR 124 in Section 32, T9N, R31E; thence easterly approximately two and one-half miles along SR 124 to the east section line of Section 34, T9N, R31E near the intersection of SR 124 and the Union Pacific Railroad; thence south approximately three miles along section lines to the southeast corner of Section 15, T8N, R31E; thence west approximately one-fourth mile along the section line to the Union Pacific Railroad; thence southerly approximately four and one-half miles along the railroad to its intersection with U.S. Highway 12 near the Boise Cascade paper mill; thence northwesterly along Highway 12 to its intersection with Interstate 182; thence westerly along I-182 to the west shoreline of the Columbia River; thence northerly approximately six and one-half miles along the Columbia River to the U.S. Department of Energy Hanford Site south boundary line in Section 14, T10N, R28E; thence east approximately one-half mile across the Columbia River to its east shoreline; thence northerly approximately one-half mile to the point of beginning.

(2) Area 4 restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-230-810 may be made by written permit only.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year all applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of the use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-855 (~~What are the~~) **Boundaries and restrictions for Benton County Area 5**(?)₂ (1) Area 5 description.

(a) Cold Creek buffer zone. An area including all lands lying within a boundary line beginning at the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence easterly approximately two miles along the Columbia River to the east section line of Section 6, T13N, R25E, near the Vernita Bridge; thence south approximately eight and one-half miles along section lines to the southeast corner of Section 18, T12N, R25E; thence west seven miles along section lines to the Benton-Yakima County line at the southwest corner of Section 18, T12N, R24E; thence north one mile along the county line to the point of beginning.

(b) Roza buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence north two miles along the county line to the

northwest corner of Section 18, T10N, R24E; thence east four miles along section lines to the northeast corner of Section 15, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 15, T10, R24E; thence east seven miles along section lines to the southwest corner of Section 13, T10N, R25E; thence north one mile along the section line to the northwest corner of Section 13, T10N, R25E; thence east six miles along section lines to the northwest corner of Section 13, T10N, R26E; thence south two miles along section lines to the point of beginning.

(c) Horse Heaven Hill southwest buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 13, T6N, R24E; thence south five miles along section lines to the southwest corner of Section 1, T5N, R24E; thence east three miles along the section lines to the northeast corner of Section 8, T5N, R25E; thence south one mile along the section line to the southeast corner of Section 8, T5N, R25E; thence west one mile along the section line to the southwest corner of Section 8, T5N, R25E; thence south approximately five miles to the Washington Oregon border; thence northeasterly along the Washington Oregon border until its intersection with the eastern section line of Section 8, T5N, R26E; thence north approximately six miles along section lines to the northeast corner of Section 17, T6N, R26E; thence west nine miles to the point of beginning.

(2) Area 5 restrictions.

(a) Application by air of use restricted herbicides as defined by WAC 16-230-810 may be made by written permit only.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year all applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of the use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-860 (~~What are the~~) **Boundaries and restrictions for Benton County Area 6**(~~(?)~~). (1) Area 6 description. All remaining lands in the area under order.

(2) Area 6 restrictions.

(a) The use or application of low volatile ester formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year: Provided, That phenoxy hormone-type sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(b) On and after April 5th through October 31st of each year all applications of use restricted herbicides are prohibited daily from three hours prior to sunset to sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~at twenty pounds of pressure or less at the nozzle~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset restrictions.

(c) On and after April 5th through October 31st of each year, aerial applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-861 (~~What are the~~) **Restrictions on applications in Benton County due to wind conditions**(~~(?)~~). The use or application of all herbicides and class 1 and 2 insecticides are prohibited in the area under order listed in WAC 16-230-800 when the mean sustained wind velocity is over ten miles per hour throughout the year(~~Provided, That applications shall be allowed in higher velocity winds when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department prior to application. Approval shall be based on research data~~): Provided further, That applications of granular and pellet formulations of use restricted pesticides defined in WAC 16-230-810 as well as applications made to structures are exempt from the wind restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-868 (~~What are the~~) **Restrictions on applications in Benton County due to weather**(~~(?)~~). Use restricted herbicides shall not be applied throughout the year in the entire area under order when there is a temperature inversion present or weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops, and plantings through physical drift or volatilization: Provided, That applications of use restricted herbicides are exempt from the inversion requirements when using one hundred gallons or greater of water carrier per treated acre (~~while using no greater than fifteen pounds of pressure per square inch at the nozzle~~) and conforming to the manufac-

turer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-230-440 What are the boundaries and restrictions for Area 4?
- WAC 16-230-450 What information does an aerial applicator need from the landowner?
- WAC 16-230-460 Does a commercial greenhouse need to be notified?
- WAC 16-230-510 Definition.
- WAC 16-230-625 What are the restrictions on mixing and loading use restricted herbicides?
- WAC 16-230-630 What are the restrictions for storage of use restricted herbicides?
- WAC 16-230-635 What are the restrictions on petroleum and vegetable oil carriers and spray adjuvants?
- WAC 16-230-660 Can an aircraft turn or fly low over cities and towns?
- WAC 16-230-673 Use restricted herbicides—Eastern Washington—Application through irrigation systems.
- WAC 16-230-675 Use restricted herbicides—Eastern Washington—Minimum nozzle orifice and core plate sizes for aircraft application.
- WAC 16-230-813 When are oil-type carriers prohibited in Benton County?
- WAC 16-230-863 Application of pesticides in Benton County—Use restricted herbicides ground apparatus nozzle requirements.
- WAC 16-230-864 Application of pesticides in Benton County—Use restricted herbicides, aircraft boom length, pressure, and nozzle requirements.
- WAC 16-230-866 Application of pesticides in Benton County—Use restricted herbicides—Temperature conditions.

NEW SECTION

WAC 16-231-085 Adoption of national consensus code. Adoption of provisions under the American Society of Agricultural and Biological Engineers (ASABE) standards in this chapter is adoption of the provisions in the July 2018 version.

NEW SECTION

WAC 16-231-090 Order of precedence. If there is a conflict between the spray droplet spectrum size required in these rules and that which is required by the pesticide label, the applicator must use the largest droplet spectrum size required.

NEW SECTION

WAC 16-231-095 Definitions. "Ready-to-use" means a pesticide that is applied directly from its original container consistent with label directions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-100 (~~What are the~~) Restrictions for pesticide use in Franklin County(~~?~~). (1) The area under order includes all lands lying within the boundaries of Franklin County. WAC (~~16-231-110~~) 16-231-115 through 16-231-183 applies to the area under order.

(2) The distribution, use, and application of use restricted pesticides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through (~~16-230-680~~) 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-105 (~~What are~~) Use restricted herbicides in Franklin County(~~?~~). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-107 (~~What are~~) Use restricted pesticides in certain areas of Franklin County(~~?~~). The following pesticides are declared to be use restricted pesticides in Areas 2A, 4A, and 6:

(1) Use restricted herbicides*:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothall);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy hormone-type herbicides (such as 2,4-D, MCPA);

(e) Dicamba (such as Banvel);

(f) Bromoxynil except that the cutoff dates of April 5th, April 15th and May 16th do not apply.

* This is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) All aerial applications of Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-115 ((What are the)) Boundaries and restrictions for use restricted herbicides((—)) in Franklin County((—)) Area 1((?)), (1) Area 1 description.

(a) This area includes all lands lying within a boundary line starting at the northwest corner of Section 6, T14N, R28E; thence east along the Adams-Franklin County line thirteen miles more or less to the intersection with State Route 17; thence southeasterly along State Route 17, including the right of way, to the intersection with Highway 395 at the town of Mesa; thence southerly along Highway 395, including the right of way, seven miles more or less to the intersection with the common boundary between Sections 2 and 11, T11N, R30E at the town of Eltopia; thence east along the section line, one mile more or less to the northeast corner of Section 12, T11N, R30E; thence south along the section lines twelve miles more or less to the southeast corner of Section 1, T10N, R30E; thence west two miles along section lines to the southeast corner of Section 3, T9N, R30E; thence north one mile along section lines to the northeast corner of Section 3, T9N, R30E; thence west along section lines three miles to the southeast corner of Section 31, T10N, R30E; thence north two miles along Highway 395 to the intersection with the Selph Landing Road near the northeast corner of Section 30, T10N, R30E; thence seven miles west along Selph Landing Road to the northwest corner of Section 30, T10N, R29E; thence north along section lines and portions of Fraser Drive until the intersection with Road 68, thence northwesterly along Road 68 until its intersection with the Esquatzel Channel; thence west along the Esquatzel Channel until its intersection with the Columbia River; thence northwesterly along the Columbia River to the Grant-Franklin County line at the north section line of Section 29, T14N, R27E; thence east along the Grant-Franklin County line four miles more or less to the northwest corner of Section 30, T14N, R28E; thence north along the Grant-Franklin County line four miles to the point of beginning.

(b) Also including Levey (Ice Harbor Dam area): This area includes all lands lying within a two-mile radius of Levey within Franklin County.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1st through April 30th of the following year.

(b) ~~((On and after April 5 through October 31,))~~ Ground applications of use restricted herbicides ((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides)) on asparagus shall ((be made using nozzles having minimum nozzle orifice diameter of 0.072 inches)) conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.

(c) On and after April 5th through October 31st, aircraft applications of use restricted herbicides are prohibited except by written permit issued by the department: Provided, That on and after November 1st through April 4th of the following year, aircraft applications of use restricted herbicides are allowed ~~((using the caution area restrictions (see WAC 16-230-675))~~.

~~(d) On and after April 5 through October 31, aircraft applications of use restricted herbicides are prohibited within one mile of any commercial vineyard: Provided, That on and after April 5 through October 31, written requests to apply MCPA to peas and corn located one half to one mile from commercial vineyards will be considered: Provided further, That on and after April 5 through April 30 written requests to apply 2,4-DB on alfalfa and red clover seed crops located one half to one mile from commercial vineyards will be considered))~~ when the application conforms to the manufacturer's specified combination of nozzles, pressure (psi), plates, nozzle orientation, and aircraft speed that produces a droplet class that falls within the coarse (or larger) range as defined by the ASABE standards.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-119 ((What are the)) Boundaries and restrictions on use restricted herbicides((—)) in Franklin County((—)) Area 1A((?)), (1) Area 1A description. This area includes all lands lying within a boundary line starting at the intersection of State Route 17 and the Adams-Franklin County line at the north section line of Section 5, T14N, R30E; thence east along the Adams-Franklin County line five miles more or less to the Burlington Northern Railroad; thence southeasterly along the railroad, including the right of way, four miles more or less to the intersection with Moon Road; thence southerly along Moon Road, including the right of way, two miles more or less to the intersection with State Route 260 at the southeast corner of Section 27, T14N, R31E; thence west along State Route 260, including the right of way, five miles more or less to the intersection with State Route 17; thence northwesterly along State Route 17, excluding the right of way, to the point of beginning.

(2) Area 1A restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1st through April 30th of the following year.

~~(b) ((On and after April 15 through October 31,)) Ground applications of use restricted herbicides ((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides)) on asparagus shall ((be made using nozzles having minimum orifice diameter of 0.072 inches.~~

~~(c) On and after November 1 through April 14 of the following year, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).~~

~~(d) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the danger area restrictions (see WAC 16-230-675)) conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-125 ((What are the)) Boundaries and restrictions on use restricted herbicides((—)) in Franklin County((—)) Area 2((?)). (1) Area 2 description. This area includes all of the lands lying inside a boundary line starting at the intersection of State Routes 17 and 260 located at the northwest corner of Section 36, T14N, R30E; thence east along State Route 260, excluding the right of way, five miles more or less to the northeast corner of Section 34, T14N, R31E; thence south along the section lines fifteen miles more or less to the Eltopia and Eye Road; thence easterly along the Eltopia and Eye Road, including the right of way, to the Brass Road; thence easterly along the Brass Road, including the right of way, to the Bannenburg Road; thence southeasterly along the Bannenburg Road, including the right of way, to the northwest corner of Section 6, T10N, R33E; thence south along the section line one mile more or less to the Snake River; thence southwesterly along the Snake River to the east section line of Section 23, T9N, R31E; thence northerly along section lines approximately two miles until the intersection with the Pasco Kahlotus Road at the northeast corner of Section 11, T9N, R31E; thence west approximately five miles along section lines and a portion of the Pasco Kahlotus Road to the intersection of the southeast corner of Section 1, T9N, R30E; thence north along the section lines twelve miles more or less to the southeast corner of Section 1, T11N, R30E; thence west along the section line one mile more or less to Highway 395; thence northerly along Highway 395, excluding the right of way, seven miles more or less to its intersection with State Route 17 at the town of Mesa; thence northerly along State Route 17, excluding the right of way, seven miles more or less to the point of beginning, excluding lands in Franklin County within a two-mile radius of the town of Levey.

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 5th through October 31st of each year.

~~(b) ((On and after April 5 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(e)) On and after April 5th through October 31st, aircraft applications of use restricted herbicides are prohibited except by written permit issued by the Washington state department of agriculture.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-130 ((What are the)) Boundaries and restrictions on use restricted herbicides((—)) in Franklin County((—)) Area 3((?)). (1) Area 3 description. (Dry land area south and east of Connell.) An area beginning at the northeast corner of Section 3, T14N, R33E and the Reeder Road; thence south along the Reeder Road to and along the Black Road to the Swanson Road; thence east and south along the Swanson Road to state Highway 260; thence southerly along state Highway 260 to the Munt Road; thence south along the Munt Road to the Largent Road; thence east along the Largent Road to the Pasco-Kahlotus Highway to the Walker Road; thence southerly along the Walker Road to the Snake River; thence southerly along the Snake River to the east boundary line of Area 2; thence northerly along the east boundary line of Area 2 and Area 1A to the Franklin-Adams County line; thence east fifteen miles more or less along the county line to the point of beginning.

(2) Area 3 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after May 16th through October 31st of each year.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-135 ((What are the boundaries and restrictions on use restricted herbicides)) Boundaries in Franklin County Area 4((?)). ~~((+))~~ Area 4 description. (Dry land area.) All of the remaining lands in Franklin County lying east of Area 3.

~~((2) Area 4 restrictions.~~

~~(a) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(b) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-145 ((What are the)) Wind restrictions for use restricted herbicides((—)) in Franklin County((?)). The use or application of use restricted herbi-

cides shall be prohibited in Areas 1, 1A, 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: Provided, That such applications shall be prohibited in Area 1 on and after April 1st through October 31st when the mean sustained wind velocity is over ten miles per hour (~~Provided further, That applications of use restricted herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used and allowed by the label. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data~~)).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-149 (~~What are the~~) Boundaries and restrictions on use restricted herbicides(~~(—)~~) in Franklin County(~~(—)~~) Area 2A(~~(?)~~), (1) Area 2A description. An area including all lands lying in a boundary line beginning at the Columbia River and Interstate 182 near the east section line of Section 13, T9N, R28E; thence along Interstate 182 until its intersection with U.S. Highway 12; thence southeasterly along Highway 12 until its intersection with the Snake River in Section 35, T9N, R30E; thence southwesterly along the Snake River until its intersection with the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(2) Area 2A restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-231-107 is prohibited.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~(at twenty pounds of pressure or less at the nozzle)~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-153 (~~What are the~~) Boundaries and restrictions on use restricted herbicides(~~(—)~~) in Franklin

County(~~(—)~~) **Area 4A**(~~(?)~~), (1) Area 4A description. An area including all lands lying within a boundary line beginning at the intersection of the Esquatzel Diversion Channel drain and the Columbia River; thence east along the Esquatzel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south approximately four miles along section lines and portions of Fraser Drive and Dent Road to the southwest corner of Section 6, T9N, R29E; thence east approximately eight and one-half miles along section lines and a portion of Foster Wells Road to its intersection with the Bonneville Power Administration power line in Section 4, T9N, R30E; thence southeasterly along the power line until its intersection with the Snake River near the east line of Section 25, T9N, R30E; thence southwesterly along the Snake River until its intersection with U.S. Highway 12 in Section 35, T9N, R30E; thence northwesterly along Highway 12 until its intersection with Interstate 182; thence westerly along Interstate 182 until its intersection with the Columbia River along the east section line of Section 13, T9N, R28E; thence northerly along the Columbia River to the point of beginning.

(2) Area 4A restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-231-107 may be made by written permit only.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, all applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~(at twenty pounds of pressure or less at the nozzle)~~) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of the use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-156 (~~What are the~~) Boundaries and restrictions on use restricted herbicides(~~(—)~~) in Franklin County(~~(—)~~) Area 6(~~(?)~~), (1) Area 6 description. An area including all lands lying within a boundary line beginning at the northwest corner of Section 30, T10N, R29E; thence east seven miles along Selph Landing Road until its intersection with Highway 395 near the northeast corner of Section 30,

T10N, R30E; thence south two miles along Highway 395 to the southeast corner of Section 31, T10N, R30E; thence east three miles along section lines to the northeast corner of Section 3, T9N, R30E; thence south one mile along section lines to the southeast corner of Section 3, T9N, R30E; thence east seven miles along section lines and a portion of the Pasco-Kahlotus Road until its intersection with the Ice Harbor Dam Road at the northeast corner of Section 11, T9N, R31E; thence southerly approximately two miles along section lines until the intersection with the Snake River; thence southwesterly along the Snake River until its intersection with the Bonneville Power Administration power line in Section 25, T9N, R30E; thence northwesterly along the power line until its intersection with Foster Wells Road in Section 4, T9N, R30E; thence west approximately eight and one-half miles along section lines and portions of the Foster Wells Road to the southwest corner of Section 6, T9N, R29E; thence north along section lines approximately three miles to the point of beginning.

(2) Area 6 restrictions.

(a) The use or application of low volatile ester formulations of use restricted herbicides are prohibited on and after April 5th through October 31st of each year: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(b) On and after April 5th through October 31st of each year, all applications of use restricted herbicides are prohibited daily from three hours prior to sunset to sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset restrictions when using an application rate of forty gallons of water carrier or greater per treated acre ((at twenty pounds of pressure or less at the nozzle)) and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset restrictions.

(c) On and after April 5th through October 31st of each year, aerial applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-159 ((Can)) Application of Paraquat or Diquat ((be applied)) by air in Franklin County((?)). Aerial application of Paraquat and Diquat is prohibited in Areas 2A, 4A, and 6.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-162 ((Can)) Application of sulfonylurea herbicides ((be applied)) in Franklin County((?)). Application of sulfonylurea herbicides (such as Glean, Telar,

Finesse, Escort) to fallow land or to land during the time between harvest and emergence above the furrows of the subsequent cereal grain crop is prohibited in Areas 2A, 4A, and 6.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-165 ((What are)) Conditions applying to permits in Franklin County((?)). The following conditions will apply to all permits issued in Areas 2A, 4A, and 6.

(1) Application for a permit may be made to the Washington State Department of Agriculture, Compliance Branch, 21 N. 1st Avenue Suite 236, Yakima, Washington 98902. Applications may also be taken in person or by facsimile. Permits will not be granted by telephone.

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

(3) No permit shall be issued to apply any pesticide unless that permit is consistent with existing department laws and rules.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-168 ((Can)) Application of use restricted pesticides ((be applied)) in an emergency ((clause?)) in Franklin County. In the event of an emergency, as declared by the director, the department may issue permits for the use of use restricted pesticides in variation of any restrictions contained in Areas 2A, 4A, and 6. An emergency under this section may be declared if the director determines that the risk and amount of economic harm to any agriculture crop substantially outweighs the risk and amount of damage likely to occur if a variance permit is issued.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-171 ((What are the)) Restrictions on applications in Franklin County due to wind((?)). The use or application of all herbicides and class 1 and 2 insecticides are prohibited in Areas 2A, 4A, and 6 when the mean sustained wind velocity is over ten miles per hour throughout the year: Provided, That ((applications shall be allowed in higher velocity winds when an approved ground apparatus is used. Ground apparatus shall be approved by the department prior to application. Approval shall be based on research data. Provided further, That)) applications of granular and pellet formulations of use restricted pesticides defined in WAC 16-231-107 as well as applications made to structures are exempt from the wind restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-183 ~~((What are the))~~ **Restrictions on application of pesticides in Franklin County due to weather conditions** ~~((?))~~. Use restricted herbicides shall not be applied throughout the year in the entire area under order when there is a temperature inversion present or weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops, and plantings through physical drift or volatilization: Provided, That applications of use restricted herbicides are exempt from the inversion requirements when using one hundred gallons or greater of water carrier per treated acre ~~((while using no greater than fifteen pounds of pressure per square inch at the nozzle))~~ and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-200 ~~((What are the))~~ **Restrictions for herbicide use in Yakima County** ~~((?))~~. (1) The area under order includes all lands lying within the boundaries of Yakima County. WAC 16-231-205 through 16-231-235 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-205 ~~((What are))~~ **Use restricted herbicides in Yakima County** ~~((?))~~. All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-215 ~~((What are the))~~ **Boundaries and restrictions for Area 1 in Yakima County** ~~((?))~~. (1) Area 1 description. (An area south of the Yakima firing center including the upper and lower Yakima Valley.) An area start-

ing at the Yakima-Benton County line and the northeast corner of Section 1, T11N, R23E; thence west along section lines seventeen miles more or less to the southeast corner of Section 31, T12N, R21E; thence north eight miles along section lines to the northeast corner of Section 30, T13N, R21E; thence west along section lines eleven miles to the Yakima River; thence northwesterly along the Yakima and Naches Rivers; thence northwesterly along the Naches River for seven miles more or less to the northwest corner of Section 31, T14N, R18E; thence south one mile along the section line to the southwest corner of Section 31, T14N, R18E; thence west along section lines six miles to the northwest corner of Section 6, T13N, R17E; thence south twenty-four miles along section lines to the southwest corner of Section 31, T10N, R17E; thence east twenty-four miles along section lines to the southeast corner of Section 36, T10N, R20E; thence south six miles along section lines to the southwest corner of Section 31, T9N, R21E; thence east six miles along section lines to the northwest corner of Section 6, T8N, R22E; thence south six miles along section lines to the southwest corner of Section 31, T8N, R22E; thence east twelve miles along section lines to the Benton County line; thence north twenty-four miles to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 5th through October 31st: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops at any time.

(b) ~~((On and after April 5 through October 31,))~~ Ground applications of use restricted herbicides ~~((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides))~~ on asparagus shall ~~((be made using nozzles having minimum nozzle orifice diameter of 0.072 inches))~~ conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.

(c) Aircraft applications of use restricted herbicides are allowed only on nonirrigated lands on and after November 1st through April 4th of the following year ~~((and shall be made using the caution area restrictions (see WAC 16-230-675)))~~. Aircraft applications of use restricted herbicides are prohibited on and after April 5th through October 31st: Provided, That hormone sprays may be applied to orchards to prevent fruit drop: Provided further, That aircraft applications are allowed by written permit issued by the Washington state department of agriculture in those dry land wheat growing areas east of Moxee and on the Rattlesnake Ridge and the area south of Horse Heaven Hills Ridge contained in Sections 25, 26, 27, 28, 32, 33, 34, 35 and 36, T8N, R23E up to within one mile of commercial grape plantings and to within one-quarter mile of other susceptible crops.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-220 (~~(What are the)~~) **Boundaries and restrictions for Yakima County Area 1A** (~~(in Yakima County?)~~). (1) Area 1A description. (Tieton-Naches Area.) That portion of T14N, R17E and those portions of Sections 31, 32 and 33, T15N, R17E, lying southwest of the Naches-Selah Canal; and that portion of T14N, R16E, and those portions of Sections 35 and 36 lying southeast of the Tieton and Naches rivers.

(2) Area 1A restrictions. On and after April 15th through October 31st, the use and application of low volatile formulations of use restricted herbicides is prohibited. On and after April 15th through October 31st, aircraft applications of use restricted herbicides are allowed (~~(using the warning area restrictions (see WAC 16-230-675))~~) on dry land wheat up to within one-quarter mile of susceptible crops.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-225 (~~(What are the)~~) **Boundaries and restrictions for Yakima County Area 2** (~~(in Yakima County?)~~). (1) Area 2 descriptions. All remaining lands in Yakima County.

(2) Area 2 restrictions. (~~((a))~~) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 5th through October 31st.

~~((b) On and after April 5 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((c) On and after April 5 through October 31, aircraft applications of use restricted herbicides shall be made using the warning area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-235 (~~(What are the)~~) **Restrictions due to wind conditions**(?) **in Yakima County**. The use or application of use restricted herbicides are prohibited in Areas 1, 1A and 2 when the mean sustained wind velocity is over twelve miles per hour throughout the year: Provided, That such applications are prohibited in Areas 1 and 1A on and after April 1st through October 31st when the mean sustained wind velocity is over ten miles per hour(~~(-Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data).~~)).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-300 (~~(What are the)~~) **Restrictions for herbicide use in Adams County**(?). (1) The area under order includes all lands lying within the boundaries of Adams County. WAC 16-231-305 through 16-231-340 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order must comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through (~~(16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-305 (~~(What are)~~) **Use restricted herbicides in Adams County**(?). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-315 (~~(What are the)~~) **Boundaries and restrictions for Adams County Area 1**(?). (1) Area 1 description. (Lands generally lying within the Columbia Basin irrigation project east of Warden and in the Othello area.) An area starting at the intersection of the East Low Canal and Grant-Adams County line in Section 18, T18N, R31E; thence southerly along the East Low Canal to the intersection of the East Low Canal and the Grant-Adams County line near the southwestern corner of Section 17, T17N, R31E; thence north six miles more or less to the point of beginning; and also all lands within a line starting at the intersection of the East Low Canal and the Grant-Adams County line near the corner of Section 6, T16N, R30E; thence southeasterly along the East Low Canal to the Adams-Franklin County line and the southwest corner of Section 31, T15N, R28E; thence north along the Grant-Adams County line beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1st through April 30th of the following year.

(b) (~~(On and after April 15 through October 31,))~~ Ground applications of use restricted herbicides ((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides)) on asparagus shall ((be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) ~~On and after November 1 through April 14 of the following year, aircraft applications of use restricted herbicides~~

shall be made using the caution area restrictions (see WAC 16-230-675).

~~(d) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the danger area restrictions (see WAC 16-230-675)) conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-320 ~~((What are the))~~ **Boundaries and restrictions for Adams County Area 2((2))**. (1) Area 2 description. (Buffer area east of Area 1.) Beginning at the Grant-Adams County line Section 6, T18N, R31E; thence east six miles more or less along the Burlington Northern Railroad tracks to Kulm Road; thence south three miles more or less along Kulm Road to Franz Road; thence east one mile along Franz Road to Roxboro Road; thence south fourteen miles along the Roxboro Road to Cunningham Road; thence southeasterly one mile more or less along Cunningham Road to Lind-Hatton Road; thence southerly three miles more or less along Lind-Hatton Road to Roxboro Road; thence southerly three miles more or less to the Adams-Franklin County line; thence west seven miles more or less along Adams-Franklin County line to the East Low Canal; thence northwesterly along the East Low Canal to the Grant-Adams County line; thence east five miles more or less and three miles north more or less along the Grant-Adams County line to the East Low Canal; thence northeasterly along East Low Canal to the Grant-Adams County line; thence north two miles more or less along Grant-Adams County line to the point of beginning.

(2) Area 2 restrictions. ~~((a))~~ On and after May 1st through October 31st, the use or application of low volatile formulations of use restricted herbicides is prohibited.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the warning area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-325 ~~((What are the))~~ **Boundaries and restrictions for Adams County Area 3((2))**. (1) Area 3 description. An area starting at the northwest corner of Section 6, T20N, R31E, on the Lincoln-Adams County line; thence east twenty-three miles more or less on the Davis Road to Paha-Packard Road; thence south seventeen miles more or less along the Paha-Packard Road to the intersection of Paha-Packard Road and SR 395; thence southwesterly twenty-six miles more or less along SR 395 to the Adams-Franklin County line; thence west one mile more or less along Muse Road to the Roxboro Road; thence northerly and westerly thirty-one miles more or less along the east and north boundary of Area 2 to the Grant-Adams County line;

thence north twelve miles more or less along the Grant-Adams County line to the point of beginning.

(2) Area 3 restrictions. ~~((a))~~ On and after May 16th through October 31st, the use and application of low volatile formulations of use restricted herbicides is prohibited.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-330 ~~((What are the boundaries and restrictions for))~~ **Boundaries for Adams County Area 4((2))**. ~~((4))~~ Area 4 description. Outlying area east of Area 3.

~~((2) Area 4 restrictions. On and after May 16 through October 31, aircraft applications of use restricted herbicides shall be made using caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-340 ~~((What are the))~~ **Restrictions on applications due to wind conditions((2)) in Adams County**. (1) Area 1 and 2.

(a) The use or application of use restricted herbicides shall be prohibited on and after April 16th through October 31st when the mean sustained wind velocity is over ten miles per hour.

(b) The use or application of use restricted herbicides is prohibited on and after November 1st through April 15th of the following year when the mean sustained wind velocity is over twelve miles per hour: Provided, That application of allowable use restricted herbicides is exempt from these wind restrictions when applying fifty gallons or more per acre in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

(2) Area 3 and 4. The use or application of use restricted herbicides is prohibited when the mean sustained wind velocity is over twelve miles per hour: Provided, That ground applications of use restricted herbicides are ~~((allowed when using No. 2RD or 2RA Raindrop nozzles when the mean sustained wind velocity is fifteen miles per hour or less: Provided further, That application of allowable use restricted herbicides is))~~ exempt from these wind restrictions when applying fifty gallons or more per acre ~~((And provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data))~~ in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the

nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-400 Use restricted herbicides—Columbia County—Area under order. (1) The area under order includes all lands lying within the boundaries of Columbia County. WAC 16-231-405 through 16-231-425 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-405 ~~((What are))~~ Use restricted herbicides in Columbia County~~((?))~~. All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-413 ~~((What are the))~~ Boundaries and restrictions for Columbia County Area 1 ~~((in Columbia County?))~~. (1) Area 1 description. That area within a distance of one-half mile of the city limits of Dayton.

(2) Area 1 restrictions. Aircraft applications of use restricted herbicides are prohibited on and after April 5th through October 31st; Provided, That upon written request to the Washington state department of agriculture, aircraft applications by permit shall be considered for purposes of critical weed control.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-415 ~~((What are the))~~ Boundaries and restrictions for Columbia County Area 2 ~~((in Columbia County?))~~. (1) Area 2 description. (Huntsville, Dayton, Bailyburg, and vicinity.) Sections 1 through 12, T9N, R38E; Sections 24, 25, 26 and 30 through 36, T10N, R38E; Sections 19, 20 and 28 through 33, T10N, R39E; Sections 2 through 11, 15 through 17, 21 and 22 and that portion of Section 20

lying east of the Payne Hollow Road in T9N, R39E in Columbia County.

(2) Area 2 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after May 1st through October 31st.

~~((b)) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches. On and after November 1 through April 30, ground application shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((c)) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the warning area restrictions (see WAC 16-230-675). On and after November 1 through April 30, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675:))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-420 ~~((What are the boundaries and restrictions))~~ Boundaries for Columbia County Area 4 ~~((for Columbia County?))~~. ~~((+))~~ Area 4 description. This area includes all remaining lands in Columbia County not included in WAC 16-231-413 and 16-231-415.

~~((2)) Area 4 restrictions.~~

~~((a)) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((b)) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675:))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-425 ~~((What are the use))~~ Restrictions due to wind conditions for Columbia County~~((?))~~. The use or application of use restricted herbicides is prohibited in Area 2 and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: Provided, That such application is prohibited in Area 2 on and after May 1st through October 31st when the mean sustained wind velocity is over seven miles per hour ~~((: Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval shall be based on research data))~~.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-500 ~~((What are))~~ Restrictions for herbicide use in Whitman County~~((?))~~. (1) The area under order includes all lands lying within the boundaries of Whitman County. WAC 16-231-505 through 16-231-530 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules

relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through 16-230-675.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-505 ~~((What are))~~ **Use restricted herbicides in Whitman County((?))**. All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-510 ~~((What are the))~~ **Boundaries and restrictions for Whitman County((—)) Area 1((?))**. (1) Area 1 description. (Cities and/or towns and Pullman vicinity.) The areas within a distance of one mile of the city limits of any incorporated city or town and the same distance from the center of any unincorporated town comprised of ten or more inhabited, closely grouped residences within Whitman County: Provided, That the area under this section shall also include all of the lands in Section 28 through 33, T15N, R45E; Sections 25, 26, 27, 34, 35, and 36, T15N, R44E; Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, and 21, T14N, R45E; Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, and 24, T14N, R44E.

(2) Area 1 restrictions. ~~((a))~~ The use or application of low volatile ester formulations of use restricted herbicides is prohibited throughout the year: Provided, That the low volatile formulation of MCPA is allowed on and after November 1st through April 15th of each year.

~~((b) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~((c) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the warning area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-515 ~~((What are the))~~ **Boundaries and restrictions for Whitman County Area 3((?))**, ~~((+))~~ Area 3 description. (Eastern portion of Whitman County.) An area east of a north-south line starting at the Whitman-Spokane County line and State Highway 195; thence southerly along Highway 195 to Colfax; thence southerly along County Roads No. 478 and No. 141 to the junction of County Roads

No. 141 and No. 451; thence southerly on County Road No. 451 to County Road No. 143; thence southerly along County Road No. 143 to Almota and the Snake River.

~~((2) Area 3 restrictions.~~

~~((a) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((b) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-520 ~~((What are the boundaries and restrictions))~~ **Boundaries for Whitman County Area 4((?))**, ~~((+))~~ Area 4 description. (Outlying area west of Area 3.) All remaining lands in Whitman County west of Area 3.

~~((2) Area 4 restrictions.~~

~~((a) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((b) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-530 ~~((What are))~~ **Restrictions due to wind conditions((?) in Whitman County**. (1) Areas 1 and 3. ~~((a) On and after April 15 through October 31, the use or application of use restricted herbicides is prohibited when the mean sustained wind velocity is over seven miles per hour.~~

~~((b) On and after November 1 through April 14 the following year.))~~ The use or application of use restricted herbicides is prohibited when the mean sustained wind velocity is over twelve miles per hour.

(2) Area 4. The use or application of use restricted herbicides is prohibited when the mean sustained wind velocity is over twelve miles per hour: Provided, That ground applications of use restricted herbicides in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards are allowed ~~((when using No. 2RD or No. 2RA raindrop nozzles))~~ when the mean sustained wind velocity is fifteen miles per hour or less and allowed by the label.

~~((3) All areas. Applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data.))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-600 ~~((What are))~~ **Restrictions for herbicide use in Klickitat County((?))**. (1) The area under

order includes all lands lying within the boundaries of Klickitat County. WAC 16-231-605 through 16-231-620 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-605 ~~((What are the))~~ Use restricted herbicides in Klickitat County((?)). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-613 ~~((What are the))~~ Boundaries and restrictions for Klickitat County Area 2((?)). (1) Area 2 description. (Southeast corner of Klickitat County.) Sections 13, 14, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36, Township 5 north, Range 23 east; Sections 21, 22, south half of Section 23, Sections 26, 27, 28, 33, 34, west half of Section 35, Township 5 north, Range 22 east; Sections 1, 2, 11, 12, Township 4 north, Range 23 east.

(2) Area 2 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st: Provided, That upon written request to the Washington state department of agriculture, a permit may be issued for purposes of critical weed control.

~~((b)) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~((c)) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using danger area restrictions (see WAC 16-230-675): Provided, That aircraft applications shall be prohibited within one mile of commercial vineyards and within one-half mile of other susceptible crops: Provided further, That upon written request to the Washington state department of agriculture, aircraft applications from one-half mile to one mile of commercial vineyards and within one-half mile of other susceptible crops by permit shall be considered for purposes of critical weed control. On and after November 1 through April 14 of the following year, aircraft applications shall be made using caution area restrictions (see WAC 16-230-675:))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-615 ~~((What are the))~~ Boundaries and restrictions for Klickitat County Area 3 ~~((in Klickitat County?))~~. (1) Area 3 description. All remaining lands within the boundaries of Klickitat County not included in WAC 16-231-613.

(2) Area 3 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after May 1st through September 30th of each year: Provided, That on and after May 1st through May 14th of each year, low volatile formulations shall be considered through written request to the department of agriculture.

~~((b)) On and after May 1 through September 30, ground applications of use restricted herbicides shall be made with nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((c)) On and after May 1 through September 30, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675:))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-620 ~~((What are))~~ Restrictions due to wind conditions((?)) in Klickitat County. The use or application of use restricted herbicides is prohibited in the area under order when the mean sustained wind velocity is over twelve miles per hour throughout the year~~((: Provided, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data))~~.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-700 ~~((What are))~~ Restrictions for herbicide use in Okanogan County((?)). (1) The area under order includes all lands lying within the boundaries of Okanogan County. WAC 16-231-705 through ~~((16-231-725))~~ 16-231-720 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-705 ~~((What are))~~ Use restricted herbicides in Okanogan County((?)). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA,

MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-710 ((What are the)) Boundaries and restrictions for Okanogan County Area 1((?)) (1) Area 1 description. (Okanogan County) An area starting at the intersection of the east boundary line of Section 24, T29N, R25E, and the Columbia River; thence north 19 miles more or less to the southwest corner of Section 7, T32N, R26E; thence east three miles to the southeast corner of Section 9; thence north two miles to the northeast corner of Section 4; thence east three miles more or less to the southeast corner of Section 36, T33N, R26E; thence north four miles to the southwest corner of Section 7, T33N, R27E; thence east two miles to the southeast corner of Section 8; thence north six miles to the northeast corner of Section 17, T34N, R27E; thence west eight miles to the northwest corner of Section 18, T34N, R26N; thence south four miles to the southwest corner of Section 31; thence west three miles to the northwest corner of Section 3, T33N, R25E; thence south four miles to the southwest corner of Section 22, T33N, R25E; thence west three miles to the northwest corner of Section 30; thence south two miles to the southwest corner of Section 31; thence west two miles to the northwest corner of Section 2, T32N, R24E; thence south ten miles to the southwest corner of Section 23, T31N, R24E; thence west four miles to the northwest corner of Section 30; thence south seven miles more or less to the north bank of the Columbia River; thence easterly along the north bank of the Columbia River to the point of beginning.

(2) Area 1 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th ~~((though))~~ through October 31st of each year.

~~((b) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made with nozzles having a minimum orifice diameter of 0.031 inches.~~

~~((c) On and after April 15 through October 31, aerial applications of use restricted herbicides shall be made using caution area restrictions (see WAC 16-230-675).))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-720 ((What are the)) Restrictions due to wind conditions((?)) in Okanogan County. The use or application of use restricted herbicides is prohibited in the area under order when the mean sustained wind velocity is over twelve miles per hour throughout the year~~((= Provided, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data))~~.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-800 ((What are)) Restrictions for herbicide use in Douglas and Chelan counties((?)) (1) The area under order includes all lands lying within the boundaries of Douglas and Chelan counties. WAC 16-231-805 through 16-231-840 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-805 ((What are)) Use restricted herbicides in Douglas and Chelan counties((?)) All formulations of phenoxy hormone-type herbicides, (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-810 ((What are the)) Boundaries and restrictions for Area 1((?)) in Douglas and Chelan counties. (1) Area 1 description - Chelan County. An area starting at the southeast corner of Section 32, T21N, R22E; thence west one mile to the southwest corner of Section 32; thence north five miles more or less to the right of way of the Malaga Road; thence along and including the Malaga Road right of way to the city limits of Wenatchee; thence east to the Columbia River, and along the west bank of the Columbia River to the point of beginning.

(2) Area 1 description - Douglas County. An area on the east bank of the Columbia River, beginning at the southwest corner of Section 33, T21N, R22E; thence east one mile to the southeast corner of Section 33; thence north one mile to the southwest corner of Section 27; thence east one mile to the southeast corner of Section 27; thence north one mile to the southwest corner of Section 23, thence east one mile to the southeast corner of Section 23; thence north one mile to the northeast corner of Section 23; thence west one mile to the northwest corner of Section 23; thence north one mile to the northeast corner of Section 15; thence west one mile to the northwest corner of Section 15; thence north two miles to the northeast corner of Section 4; thence west one mile more or less to and including the right of way of State Road 28; thence northwest along the highway right of way to the east

section line of Section 25, T22N, R21E; thence north five miles more or less to the northeast corner of Section 1, T22N, R21E; thence west eight miles more or less to the east bank of the Columbia River; thence southeasterly along the east bank of the Columbia River to the point of beginning.

(3) Area 1 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st.

~~((b) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(c) On and after April 15 through October 31, aerial applications of use restricted herbicides shall be made using the danger area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-815 ~~((What are the))~~ Boundaries and restrictions for Area 2(?) in Douglas and Chelan counties. (1) Area 2 description. (Buffer area ~~((—))~~ - A protective area around Azwell, Manson, and the mouth of the Moses-Coulee.)

(a) Chelan County - Those areas lying within a one mile radius from the center of the towns of Azwell and Manson. Sections 13, 14, 15 and 16, T28N, R21E.

(b) Douglas County - (Moses-Coulee and Bridgeport area.) Section 1, 2, 3, 10, 11, 12, 13, 14, 24, 25, 26, 34, 35, and 36, N21N, R22E, and Sections 1, 2, 3, 4, 9, 10, 11, 12 and those portions of Sections 13, 14, 15 and 16, T20N, R22E.

(2) Area 2 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after May 1st through October 31st.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-820 ~~((What are the))~~ Boundaries and restrictions for Area 3(?) in Douglas and Chelan counties. (1) Area 3 description. (Buffer area between Rock Island and Palisades.) An area starting at the northwest corner of Section 6, T22N, R22E; thence east along the township line twelve miles to the Douglas-Grant county line; thence southwesterly along the county line to the east boundary line of Area 2; thence north and west along the Area 2 boundary line to the Area 1 boundary line; thence northerly along the Area 1 boundary line to the point of beginning.

(2) Area 3 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after May 1st through October 31st.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-825 ~~((What are the))~~ Boundaries and restrictions for Area 4(?) in Douglas and Chelan counties. ~~((+))~~ Area 4 description. All remaining lands in Douglas County not included in WAC 16-231-810, 16-231-815 and 16-231-820.

~~((2) Area 4 restrictions. On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-840 ~~((What are))~~ Restrictions due to wind conditions(?) in Douglas and Chelan counties. The use or application of use restricted herbicides is prohibited in Areas 2, 3 and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year and in Area 1 when the mean sustained wind velocity is over twelve miles per hour on and after November 1st through April 15th of the following year, and over seven miles per hour from April 16th through October 31st ~~((: Provided, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data)).~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-900 ~~((What are))~~ Restrictions for herbicide use in Grant County(?), (1) The area under order includes all lands lying within the boundaries of Grant County. WAC 16-231-905 through 16-231-935 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-905 ~~((What are))~~ Use restricted herbicides in Grant County(?), All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA,

MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichloroprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-910 (~~What are the~~) Boundaries and restrictions for Grant County Area 1((?), (1) Area 1 description. (Lands generally within the Columbia Basin irrigation project.) An area starting at the southwest corner of Section 21, T14N, R27E; thence east along the county line four miles more or less to the southeast corner of Section 24, T14N, R27E; thence north along the county line sixteen miles to the southwest corner of Section 31, T17N, R28E; thence east along the county line thirteen miles more or less to the East Low Canal; thence northerly and easterly along the East Low Canal to the Adams County line; thence north along the Grant-Adams County lines six miles more or less to the East Low Canal; thence northwesterly along the East Low Canal to the southeast boundary of Block 70; thence easterly, northerly, and westerly, encompassing Block 70, Soap Lake and Block 701, to the West Main Canal; thence southwesterly along the West Main Canal to the north boundary line of Unit 1, Block 73; thence westerly along the northern boundary line of Block 73 to the northwest corner of Unit 278; then due west to the Willow Springs Draw; thence down Willow Springs Draw to the Columbia River; thence southerly along the Columbia River to the south boundary line of Section 11, T15N, R23E; thence east along the crest of the Saddle Mountains approximately eighteen miles to the northwest boundary of the atomic energy reservation; thence southwesterly along the atomic energy reservation boundary to Highway 24; thence south and west along Highway 24 to Vernita Bridge; thence easterly along the Columbia River to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1st through April 30th of the following year.

~~(b) ((On and after April 15 through October 31,)) Ground applications of use restricted herbicides ((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides)) on asparagus shall ((be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.~~

~~(c) On and after November 1 through April 14 of the following year, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).~~

~~(d) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the danger area restrictions (see WAC 16-230-675).~~

~~(e) On and after April 15 through October 31, aircraft applications of use restricted herbicides are prohibited within one mile of any commercial vineyard: Provided, That on and after April 15 through October 31, written requests to apply MCPA to peas and corn located one half to one mile from commercial vineyards will be considered: Provided further, That on and after April 15 through April 30 written request to apply 2,4-DB on alfalfa and red clover seed crops located one half to one mile from commercial vineyards will be considered)) conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-912 (~~What are the~~) Boundaries and restrictions for Grant County Area 1A((?), (1) Area 1A description. Lands generally in the Mattawa area in the southwestern part of the county starting at the west end of the crest of Saddle Mountain at the Columbia River, south boundary line of Section 11, T15N, R23E; thence east along the crest of the Saddle Mountains approximately eighteen miles to the northwest boundary of the atomic energy reservation; thence southwesterly along the atomic energy reservation boundary to Highway 24; thence following Highway 24 to the Vernita Bridge at the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(2) Area 1A restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 5th through October 31st: Provided, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1st through April 30th of the following year.

~~(b) ((On and after April 5 through October 31,)) Ground applications of use restricted herbicides ((shall be made using nozzles having a minimum orifice diameter of 0.052 inches: Provided, That applications of use restricted herbicides)) on asparagus shall ((be made using nozzles having a minimum nozzle orifice diameter of 0.072 inches.~~

~~(c) On and after November 1 through April 4 of the following year, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675.)~~

~~(d)) conform to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the coarse (or larger) range as defined by the ASABE standards.~~

(c) On and after April 5th through October 31st, aircraft applications of use restricted herbicides are prohibited except by written permit issued by the Washington state department of agriculture.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-915 ~~((What are the))~~ **Boundaries and restrictions for Grant County Area 2((?))**, (1) Area 2 description. (Buffer area.) An area lying north and east of Area 1 starting at the junction of the Grant-Douglas County line and the Columbia River near Trinidad; thence north and easterly along the county line to the southwest corner of Section 35, T23N, R26E; thence east along section lines twelve miles to Grant County Road J/NW; thence south one mile along Grant County Road J/NW to the Burlington Northern Railroad tracks; thence east fourteen miles more or less to the Grant-Lincoln County line; thence south twenty-five miles more or less along the Grant-Lincoln and Grant-Adams County line to the northern boundary line of Area 1 (East Low Canal); thence northerly and westerly along the northern boundary line of Area 1 to the point of beginning; and also an area near Warden starting at the East Low Canal near the southeast corner of Section 13, T17N, R30E; thence westerly and southerly along the East Low Canal to the Grant-Adams County line near the corner of Section 32, T17N, R30E; thence east five miles and north three miles along the Grant-Adams County line to the point of beginning.

(2) Area 2 restrictions. ~~((a))~~ On and after May 1st through October 31st, the use or application of low volatile formulations of use restricted herbicides is prohibited.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the warning area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-920 ~~((What are the))~~ **Boundaries and restrictions for Grant County Area 3((?))**, (1) Area 3 description. (Outlying area.) An area starting at the intersection of the Burlington Northern Railroad tracks near the northeast corner of Section 13, T22N, R30E; thence north nineteen miles more or less along the Grant County line to Highway 2; thence westerly along Highway 2 to the Douglas County line; thence southwesterly along the Douglas County line to the southwest corner of Section 35, T23N, R26E; thence east along section lines twelve miles to Grant County Road J/NW; thence south one mile along Grant County Road J/NW to the Burlington Northern Railroad tracks near Stratford; thence easterly along the Burlington Northern Railroad tracks fourteen miles more or less to the point of beginning.

(2) Area 3 restrictions. ~~((a))~~ On and after May 16th through October 31st, the use and application of low volatile formulations of use restricted herbicides is prohibited.

~~((b) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-925 ~~((What are the boundaries and restrictions))~~ **Boundaries for Grant County Area 4((?))**, ~~((+))~~ Area 4 description. All remaining lands in Grant County lying north of Highway 2.

~~((2) Area 4 restrictions. On and after May 16 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-231-935 ~~((What are))~~ **Restrictions due to wind conditions((?)) in Grant County**. The use or application of use restricted herbicides is prohibited in Areas 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year and in Area 1 and 1A when the mean sustained wind velocity is over twelve miles per hour on and after November 1st through March 31st of the following year, and over ten miles per hour from April 1st through October 31st: Provided, That applications of allowable use restricted herbicides are exempt from these wind restrictions when applying fifty gallons or more per acre ~~(=~~ Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data) in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-231-110 When are oil-type carriers prohibited?

WAC 16-231-140 What are the restrictions on mixing or loading aircraft?

WAC 16-231-174 Application of pesticides in Franklin County—Areas 2A, 4A, and 6—Use restricted herbicides ground apparatus nozzle requirements.

WAC 16-231-177 Application of pesticides in Franklin County—Areas 2A, 4A, and 6—Use restricted herbicides, aircraft boom length, pressure, and nozzle requirements.

WAC 16-231-180 What are the restrictions on applications of pesticides in Franklin County—Areas 2A, 4A, and 6—Use restricted herbicides due to temperature conditions?

- WAC 16-231-210 When are oil-type carriers prohibited in Yakima County?
- WAC 16-231-230 What are the restrictions on mixing or loading for aircraft?
- WAC 16-231-310 When are oil-type carriers prohibited in Adams County?
- WAC 16-231-335 What are the restrictions on applications near vineyards?
- WAC 16-231-410 When are oil-type carriers prohibited in Columbia County?
- WAC 16-231-525 What are the notification requirements of farm operators for use restricted herbicides in Whitman County?
- WAC 16-231-610 When are oil-type carriers prohibited in Klickitat County?
- WAC 16-231-715 What are the boundaries and restrictions for Okanogan County Area 4?
- WAC 16-231-725 What are the restrictions on mixing or loading aircraft?
- WAC 16-231-830 What are the restrictions on mixing and loading aircraft?
- WAC 16-231-835 What are restrictions for aerial applications near vineyards?
- WAC 16-231-930 What are the restrictions on mixing and loading aircraft?

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-001 ((~~What are~~) Restrictions for pesticide use in Walla Walla County((?)). (1) The area under order includes all lands lying within the boundaries of Walla Walla County. WAC 16-232-005 through 16-232-077 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to the use of use restricted herbicides in WAC 16-230-600 through ((~~16-230-675~~)) 16-230-670.

NEW SECTION

WAC 16-232-0010 Adoption of national consensus code. Adoption of provisions under the American Society of Agricultural and Biological Engineers (ASABE) standards in this chapter is adoption of the provisions in the July 2018 version.

NEW SECTION

WAC 16-232-002 Order of precedence. If there is a conflict between the spray droplet spectrum size required in these rules and that which is required by the pesticide label, the applicator must use the largest droplet spectrum size required.

NEW SECTION

WAC 16-232-003 Definitions. "Ready-to-use" means a pesticide that is applied directly from its original container consistent with label directions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-005 ((~~What are~~) Use restricted herbicides in Walla Walla County((?)). All formulations of phenoxy hormone-type herbicides, (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 09-21-006, filed 10/8/09, effective 11/8/09)

WAC 16-232-007 ((~~What are~~) Use restricted pesticides in certain areas of Walla Walla County((?)). The following pesticides are declared to be use restricted pesticides in areas 2B, 4, and 6:

(1) Use restricted herbicides*:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothall);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy hormone-type herbicides (such as 2,4-D, MCPA);

(e) Dicamba (such as Banvel);

(f) Bromoxynil except that the cutoff dates of April 5th, April 15th and May 15th do not apply.

* This is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) All aerial applications of Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-010 ((~~What are the~~) Boundaries and restrictions on use restricted herbicides((—)) in Walla Walla County((—)) Area 1((?)). (1) Area 1 description. (Columbia River Buffer area.) An area starting at the intersection of the common boundary line between Sections 14 and 15, T6N, R32E and the Washington-Oregon state line; thence north along the section lines ten miles more or less to the southeast corner of Section 22, T8N, R32E; thence east along the section lines two miles to the southeast corner of

Section 24, T8N, R32E; thence north along the section lines five miles more or less to the intersection with the Northern Pacific Railroad; thence northeasterly seven miles more or less along the railroad, including the right of way, to the intersection with State Route 124 and C.M. Rice Road at the northeast corner of Section 2, T9N, R33E; thence northerly along C.M. Rice Road, including the right of way, to the Snake River; thence southwesterly along the Snake River to a point near the east section line of Section 23 T9N, R31E; thence south approximately twelve miles to the Walla Walla River; thence west along the Walla Walla River until its intersection with the Columbia River and the Walla Walla-Benton County line; thence southwesterly along the Columbia River approximately three and one-half miles to the intersection of the Washington-Oregon state line; thence east along the Washington-Oregon state line to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile ester formulations of use restricted herbicides is prohibited on and after April 5th through October 31st.

~~(b) ((On and after April 5 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of .052 inches or a LP8002 or equivalent nozzle.~~

~~(c)) On and after April 5th through October 31st, aerial applications of use restricted herbicides are prohibited except by written permit issued by the department.~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-015 ~~((What are the))~~ **Boundaries and restrictions on use restricted herbicides((—)) in Walla Walla County((—)) Area 2((?))** (1) Area 2 description. (Walla Walla and vicinity, Dixie, Waitsburg, and Prescott areas.) Those areas lying within a one mile radius from the center of the town of Dixie and within one mile of the city limits of the towns of Waitsburg and Prescott and an area starting at the intersection of the common boundary line between Sections 15 and 16, T6N, R36E and the Washington-Oregon state line; thence north along the section line one mile more or less to the southwest corner of Section 3, T6N, R36E; thence east along the section lines two miles to the southeast corner of Section 2, T6N, R36E; thence north along the section lines three miles to the southwest corner of Section 24, T7N, R36E; thence east along the section line one mile to the southeast corner of Section 24, T7N, R36E; thence north along the section line one mile to the southwest corner of Section 18, T7N, R37E; thence east along the section line one mile to the southeast corner of Section 18, T7N, R37E; thence north along the section line one mile to the northeast corner of Section 18, T7N, R37E; thence west along the section lines nine miles to the northwest corner of Section 14, T7N, R35E; thence south along the section line one mile to the northeast corner of Section 22, T7N, R35E; thence west along the section line one mile to the northwest corner of Section 22, T7N, R35E; thence south along the section lines one mile more or less to State Route 12; thence westerly along State Route 12, including the right of way, three miles more or less to the intersection with Detour Road;

thence southwesterly along Detour Road, including the right of way, one-half mile more or less to the intersection with Forest Road; thence south along Forest Road, including the right of way, one mile more or less to the intersection with Frog Hollow Road at the southwest corner of Section 6, T6N, R35E; thence east along Frog Hollow Road, including the right of way, one mile more or less to the intersection with Locher Road; thence south along Locher Road, including the right of way, one mile more or less to the Washington-Oregon state line; thence east along the state line eight miles more or less to the point of beginning.

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st.

~~(b) ((On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after November 1 through April 14 of the following year, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).))~~ Aircraft applications shall be prohibited on and after April 15th through October 31st: Provided, That:

(i) The aerial application of MCPA shall be allowed ~~((using warning area restrictions (see WAC 16-230-675))).~~

(ii) Aerial applications of nonvolatile formulations of use restricted herbicides from one-half to one mile of the center of the town of Dixie and from the city limits of Waitsburg, Prescott and Walla Walla shall be considered through written request to the Washington state department of agriculture.

(iii) Those portions of the city of Walla Walla which fall within Sections 13, 14, 22, 23 and 24, T7N, R35E of Walla Walla County are not considered as part of the city limits of Walla Walla for purposes of issuing permits by the department for aerial application of nonvolatile formulations of restricted use pesticides.

~~((d) Restrictions on the use of airstrips. The loading and/or mixing of use restricted herbicides is prohibited on any airstrip, airfield or any location within Area 2: Provided, That the municipal airport located northeast of Walla Walla shall not be subject to this provision.))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-020 ~~((What are the))~~ **Boundaries and restrictions on use restricted herbicides((—)) in Walla Walla County((—)) Area 2A((?))** (1) Area 2A description. (Buffer area surrounding Dixie and Walla Walla.) An area, excluding a one mile radius from the center of the town of Dixie, starting at the intersection of the common boundary line between Sections 14 and 15, T6N, R32E and the Washington-Oregon state line; thence north along the section lines six miles more or less to the northwest corner of Section 14, T7N, R32E; thence east along the section lines ten miles to the southwest corner of Section 9, T7N, R34E; thence north along the section line one mile to the northwest corner of Section 9, T7N, R34E; thence east along the section lines two miles to the southwest corner of Section 2, T7N, R34E; thence north along the section line one mile to the northwest

corner of Section 2, T7N, R34E; thence east along the section lines two miles to the southwest corner of Section 31, T8N, R35E; thence north along the section lines six miles to the northwest corner of Section 6, T8N, R35E; thence east along the section lines and the Columbia-Walla Walla County line twenty-four miles to the northeast corner of Section 1, T8N, R38E; thence south along the Columbia-Walla Walla County line fourteen miles more or less to the Washington-Oregon state line; thence west along the state line fifteen miles to the common boundary line between Sections 15 and 16, T6N, R36E; thence north along the section line one mile more or less to the northwest corner of Section 10, T6N, R38E; thence east along the section lines two miles to the southwest corner of Section 1, T6N, R36E; thence north along the section lines three miles to the northwest corner of Section 25, T7N, R36E; thence east along the section line one mile to the southwest corner of Section 19, T7N, R37E; thence north along the section line one mile to the northwest corner of Section 19, T7N, R37E; thence east along the section line one mile to the northeast corner of Section 19, T7N, R37E; thence north along the section line one mile to the southwest corner of Section 8, T7N, R37E; thence west along the section lines nine miles to the northeast corner of Section 15, T7N, R35E; thence south along the section line one mile to the southeast corner of Section 15, T7N, R35E; thence west along the section line one mile to the southwest corner of Section 15, T7N, R35E; thence south along the section lines one mile more or less to State Route 12; thence westerly along State Route 12, excluding the right of way, three miles more or less to the intersection with Detour Road; thence southwesterly along Detour Road, excluding the right of way, one-half mile more or less to the intersection with Forest Road; thence south along Forest Road, excluding the right of way, one mile more or less to the intersection with Frog Hollow Road at the southwest corner of Section 6, T6N, R35E; thence east along Frog Hollow Road, excluding the right of way, one mile more or less to the intersection with Locher Road; thence south along Locher Road, excluding the right of way, one mile more or less to the Washington-Oregon state line; thence west along the state line fifteen miles more or less to the point of beginning.

(2) Area 2A restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st; Provided, That 2,4-DB is allowed on alfalfa seed crops at any time.

~~((b) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-025 ((What are the)) Boundaries and restrictions on use restricted herbicides((—)) in Walla Walla County((—)) Area 3((?)). (1) Area 3 description. All

of the remaining lands within the border of Walla Walla County.

(2) Area 3 restrictions. ~~((a))~~ The use and application of low volatile formulations of use restricted herbicides is prohibited on and after May 15th through October 31st.

~~((b) On and after May 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after May 15 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-027 ((What are the)) Boundaries and restrictions on use restricted herbicides((—)) in Walla Walla County((—)) Area 3A((?)). (1) Area 3A description. An area beginning at the southwest corner of Section 11, T7N, R32E; thence east along the section lines six miles more or less to the intersection with the Touchet North Road at the southeast corner of Section 10, T7N, R33E; thence northerly along the Touchet North Road, including the right of way, to the intersection with State Route 124; thence west one-half mile more or less along State Route 124, excluding the right of way, to the intersection with the Northern Pacific Railroad at the northwest corner of Section 1, T9N, R33E; thence southwesterly seven miles more or less along the railroad, excluding the right of way, to the intersection with the common boundary line between Section 25, T9N, R32E and Section 30, T9N, R33E; thence south along the section lines five miles more or less to the northeast corner of Section 25, T8N, R32E; thence west along the section lines two miles to the northwest corner of Section 26, T8N, R32E; thence south along the section lines four miles to the point of beginning.

(2) Area 3A restrictions. ~~((a))~~ The use and application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st.

~~((b) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

~~(c) On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-035 ((What are the)) Restrictions on use restricted herbicides in Walla Walla County due to wind conditions((?)). The use or application of use restricted herbicides is prohibited in Areas 1, 2, 2A, 3, and 3A when the mean sustained wind velocity is over twelve miles per hour throughout the year: Provided, That such applications are prohibited in Areas 1 and 2 on and after April 1st through October 31st when the mean sustained wind velocity is over seven miles per hour (~~:= Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when allowed by the label and when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agri-~~

culture. The department will consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval will be based on research data).

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-041 (~~(What are the)~~) **Boundaries and restrictions on use restricted herbicides(—) in Walla Walla County(—) Area 2B(?)**. (1) Area 2B description. An area including all lands lying within a boundary line beginning at the intersection of the Union Pacific Railroad and U.S. Highway 12 in Section 10, T7N, R31E; thence southerly along Highway 12 approximately three miles until its intersection with the Walla Walla River; thence west along the Walla Walla River until its intersection with the Columbia River and the Walla Walla-Benton County line; thence northwesterly along the Columbia River approximately ten miles until its intersection with the Snake River; thence northeasterly along the Snake River until its intersection with Highway 12 in Section 35, T9N, R30E; thence southeasterly along Highway 12 to the point of beginning.

(2) Area 2B restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-232-007 is prohibited.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~(at twenty pounds of pressure or less at the nozzle)~~) in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-044 (~~(What are the)~~) **Boundaries and restrictions on use restricted herbicides(—) in Walla Walla County(—) Area 4(?)**. (1) Area 4 description. An area including all lands lying within a boundary line beginning at the intersection of the Snake River and the Bonneville Power Administration power line near the east section line of Section 25, T9N, R30E; thence southeasterly along the Bonneville Power Administration power line until its intersection

with SR 124 in Section 32, T9N, R31E; thence approximately two and one-half miles along SR 124 to the east section line of Section 34, T9N, R31E; thence south approximately three miles along section lines to the southeast corner of Section 15, T8N, R31E; thence west approximately one-fourth mile along the section line to the Union Pacific Railroad; thence southerly approximately four and one-half miles along the railroad until its intersection with U.S. Highway 12 near the Boise Cascade paper mill; thence northwesterly along Highway 12 to the point of its intersection with the Snake River in Section 35, T9N, R30E; thence northeasterly along the Snake River to the point of beginning.

(2) Area 4 restrictions.

(a) Application by air of use restricted pesticides as defined in WAC 16-232-007 may be made by written permit only.

(b) The use or application of low volatile ester formulations of use restricted herbicides is prohibited: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5th through October 31st of each year, all applications of use restricted herbicides shall be prohibited daily from three hours prior to sunset until two hours after sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset and sunrise restrictions when using an application rate of forty gallons of water carrier or greater per treated acre (~~(at twenty pounds of pressure or less at the nozzle)~~) in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset and sunrise restrictions: Provided further, That applications of the use restricted herbicides on small experimental plots for research purposes are exempt from the sunset and sunrise restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-047 (~~(What are the)~~) **Boundaries and restrictions on use restricted herbicides(—) in Walla Walla County(—) Area 6(?)**. (1) Area 6 description. An area including all lands lying within a boundary line beginning at the Snake River and the east section line of Section 23, T9N, R31E; thence south approximately twelve miles along section lines to the Walla Walla River; thence west along the Walla Walla River until its intersection with the Columbia River and the Walla Walla-Benton County line; thence northwesterly along the Columbia River approximately two miles to the southern section line of Section 8, T7N, R31E; thence east approximately two miles along the section line until its intersection with U.S. Highway 12 in Section 10, T7N, R31E; thence northwesterly along U.S. Highway 12, approximately three-quarters of a mile until its intersection with the Union Pacific Railroad; thence northerly approximately four miles along the railroad until its intersection with the southern section line in Section 15, T8N, R31E;

thence east approximately one-quarter mile along the section line to the southeast corner of Section 15, T8N, R31E; thence north approximately three miles until its intersection with SR 124; thence west along SR 124 approximately two and one-half miles until its intersection with the Bonneville Power Administration power line in Section 32, T9N, R31E; thence northwesterly along the power line until its intersection with the Snake River in Section 25, T9N, R30E; thence northeasterly along the Snake River to the point of beginning.

(2) Area 6 restrictions.

(a) The use or application of low volatile ester formulations of use restricted herbicides shall be prohibited on and after April 5th through October 31st of each year: Provided, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(b) On and after April 5th through October 31st of each year, all applications of use restricted herbicides are prohibited daily from three hours prior to sunset to sunrise the following morning: Provided, That applications of use restricted herbicides are exempt from the sunset restrictions when using an application rate of forty gallons of water carrier or greater per treated acre ((at twenty pounds of pressure or less at the nozzle)) in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards: Provided further, That applications of granular and pellet formulations of the use restricted herbicides are exempt from the sunset restrictions: Provided further, That applications of use restricted herbicides on small experimental plots for research purposes are exempt from the sunset restrictions.

(c) On and after April 5th through October 31st of each year, aerial applications of use restricted herbicides are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-053 ((Can)) Application of Paraquat or Diquat ((be applied)) by air in Walla Walla County((?)). Aerial application of Paraquat and Diquat is prohibited in areas 2B, 4, and 6.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-056 ((Can)) Application of sulfonyleurea herbicides ((be applied)) in Walla Walla County((?)). Application of sulfonyleurea herbicides (such as Glean, Telar, Finesse, Escort) to fallow land or to land during the time between harvest and emergence above the furrows of the subsequent cereal grain crop is prohibited in areas 2B, 4, and 6.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-059 ((What are the)) Conditions applying to permits in Walla Walla County((?)). The following

conditions will apply to all permits issued in areas 2B, 4, and 6.

(1) Application for a permit may be made to the Washington State Department of Agriculture, Compliance Branch, 21 N. 1st Avenue Suite 236 Yakima, Washington 98902. Applications may also be taken in person or by facsimile. Permits will not be granted by telephone.

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

(3) No permit will be issued to apply any pesticide unless that permit is consistent with existing department laws and rules.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-062 ((Can)) Application of use restricted pesticides ((be applied)) in an emergency((?)) in Walla Walla County. In the event of an emergency, as declared by the director, the department may issue permits for the use of use restricted pesticides in variation of any restrictions contained in areas 2B, 4, and 6. An emergency under this section may be declared if the director determines that the risk and amount of economic harm to any agriculture crop substantially outweighs the risk and amount of damage likely to occur if a variance permit is issued.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-065 ((What are the)) Restrictions on applications in Walla Walla County due to wind((?)). The use or application of all herbicides and class 1 and 2 insecticides are prohibited in areas 2B, 4, and 6 when the mean sustained wind velocity is over ten miles per hour throughout the year: Provided, That ((applications are allowed in higher velocity winds when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department prior to application. Approval shall be based on research data: Provided further, That)) applications of granular and pellet formulations of use restricted pesticides defined in WAC 16-232-007 as well as applications made to structures are exempt from the wind restrictions.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-077 ((What are the)) Restrictions on applications of pesticides in Walla Walla County due to weather conditions((?)). Use restricted herbicides shall not be applied throughout the year in the entire area under order when there is a temperature inversion present or weather conditions are such that damage could result to adjacent and

nearby towns, susceptible crops, and plantings through physical drift or volatilization: Provided, That applications of use restricted herbicides shall be exempt from the inversion requirements when using one hundred gallons or greater of water carrier per treated acre ~~((while using no greater than fifteen pounds of pressure per square inch at the nozzle))~~ and conforming to the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-100 ~~((What are))~~ Restrictions for herbicide use in Lincoln County((?)). (1) The area under order includes all lands lying within the boundaries of Lincoln County. WAC 16-232-105 through ~~((16-232-120))~~ 16-232-115 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-105 ~~((What are))~~ Use restricted herbicides in Lincoln County((?)). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-115 ~~((What are the))~~ Boundaries and restrictions for Lincoln County Area 3((?)). (1) Area 3 description. (Southwestern Lincoln County.) Beginning at the Grant-Lincoln County line and state Highway 2; thence northeasterly two and one-half miles more or less along state Highway 2 to the Almira South Road; thence south seven miles more or less along the Almira South Road to the Monson Road; thence east six miles more or less along the Monson Road to state Highway 21; thence south twenty-seven miles more or less along state Highway 21 to the Lincoln-Adams County line; thence west thirteen and one-half miles more or less along the common boundary line between Lincoln and Adams counties to the Grant County line; thence

north twenty-nine and one-half miles more or less along the common boundary line between Grant County and Lincoln County to the point of beginning.

(2) Area 3 restrictions. ~~((a))~~ The use or application of low volatile formulations of use restricted herbicides shall be prohibited on and after May 16th through October 31st of each year.

~~((b))~~ On and after May 16 through October 31 of each year, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.

~~((c))~~ On and after May 16 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).)

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-200 ~~((What are the))~~ Restrictions for use restricted herbicides((--)) in Garfield County((?)). (1) The area under order includes all lands lying within the boundaries of Garfield County. WAC 16-232-205 through 16-232-225 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through ~~((16-230-675))~~ 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-205 ~~((What are))~~ Use restricted herbicides in Garfield County((?)). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-210 ~~((What are the))~~ Boundaries and restrictions for Garfield County Area 2((?)). (1) Area 2 description. The city of Pomeroy and those sections and partial sections lying within one mile east, one mile south and one mile west of the city limits of Pomeroy.

(2) Area 2 restrictions. ~~((a))~~ On and after May 1 through October 31, ground applications shall be made using nozzles having a minimum orifice diameter of 0.031 inches.

~~((b))~~ Aerial applications of use restricted herbicides are prohibited.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-215 (~~(What are the)~~) **Boundaries and restrictions for Garfield County Area 3**(~~(?)~~). (1) Area 3 description. An area starting at the intersection of the Snake River and the west boundary of Section 18, T14N, R43E; thence south to and along the Lambie Grade Road to and along the Casey Creek Road to the southeast corner of Section 8, T13N, R43E; thence east along section lines one and one-half miles more or less to the Snake River; thence northwesterly along the Snake River to the point of beginning.

(2) Area 3 restrictions. (~~((a))~~) The use and application of low volatile formulations of use restricted herbicides is prohibited on and after April 16th through August 31st.

(~~((b) On and after April 16 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

(~~(c) On and after April 16 through October 31, aerial applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).~~)

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-220 (~~(What are the boundaries and restrictions)~~) **Boundaries for use restricted herbicides** (~~(—)~~) **in Garfield County**(~~(—)~~) **Area 4**(~~(?)~~). (~~((+))~~) Area 4 description. This area includes all remaining lands in Garfield County not included in WAC 16-232-210 and 16-232-215.

(~~((2) Area 4 restrictions.~~

(~~(a) On and after May 1 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.~~

(~~(b) On and after May 1 through October 31, aircraft applications of use restricted herbicides shall be made using the caution area restrictions (see WAC 16-230-675).~~)

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-225 (~~(What are the)~~) **Restrictions on applications of use restricted herbicides in Garfield County due to wind conditions**(~~(?)~~). The use or application of use restricted herbicides are prohibited in Areas 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: Provided, That such applications are prohibited in Areas 2 and 3 on and after May 1st through October 31st when the mean sustained wind velocity is over seven miles per hour(~~(: Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data).~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-300 (~~(What are the)~~) **Restrictions for use restricted herbicides in Kittitas County**(~~(?)~~). (1) The

area under order includes all lands lying within the boundaries of Kittitas County. WAC 16-232-305 through 16-232-315 applies to the area under order.

(2) The distribution, use, and application of use restricted herbicides in the area under order shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to use restricted herbicides in WAC 16-230-600 through (~~(16-230-675)~~) 16-230-670.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-305 (~~(What are)~~) **Use restricted herbicides in Kittitas County**(~~(?)~~). All formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

(3) Ready-to-use liquid formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba distributed in quantities of five gallons or less.

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-310 (~~(What are the)~~) **Boundaries and restrictions for Kittitas County Area 1**(~~(?)~~). (1) Area 1 description. An area starting at the intersection of Canyon Road and Thrall Road on the south line of Section 30, T17 N, R19E, thence east along Thrall Road three and one-half miles more or less to (~~(Billetter)~~) Denmark Road; thence south approximately one-half mile and follow the curve in Denmark Road to the point where the road continues in an easterly direction; thence continue east approximately one and one-half miles (~~(to Wilson)~~) until this line intersects Badger Pocket Road; thence south on (~~(Wilson)~~) Badger Pocket Road for one-half mile to intersection of Fourth Parallel Road; thence east on Fourth Parallel Road for approximately three-fourths mile to (~~(Anderson)~~) Lawrence Road; thence south on (~~(Anderson)~~) Lawrence Road for one-half mile more or less to E. Kern Road; thence east on E. Kern Road for approximately one-half mile; thence south approximately one and one-half miles to the north boundary of Section 18, T16, R20; thence west for two and one-half miles to intersection of I82; thence northwest for approximately (~~(three)~~) one and one-half miles to the (~~(northeast)~~) southeast corner of Section (~~(5)~~) 4, T16, R19; thence west for two and one-half miles more or less to the Canyon Road; thence north for (~~(one)~~) two and one-half miles more or less on the Canyon Road to the point of beginning.

(2) Area 1 restrictions.

(a) (~~(On and after April 15 through October 31, aircraft applications of use restricted herbicides shall be made using danger area restrictions (see WAC 16-230-675).~~) On and after April 15th through October 31st, aircraft applications

are prohibited within 500 feet of all orchards: Provided, That aircraft applications may be allowed when written permission is received from the owner of the orchard.

(b) The use or application of low volatile formulations of use restricted herbicides is prohibited on and after April 15th through October 31st of each year on all lands within 500 feet of all orchards: Provided, That low volatile ester formulations may be used when written permission is received from the owner of the orchard.

~~((e) On and after April 15 through October 31, ground applications of use restricted herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches on all lands within 500 feet of all orchards.))~~

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-315 ~~((What are the))~~ Restrictions on applications of use restricted herbicides in Kittitas County due to wind conditions(?) The use or application of use restricted herbicides is prohibited in Area 1 when the mean sustained wind velocity is over twelve miles on and after April 15th through October 31st: Provided, That applications of allowable use restricted herbicides are exempt from these wind restrictions when applying fifty gallons or more per acre ~~((: Provided further, That applications of use restricted herbicides are allowed in winds up to and including twenty miles per hour when an approved ground apparatus is used and allowed by the label. Ground apparatus shall be approved by the department of agriculture. Approval will be based on research data))~~ in conformance with the manufacturer's specified combination of nozzle type/size and pressure in pounds per square inch (psi) at the nozzle that produces a spray droplet size that falls within the very coarse (or larger) range as defined by the ASABE standards.

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

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

AMENDATORY SECTION (Amending WSR 13-21-040, filed 10/9/13, effective 1/1/14)

WAC 16-232-410 ~~((What pesticides are restricted in the area under order?))~~ Use restricted pesticides in Grays Harbor and Pacific counties. All formulations containing the active ingredient O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl) phosphorothioate, commonly known as chlorpyrifos (CAS Number 2921-88-2) or the active ingredient O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, commonly known as diazinon (CAS Number 333-41-5) are use restricted pesticides when applied to cranberries in the area under order.

AMENDATORY SECTION (Amending WSR 13-21-040, filed 10/9/13, effective 1/1/14)

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

(2) Copies of the adopted USDA NRCS Practice Standards can be requested by mail from: U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250 or from your local NRCS Office or can be found on the WSDA web site at: <http://agr.wa.gov/pestfert/>.

AMENDATORY SECTION (Amending WSR 13-21-040, filed 10/9/13, effective 1/1/14)

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 13-21-040, filed 10/9/13, effective 1/1/14)

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

(a) Urgent and unexpected; and

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

(2) Application for a permit may be made by email to compliance@agr.wa.gov or by mail, fax, or in person to the Washington State Department of Agriculture, Pesticide Management Division, Natural Resources Building (NRB), Second Floor, 1111 Washington St. S.E., P.O. Box 42560, Olympia, WA 98504-2560, FAX: 360-902-2093. Permits will not be granted by telephone.

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

cover condition, endangered species restrictions, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
16-232-001	16-232-004

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-232-030	What are the restrictions on aerial applications near vineyards?
WAC 16-232-050	When are oil-type carriers prohibited in Walla Walla County?
WAC 16-232-068	Application of pesticides in Walla Walla County—Areas 2B, 4, and 6—Use restricted herbicides ground apparatus nozzle requirements.
WAC 16-232-071	Application of pesticides in Walla Walla County—Areas 2B, 4, and 6—Use restricted herbicides, aircraft boom length, pressure, and nozzle requirements.
WAC 16-232-074	What are the restrictions on applications in Walla Walla County due to temperature?
WAC 16-232-110	When are oil-type carriers prohibited in Lincoln County?
WAC 16-232-120	What are the boundaries and restrictions for Area 4?

WSR 19-02-043

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 26, 2018, 11:26 a.m., effective January 26, 2019]

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

Purpose: Chapter 246-817 WAC, the dental quality assurance commission (commission) has adopted new sections and changes to existing rule that establishes requirements and standards for prescribing opioid drugs by dentists. The adopted rules are the result of a supplemental hearing. The rules provide a necessary framework and structure for safe, consistent opioid prescribing practice consistent with the directives of ESHB 1427.

Citation of Rules Affected by this Order: New WAC 246-817-906, 246-817-907, 246-817-908, 246-817-909, 246-817-911, 246-817-913, 246-817-916, 246-817-919, 246-817-966, 246-817-967, 246-817-970, 246-817-971, 246-817-975, 246-817-976, 246-817-977 and 246-817-980; repealing WAC 246-817-910, 246-817-925, 246-817-940 and 246-817-945; and amending WAC 246-817-901, 246-817-905, 246-817-915, 246-817-920, 246-817-930, 246-817-935, 246-817-950, 246-817-955, 246-817-960, and 246-817-965.

Statutory Authority for Adoption: RCW 18.32.002, 18.32.0365, and 18.32.800.

Other Authority: ESHB 1427 (chapter 297, Laws of 2017), codified as part of RCW 18.32.800.

Adopted under notice filed as WSR 18-21-155 on October 22, 2018.

Changes Other than Editing from Proposed to Adopted Version: The commission recognized there is a conflict between WAC 246-817-905(1) and 246-817-906(4) related to defining cancer-related pain and chronic pain. The exclusions section provides a definition of cancer-related pain which conflicts with a portion of the chronic pain definition in WAC 246-817-906(4). The commission determined to make a nonsubstantive change by deleting the second sentence in WAC 246-817-906(4) to eliminate the conflict with WAC 246-817-905.

A final cost-benefit analysis is available by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email jennifer.santiago@doh.wa.gov, web site 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 16, Amended 10, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 16, Amended 10, Repealed 4.

Date Adopted: December 7, 2018.

John R. Liu, D.D.S., Chairperson
Dental Quality Assurance Commission

~~((PAIN MANAGEMENT))~~ OPIOID PRESCRIBING

Opioid Prescribing—General Provisions

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-901 (~~((Pain management—))~~) **Intent and scope.** (~~((These rules))~~) WAC 246-817-901 through 246-

817-980 govern the ~~((use))~~ prescribing of opioids in the treatment of ~~((patients for chronic noneancer))~~ pain.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-905 Exclusions. (~~((The rules adopted under))~~) WAC 246-817-901 through ~~((246-817-965))~~ 246-817-980 do not apply to:

(1) The treatment of patients with cancer-related pain. Cancer-related pain means pain that is unpleasant, persistent, subjective sensory and emotional experience associated with actual or potential tissue injury or damage or described in such terms and is related to cancer or cancer treatment that interferes with usual functioning;

(2) The provision of palliative, hospice, or other end-of-life care; (~~((or~~

~~((2) The management of acute pain caused by an injury or surgical procedure:))~~

(3) The treatment of inpatient hospital patients. Inpatient means a person who has been admitted to the hospital for more than twenty-four hours; or

(4) The provision of procedural medications.

NEW SECTION

WAC 246-817-906 Definitions. The definitions in this section apply to WAC 246-817-901 through 246-817-980 unless the context clearly requires otherwise:

(1) "Aberrant behavior" means behavior that indicates misuse, diversion or substance use disorder. This includes, but is not limited to, multiple early refills or renewals, or obtaining prescriptions for the same or similar drugs from more than one dentist or other health care practitioner.

(2) "Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal, or mechanical stimulus and typically is associated with invasive procedures, trauma, and disease. Acute pain is considered to be six weeks or less in duration.

(3) "Biological specimen test" or "biological specimen testing" means tests of urine, hair or other biological samples for various drugs and metabolites.

(4) "Chronic pain" means a state in which pain persists beyond the usual course of an acute disease or healing of an injury, or that may or may not be associated with an acute or chronic pathologic process, that causes continuous or intermittent pain over months or years.

(5) "Comorbidities" means a preexisting or coexisting physical or psychiatric disease or condition.

(6) "High dose" means ninety milligram MED or more, per day.

(7) "High-risk" is a category of patient at increased risk of morbidity or mortality, such as from comorbidities, polypharmacy, history of substance use disorder or abuse, aberrant behavior, high dose opioid prescription, or the use of any central nervous system depressant.

(8) "Hospice" means a model of care that focuses on relieving symptoms and supporting patients with life expectancy of six months or less.

(9) "Hospital" means any institution, place, building, or agency licensed under chapter 70.41 or 71.12 RCW, or desig-

nated under chapter 72.23 RCW to provide accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(10) "Low-risk" means a category of patient at low risk of opioid induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, and dose of opioids of less than 50 MED.

(11) "Medication assisted treatment" or "MAT" means the use of pharmacologic therapy, often in combination with counseling and behavioral therapies, for the treatment of substance use disorders.

(12) "Moderate-risk" means a category of patient at moderate risk of opioid induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, past history of substance use disorder or abuse, aberrant behavior, and dose of opioids between 50-90 MED.

(13) "Morphine equivalent dose" or "MED" means a conversion of various opioids to a morphine equivalent dose by the use of accepted conversion tables.

(14) "Multidisciplinary pain clinic" means a facility that provides comprehensive pain management and includes care provided by multiple available disciplines, practitioners, or treatment modalities.

(15) "Nonoperative pain" means acute pain which does not occur as a result of surgery.

(16) "Opioid analgesic" or "opioid" means a drug that is used to alleviate moderate to severe pain that is either an opiate derived from the opium poppy or opiate-like that is a semi-synthetic or synthetic drug. Examples include morphine, codeine, hydrocodone, oxycodone, fentanyl, meperidine, and methadone.

(17) "Palliative care" means care that maintains or improves the quality of life of patients and their families facing serious, advanced, or life-threatening illness. With palliative care particular attention is given to the prevention, assessment, and treatment of pain and other symptoms, and to the provision of psychological, spiritual, and emotional support.

(18) "Pain" means an unpleasant sensory or emotional experience associated with actual or potential tissue damage, or described in terms of such damage.

(19) "Perioperative pain" means acute pain that occurs as the result of surgery.

(20) "Practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a dentist licensed under chapter 18.32 RCW, a physician licensed under chapter 18.71 or 18.57 RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or a podiatric physician licensed under chapter 18.22 RCW.

(21) "Prescription monitoring program" or "PMP" means the Washington state prescription monitoring program authorized under chapter 70.225 RCW.

(22) "Subacute pain" is considered to be a continuation of pain, of six to twelve weeks in duration.

(23) "Substance use disorder" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Substance use disorder is not the same as physical dependence or tolerance that are normal physiological consequences of extended opioid therapy for pain. It is characterized by behaviors that include, but are not limited to, impaired control over drug use, craving, compulsive use, or continued use despite harm.

NEW SECTION

WAC 246-817-907 Patient notification, secure storage, and disposal. (1) The dentist shall provide information to the patient educating them of risks associated with the use of opioids. The dentist shall document such notification in the patient record.

(2) Patient notification must occur, at a minimum, at the following points of treatment:

(a) The first issuance of a prescription for an opioid; and
(b) The transition between phase of treatment, as follows:

(i) Acute nonoperative pain or acute perioperative pain to subacute pain; and

(ii) Subacute pain to chronic pain.

(3) Patient notification must include information regarding:

(a) The safe and secure storage of opioid prescriptions; and

(b) The proper disposal of unused opioid medication including, but not limited to, the availability of recognized drug take-back programs.

(4) This requirement may be satisfied with a document provided by the department of health.

NEW SECTION

WAC 246-817-908 Use of alternative modalities for pain treatment. The dentist shall consider multimodal pharmacologic and nonpharmacologic therapy for pain rather than defaulting to the use of opioid therapy alone whenever reasonable, evidence-based, clinically appropriate alternatives exist.

NEW SECTION

WAC 246-817-909 Continuing education requirements for opioid prescribing. (1) In order to prescribe an opioid in Washington state, a dentist licensed to prescribe opioids shall complete a one-time continuing education requirement regarding best practices in the prescribing of opioids and the rules in this chapter. The continuing education must be at least three hours in length.

(2) The dentist shall complete the one-time continuing education requirement described in subsection (1) of this section by the end of the dentist's first full continuing education reporting period after January 1, 2019, or during the first full continuing education reporting period after initial licensure, whichever is later.

(3) The hours spent completing the training in opioid prescribing under this section count toward meeting applica-

ble continuing education requirements for dentist license renewal.

NEW SECTION

WAC 246-817-911 Diagnosis identified on prescription. The practitioner shall include the diagnosis, indication for use, or the International Classification of Diseases (ICD) code on all opioid prescriptions.

Opioid Prescribing—Acute Nonoperative Pain and Acute Perioperative Pain

NEW SECTION

WAC 246-817-913 Treatment plan—Acute nonoperative pain and acute perioperative pain. The dentist shall comply with the requirements in this section when prescribing opioid analgesics for acute nonoperative pain or acute perioperative pain and shall document completion of these requirements in the patient record:

(1) The dentist shall consider prescribing nonopioid analgesics as the first line of pain control in patients in accordance with the provisions of WAC 246-817-908 unless not clinically appropriate.

(2) The dentist, or their designee, shall conduct queries of the PMP in accordance with the provisions of WAC 246-817-980 to identify any Schedule II-V medications or drugs of concern received by the patient and document their review and any concerns in the patient record.

(3) If the dentist prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids.

(a) A three-day supply or less will often be sufficient;

(b) More than a seven-day supply will rarely be needed;

(c) The dentist shall not prescribe beyond a seven-day supply without clinical documentation in the patient record to justify the need for such a quantity. For more specific best practices, the dentist may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree collaborative.

(4) The dentist shall reevaluate the patient who does not follow the expected course of recovery. If significant and documented improvement in function or pain control has not occurred, the dentist shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes, at a minimum:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations to investigate causes of continued acute nonoperative pain or acute perioperative pain or other treatments.

(6) Long-acting or extended release opioids are not indicated for acute nonoperative pain. Should a dentist need to

prescribe a long-acting opioid for acute pain, the dentist shall document the reason in the patient record.

(7) A dentist shall not discontinue medication assisted treatment medications when treating acute pain, except as consistent with the provisions of WAC 246-817-976.

(8) If the dentist elects to prescribe a combination of opioids with a medication listed in WAC 246-817-975 or to a patient known to be receiving a medication listed in WAC 246-817-975 from another practitioner, such prescribing must be in accordance with WAC 246-817-975.

(9) If the dentist elects to treat a patient with opioids beyond the six-week time period of acute nonoperative pain or acute perioperative pain, the dentist shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-817-915 and 246-817-916 shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

Opioid Prescribing—Subacute Pain

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-915 Patient evaluation and patient record. The dentist shall ~~((obtain, evaluate))~~ comply with the requirements in this section when prescribing opioid analgesics for subacute pain, and shall document completion of these requirements in the ~~((patient's health history and physical examination in the health record prior to treating for chronic noneancer pain:~~

(1) The patient's health history shall include:

(a) Current and past treatments for pain;

(b) Comorbidities; and

(c) Any substance abuse.

(2) The patient's health history should include:

(a) ~~A review of any available prescription monitoring program or emergency department-based information exchange; and~~

(b) ~~Any relevant information from a pharmacist provided to the dentist.~~

(3) The initial patient evaluation shall include:

(a) Physical examination;

(b) The nature and intensity of the pain;

(c) The effect of the pain on physical and psychological function;

(d) ~~Medications including indication(s), date, type, dosage, and quantity prescribed;~~

(e) A risk screening of the patient for potential comorbidities and risk factors using an appropriate screening tool. The screening should address:

(i) History of addiction;

(ii) Abuse or aberrant behavior regarding opioid use;

(iii) Psychiatric conditions;

(iv) ~~Regular concomitant use of benzodiazepines, alcohol, or other central nervous system medications;~~

(v) ~~Poorly controlled depression or anxiety;~~

(vi) ~~Evidence or risk of significant adverse events, including falls or fractures;~~

- (vii) Receipt of opioids from more than one prescribing practitioner or practitioner group;
 - (viii) Repeated visits to emergency departments seeking opioids;
 - (ix) History of sleep apnea or other respiratory risk factors;
 - (x) Possible or current pregnancy; and
 - (xi) History of allergies or intolerances.
- (4) The initial patient evaluation should include:
- (a) Any available diagnostic, therapeutic, and laboratory results; and
 - (b) Any available consultations.
- (5) The health record shall be maintained in an accessible manner, readily available for review, and should include:
- (a) The diagnosis, treatment plan, and objectives;
 - (b) Documentation of the presence of one or more recognized indications for the use of pain medication;
 - (c) Documentation of any medication prescribed;
 - (d) Results of periodic reviews;
 - (e) Any written agreements for treatment between the patient and the dentist; and
 - (f) The dentist's instructions to the patient record:
- (1) Prior to prescribing an opioid for subacute pain, the dentist shall:
- (a) Conduct an appropriate history and physical examination or review and update the patient's existing history and examination taken during the acute nonoperative or acute perioperative phase;
 - (b) Evaluate the nature and intensity of the pain;
 - (c) Inquire about other medications the patient is prescribed or taking, including date, type, dosage, and quantity prescribed;
 - (d) Conduct, or cause their designee to conduct, a query of the PMP in accordance with the provisions of WAC 246-817-980 to identify any Schedule II-V medications or drugs of concern received by the patient and document in their review and any concerns;
 - (e) Obtain a biological specimen test if the patient's function is deteriorating or if pain is escalating; and
 - (f) Screen or refer the patient for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety.
- (2) The dentist treating a patient for subacute pain with opioids shall ensure that, at a minimum, the following are documented in the patient record:
- (a) The presence of one or more recognized diagnoses or indications for the use of opioid pain medication;
 - (b) The observed significant and documented improvement in function or pain control forming the basis to continue prescribing opioid analgesics beyond the acute pain episode;
 - (c) The result of any queries of the PMP and any concerns the dentist may have;
 - (d) All medications the patient is known to be prescribed or taking;
 - (e) An appropriate pain treatment plan, including the consideration of, or attempts to use, nonpharmacological modalities and nonopioid therapy;
 - (f) Results of any aberrant biological specimen testing results and the risk-benefit analysis if opioids are to be continued;

(g) Results of screening or referral for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety;

(h) Results of screening for the patient's level of risk for aberrant behavior and adverse events related to opioid therapy;

(i) The risk-benefit analysis of any combination of prescribed opioid and benzodiazepines or sedative-hypnotics, if applicable; and

(j) All other required components of the patient record, as established in statute or rule.

(3) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes at a minimum:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations or other treatments.

NEW SECTION

WAC 246-817-916 Treatment plan—Subacute pain.

(1) The dentist shall recognize the progression of a patient from the acute nonoperative or acute perioperative phase to the subacute phase and take into consideration the risks and benefits of continued opioid prescribing for the patient.

(2) If tapering has not begun prior to the six- to twelve-week subacute phase, the dentist shall reevaluate the patient who does not follow the expected course of recovery. If significant and documented improvement in function or pain control has not occurred, the dentist shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated. The dentist shall make reasonable attempts to discontinue the use of opioids prescribed for the acute pain event by no later than the twelve-week conclusion of the subacute phase.

(3) If the dentist prescribes opioids for effective pain control, such prescriptions must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. The dentist shall not prescribe beyond a fourteen-day supply of opioids without clinical documentation to justify the need for such a quantity during the subacute phase.

(4) If the dentist elects to prescribe a combination of opioids with a medication listed in WAC 246-817-975 or prescribes opioids to a patient known to be receiving a medication listed in WAC 246-817-975 from another practitioner, the dentist shall prescribe in accordance with WAC 246-817-975.

(5) If the dentist elects to treat a patient with opioids beyond the six- to twelve-week subacute phase, the dentist shall document in the patient record that the patient is transitioning from subacute pain to chronic pain. Rules governing the treatment of chronic pain in WAC 246-817-919 through 246-817-967, shall apply.

Opioid Prescribing—Chronic Pain ManagementNEW SECTION

WAC 246-817-919 Patient evaluation and patient record. The dentist shall evaluate and document the patient's health history and physical examination in the patient record prior to treating for chronic pain.

- (1) History. The patient's health history must include:
 - (a) The nature and intensity of the pain;
 - (b) The effect of pain on physical and psychosocial function;
 - (c) Current and past treatments for pain, including medications and their efficacy;
 - (d) Review of any significant comorbidities;
 - (e) Any current or historical substance use disorder;
 - (f) Current medications and, as related to treatment of the pain, the efficacy of medications tried; and
 - (g) Medication allergies.
- (2) Evaluation. The patient evaluation prior to opioid prescribing must include:
 - (a) Appropriate physical examination;
 - (b) Consideration of the risks and benefits of chronic pain treatment for the patient;
 - (c) Medications the patient is taking including indication(s), date, type, dosage, quantity prescribed, and, as related to treatment of the pain, efficacy of medications tried;
 - (d) Review of the PMP to identify any Schedule II-V medications or drugs of concern received by the patient in accordance with the provisions of WAC 246-817-980;
 - (e) Any available diagnostic, therapeutic, and laboratory results;
 - (f) Use of a risk assessment tool and assignment of the patient to a high, moderate or low-risk category;
 - (i) The dentist should use caution and shall monitor a patient more frequently when prescribing opioid analgesics to a patient identified as high-risk;
 - (ii) "Risk assessment tool" means professionally developed, clinically accepted questionnaires appropriate for identifying a patient's level of risk for substance abuse or misuse.
 - (g) Any available consultations, particularly as related to the patient's pain;
 - (h) Pain related diagnosis, including documentation of the presence of one or more recognized indications for the use of pain medication;
 - (i) Written agreements, as described in WAC 246-817-930, for treatment between the patient and the dentist;
 - (j) Patient counseling concerning risks, benefits, and alternatives to chronic opioid therapy; and
 - (k) Treatment plan and objectives including:
 - (i) Documentation of any medication prescribed;
 - (ii) Biologic specimen testing ordered; and
 - (iii) Any labs or imaging ordered.
- (3) The health record must be maintained in an accessible manner, readily available for review, and contain documentation of requirements in subsections (1) and (2) of this section, as well as all other required components of the patient record, as set out in statute or rule.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-920 Treatment plan. (1) ~~((The written))~~ When the patient enters the chronic pain phase, the dentist shall reevaluate the patient by treating the situation as a new disease.

(2) The chronic pain treatment plan ((shall)) must state the objectives that will be used to determine treatment success and ((shall)) must include, at a minimum:

- (a) Any change in pain relief;
- (b) Any change in physical and psychosocial function; and
- (c) Additional diagnostic evaluations or other planned treatments.

~~((2))~~ (3) After treatment begins, the dentist ((should)) shall adjust drug therapy to the individual health needs of the patient. ((The dentist shall include indications for medication use on the prescription and require photo identification of the person picking up the prescription in order to fill. The dentist shall advise the patient that it is the patient's responsibility to safeguard all medications and keep them in a secure location.

~~(3) Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.))~~

(4) The dentist shall complete patient notification in accordance with the provisions of WAC 246-817-907.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-930 Written agreement for treatment. ~~((Chronic noncancer pain patients should receive all chronic pain management prescriptions from one dentist and one pharmacy whenever possible. If the patient is at high risk for medication abuse, or has a history of substance abuse, or psychiatric comorbidities, the prescribing))~~ The dentist shall use a written agreement for treatment with the patient ((outlining patient)) who requires long-term opioid therapy for chronic pain that outlines the patient's responsibilities. This written agreement for treatment ((shall)) must include:

(1) The patient's agreement to provide biological samples for ((urine/serum medical level screening)) biological specimen testing when requested by the dentist;

(2) The patient's agreement to take medications at the dose and frequency prescribed with a specific protocol for lost prescriptions and early refills or renewals. "Refill" or "renewal" means a second or subsequent filling of a previously issued prescription that is authorized to be dispensed when the patient has exhausted their current supply. For the purposes of WAC 246-817-901 through 246-817-980, refills or renewals are subject to the same limitation and requirements as initial prescriptions;

(3) Reasons for which ((drug)) opioid therapy may be discontinued ((e.g.)) such as, but not limited to, violation of agreement((s));

(4) The requirement that all chronic ((pain management)) opioid prescriptions are provided by a single prescriber, a single clinic, or multidisciplinary pain clinic ((and));

~~(5) The requirement that all chronic opioid prescriptions are to be dispensed by a single pharmacy or pharmacy system whenever possible;~~

~~((5)) (6) The patient's agreement to not abuse ~~((alcohol or use other medically unauthorized))~~ substances that can put the patient at risk for adverse outcomes;~~

~~((6)) (7) A written authorization for:~~

(a) The dentist to release the agreement for treatment to:

(i) Local emergency departments~~((;))~~;

(ii) Urgent care facilities~~((;))~~;

(iii) Other practitioners caring for the patient who might prescribe pain medications; and

~~(iv) Pharmacies~~((; and))~~.~~

~~(b) The dentist to release the agreement to other practitioners ~~((to))~~ so other practitioners can report violations of the agreement ~~((back))~~ to the dentist~~((;~~~~

~~(7) A written authorization that the dentist may notify the proper authorities if he or she has reason to believe the patient has engaged in illegal activity;~~

~~(8) Acknowledgment that a violation of the agreement may result in a tapering or discontinuation of the prescription;~~

~~((9)) treating the patient's chronic pain and to the PMP.~~

~~(8) Acknowledgment that it is the patient's responsibility to safeguard all medications and keep them in a secure location; and~~

~~((10)) (9) Acknowledgment that if the patient violates the terms of the agreement, the violation and the dentist's response to the violation will be documented, as well as the rationale for changes in the treatment plan.~~

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-935 Periodic review. ~~(1) The dentist shall periodically review the course of treatment for chronic ~~((noncancer pain, the patient's state of health, and any new information about the etiology of the pain. Generally, periodic reviews shall take place at least every six months. However, for treatment of stable patients with chronic noncancer pain involving non-escalating daily dosages of forty milligrams of a morphine equivalent dose (MED) or less, periodic reviews shall take place at least annually.~~~~

~~(4)) pain. The frequency of visits, biological testing, and PMP queries must be determined based on the patient's risk category:~~

~~(a) For a high-risk patient, at least quarterly;~~

~~(b) For a moderate-risk patient, at least semiannually;~~

~~(c) For a low-risk patient, at least annually;~~

~~(d) Immediately upon indication of concerning aberrant behavior; and~~

~~(e) More frequently at the dentist's discretion.~~

~~(2) During the periodic review, the dentist shall determine:~~

(a) The patient's compliance with any medication treatment plan;

(b) If pain, function, or quality of life have improved ~~((or)), diminished, or are maintained~~ using objective evidence~~((; considering any available information from family members or other caregivers)); and~~

(c) If continuation or modification of medications for pain management treatment is necessary based on the dentist's evaluation of progress towards treatment objectives.

~~((2)) (3) Periodic patient evaluations must also include:~~

~~(a) History and physical examination related to the pain;~~

~~(b) Use of validated tools to document either maintenance of function and pain control or improvement in function and pain level; and~~

~~(c) Review of the Washington state PMP to identify any Schedule II-V medications or drugs of concern received by the patient at a frequency determined by the patient's risk category, and otherwise in accordance with the provisions of WAC 246-817-980 and subsection (1) of this section.~~

~~(4) The dentist shall assess the appropriateness of continued use of the current treatment plan if the patient's progress or compliance with current treatment plan is unsatisfactory. The dentist shall consider tapering, changing, or discontinuing treatment ~~((when:~~~~

~~(a) Function or pain does not improve after a trial period;~~

~~(b) There is evidence of significant adverse effects;~~

~~(c) Other treatment modalities are indicated; or~~

~~(d) There is evidence of misuse, addiction, or diversion.~~

~~(3) The dentist should periodically review information from any available prescription monitoring program or emergency department-based information exchange.~~

~~(4) The dentist should periodically review any relevant information from a pharmacist provided to the dentist)) in accordance with the provisions of WAC 246-817-966.~~

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-950 Consultation—Recommendations and requirements. (1) The dentist shall consider referring the patient for additional evaluation and treatment as needed to achieve treatment objectives. Special attention should be given to those chronic ~~((noncancer))~~ pain patients who are under eighteen years of age~~((;))~~ or who are ~~((at risk for medication misuse, abuse, or diversion))~~ potential high-risk patients. The management of pain in patients with a history of substance abuse or with comorbid psychiatric disorders may require extra care, monitoring, documentation, and consultation with, or referral to, an expert in the management of such patients.

(2) The mandatory consultation threshold ~~((for adults))~~ is one hundred twenty ~~((milligrams morphine equivalent dose (MED) (oral). In the event a))~~ MED. Unless the consultation is exempted under WAC 246-817-955 or 246-817-960, the dentist who prescribes a dosage amount that meets or exceeds the mandatory consultation threshold ~~((of one hundred twenty milligrams MED (orally) per day, a consultation with a))~~ shall comply with the pain management specialist ~~((as))~~ consultation requirements described in WAC 246-817-965 ~~((is required, unless the consultation is exempted under WAC 246-817-955 or 246-817-960. Great caution should be used when prescribing opioids to children with chronic noncancer pain and appropriate referrals to a specialist is encouraged.~~

~~(a))~~ The mandatory consultation ~~((shall))~~ must consist of at least one of the following:

~~((i))~~ (a) An office visit with the patient and the pain management specialist;

~~((ii))~~ (b) A ~~((telephone))~~ consultation between the pain management specialist and the dentist;

~~((iii))~~ ~~An electronic consultation between the pain management specialist and the dentist; or~~

~~((iv))~~ (c) An audio-visual evaluation conducted by the pain management specialist remotely, where the patient is present with either the dentist or with a licensed health care practitioner designated by the dentist or the pain management specialist; or

(d) Other chronic pain evaluation services as approved by the dental quality assurance commission.

~~((b))~~ (3) A dentist shall document each ~~((mandatory))~~ consultation with the pain management specialist. ~~((Any written record of the consultation by the pain management specialist shall be maintained as a patient record by the specialist.))~~ If the pain management specialist provides a written record of the consultation to the dentist, the dentist shall maintain it as part of the patient record.

~~((3))~~ Nothing in this chapter shall limit any person's ability to contractually require a consultation with a pain management specialist at any time. For the purposes of WAC 246-817-901 through 246-817-965, "person" means an individual, a trust or estate, a firm, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.) (4) The dentist shall use great caution when prescribing opioids to children and adolescents with chronic pain, appropriate referral to a specialist is encouraged.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-955 Consultation—Exemptions for exigent and special circumstances. A dentist is not required to consult with a pain management specialist as described in WAC 246-817-965 when ~~((he or she))~~ the dentist has documented adherence to all standards of practice as defined in WAC ~~((246-817-901 through 246-817-965))~~ 246-817-919 through 246-817-967 and when ~~((any))~~ one or more of the following conditions ~~((apply))~~ are met:

(1) The patient is following a tapering schedule;

(2) The patient requires treatment for acute pain, which may or may not include hospitalization, requiring a temporary escalation in opioid dosage~~((;))~~ with expected return to ~~((or below))~~ their baseline dosage level or below;

(3) The dentist documents reasonable attempts to obtain a consultation with a pain management specialist and the circumstances justifying prescribing above one hundred twenty milligrams ~~((morphine equivalent dose ()))~~ MED((;)) per day without first obtaining a consultation; or

(4) The dentist documents the patient's pain and function is stable and the patient is on a ~~((non-escalating))~~ nonescalating dosage of opioids.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-960 Consultation—Exemptions for the dentist. The dentist is exempt from the consultation requirement in WAC 246-817-950 if one or more of the following qualifications are met:

(1) The dentist is a pain management specialist ~~((as described in))~~ under WAC 246-817-965; ~~((or))~~

(2) The dentist has successfully completed ~~((, within the last two))~~ every four years~~((;))~~ a minimum of twelve continuing education hours on chronic pain management ~~((approved by the profession's continuing education accrediting organization)),~~ with at least two of these hours dedicated ~~((to long-acting opioids; to include methadone))~~ substance use disorders; ((or))

(3) The dentist is a pain management practitioner working in a multidisciplinary chronic pain treatment center~~((;))~~ or a multidisciplinary academic research facility; or

(4) The dentist has a minimum three years of clinical experience in a chronic pain management setting, and at least thirty percent of ~~((his or her))~~ their current practice is the direct provision of pain management care.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

WAC 246-817-965 Pain management specialist. A pain management specialist shall meet ~~((one or more of))~~ the following qualifications:

(1) ~~((If a physician or osteopathic physician:~~

~~((a) Board certified or board eligible by an American Board of Medical Specialties approved board (ABMS) or by the American Osteopathic Association (AOA) in physical medicine and rehabilitation, rehabilitation medicine, neurology, rheumatology, or anesthesiology; or~~

~~((b) Has a subspecialty certificate in pain medicine by an ABMS approved board; or~~

~~((c) Has a certification of added qualification in pain management by the AOA; or~~

~~((d) A minimum of three years of clinical experience in a chronic pain management care setting; and~~

~~((i) Credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for physicians or the Washington state board of osteopathic medicine and surgery for osteopathic physicians; and~~

~~((ii) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and~~

~~((iii) At least thirty percent of the physician's or osteopathic physician's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.~~

(2) If a dentist: Board certified or board eligible in oral medicine or orofacial pain by the American Board of Oral Medicine or the American Board of Orofacial Pain.

(3) If an advanced registered nurse practitioner (ARNP):

(a) A minimum of three years of clinical experience in a chronic pain management care setting;

(b) Credentialed in pain management by a Washington state nursing care quality assurance commission approved

~~national professional association, pain association, or other credentialing entity;~~

~~(e) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and~~

~~(d) At least thirty percent of the ARNP's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.~~

~~(4) If a podiatric physician:~~

~~(a) Board certified or board eligible in a specialty that includes a focus on pain management by the American Board of Podiatric Surgery, the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, or other accredited certifying board as approved by the Washington state podiatric medical board; or~~

~~(b) A minimum of three years of clinical experience in a chronic pain management care setting; and~~

~~(c) Credentialed in pain management by a Washington state podiatric medical board approved national professional association, pain association, or other credentialing entity; and~~

~~(d) Successful completion of a minimum of at least eighteen hours of continuing education in pain management during the past two years, and at least thirty percent of the podiatric physician's current practice is the direct provision of pain management care.)~~ A dentist shall be board certified or board eligible in oral medicine or orofacial pain by the American Board of Oral Medicine or the American Board of Orofacial Pain.

(2) An allopathic physician shall meet requirements in WAC 246-919-945 and an allopathic physician assistant shall meet requirements in WAC 246-918-895.

(3) An osteopathic physician shall meet requirements in WAC 246-853-750 and an osteopathic physician assistant shall meet requirements in WAC 246-854-330.

(4) An advanced registered nurse practitioner (ARNP) shall meet requirements in WAC 246-840-493.

(5) A podiatric physician shall meet requirements in WAC 246-922-750.

NEW SECTION

WAC 246-817-966 Assessment of treatment plan. (1) The dentist shall assess and document the appropriateness of continued use of the current treatment plan if the patient's response to or compliance with the current treatment plan is unsatisfactory.

(2) The dentist shall consider tapering, changing, discontinuing treatment, or referral for a substance use disorder evaluation when:

(a) The patient requests;

(b) The patient experiences deterioration in function or pain;

(c) The patient is noncompliant with the written agreement;

(d) Other treatment modalities are indicated;

(e) There is evidence of misuse, abuse, substance use disorder, or diversion;

(f) The patient experiences a severe adverse event or overdose;

(g) There is unauthorized escalation of doses; or

(h) The patient is receiving an escalation in opioid dosage with no improvement in pain, function, or quality of life.

NEW SECTION

WAC 246-817-967 Patients with chronic pain, including those on high doses, establishing a relationship with a new dentist.

(1) When a patient receiving chronic opioid pain medications changes to a new dentist, it is normally appropriate for the new dentist to initially maintain the patient's current opioid doses. Over time, the dentist may evaluate if any tapering or other adjustments in the treatment plan can or should be done.

(2) A dentist's treatment of a new high dose chronic pain patient is exempt from the mandatory consultation requirements of WAC 246-817-950 and the tapering requirements of WAC 246-817-966 if:

(a) The patient was previously being treated with a dosage of opioids in excess of one hundred twenty milligram MED for chronic pain under an established written agreement for treatment of the same chronic condition or conditions;

(b) The patient's dose is stable and nonescalating;

(c) The patient has a demonstrated history in their record of compliance with treatment plans and written agreements as documented by medical records and PMP queries; and

(d) The patient has documented functional stability, pain control, or improvements in function or pain control, in excess of one hundred twenty milligram MED dose.

(3) With respect to the treatment of a new patient under subsection (1) or (2) of this section, this exemption applies for the first three months of newly established care, after which the requirements of WAC 246-817-950 and 246-817-966 shall apply.

Opioid Prescribing—Special Populations

NEW SECTION

WAC 246-817-970 Special populations—Patients twenty-four years of age or under, pregnant patients, and aging populations.

(1) Patients twenty-four years of age or under. In the treatment of pain for patients twenty-four years of age or under, the dentist shall treat pain in a manner equal with that of an adult but must account for the weight of the patient and adjust the dosage prescribed accordingly. Eight to twelve tablets supply will often be sufficient. The dentist shall not prescribe beyond twelve tablets without clinical documentation in the patient record to justify the need for such a quantity.

(2) Pregnant patients. A dentist shall not discontinue use of MAT opioids, such as methadone or buprenorphine, by a pregnant patient without oversight by the MAT prescribing practitioner. The dentist shall weigh carefully the risks and benefits of opioid detoxification during pregnancy.

(3) Aging populations. As people age, their tolerance and metabolizing of opioids may change. The dentist shall consider the distinctive needs of patients who are sixty-five years of age or older and who have been on chronic opioid therapy or who are initiating opioid treatment.

NEW SECTION

WAC 246-817-971 Episodic care of chronic opioid patients. (1) When providing episodic care for a patient who the dentist knows is being treated with opioids for chronic pain, such as for emergency or urgent care, the dentist shall review the PMP to identify any Schedule II-V or drugs of concern received by the patient and document in the patient record their review and any concerns.

(2) A dentist providing episodic care to a patient who the dentist knows is being treated with opioids for chronic pain should provide additional opioids to be equal to the severity of the acute pain. If opioids are provided, the dentist shall limit the use of opioids to the minimum amount necessary to control the acute nonoperative pain, acute perioperative pain, or similar acute exacerbation of pain until the patient can receive care from the practitioner who is managing the patient's chronic pain treatment.

(3) The episodic care dentist shall report known violations of the patient's written agreement to the patient's treatment practitioner who provided the agreement for treatment.

(4) The episodic care dentist shall coordinate care with the patient's chronic pain treatment practitioner if that person is known to the episodic care dentist, when practicable.

(5) For the purpose of this section "episodic care" means medical or dental care provided by a practitioner other than the designated primary care practitioner in the acute care setting; for example, urgent care or emergency department.

Opioid Prescribing—CoprescribingNEW SECTION

WAC 246-817-975 Coprescribing of opioids with certain medications. (1) The dentist shall not knowingly prescribe opioids in combination with the following Schedule II-IV medications without documentation of clinical judgment and discussion of risks with patient:

- (a) Benzodiazepines;
- (b) Barbiturates;
- (c) Sedatives;
- (d) Carisoprodol; or
- (e) Sleeping medications also known as Z drugs.

(2) If a patient receiving an opioid prescription is known to be concurrently prescribed one or more of the medications listed in subsection (1) of this section, the dentist prescribing opioids shall consult with the other prescriber(s) to establish a patient care plan for the use of the medications concurrently or consider whether one of the medications should be tapered.

NEW SECTION

WAC 246-817-976 Coprescribing of opioids for patients receiving medication assisted treatment. (1) Where practicable, the dentist providing acute nonoperative pain or acute perioperative pain treatment to a patient known to be receiving MAT shall prescribe opioids for pain relief either in consultation with the MAT prescribing practitioner or a pain specialist.

(2) A dentist shall not discontinue MAT medications when treating acute nonoperative pain or acute perioperative pain without documentation of the reason for doing so.

(3) A dentist shall not deny necessary operative intervention for use of these medications by a patient.

NEW SECTION

WAC 246-817-977 Coprescribing of naloxone. The dentist shall confirm or provide a current prescription for naloxone or refer the patient to a pharmacist for further counseling and evaluation when opioids are prescribed to a high-risk patient.

Opioid Prescribing—Prescribing Monitoring ProgramNEW SECTION

WAC 246-817-980 Prescription monitoring program—Required registration, queries, and documentation. (1) The dentist shall register to access the PMP or demonstrate proof of having assured access to the PMP if they prescribe opioids in Washington state.

(2) The dentist is permitted to delegate performance of a required PMP query to an authorized designee.

(3) At a minimum, the dentist shall ensure a PMP query is performed prior to the prescription of an opioid at the following times:

- (a) Upon the first refill or renewal of an opioid prescription for acute nonoperative pain or acute perioperative pain;
- (b) The time of transition from acute to subacute pain; and

(c) The time of transition from subacute to chronic pain.

(4) For chronic pain management, the dentist shall ensure a PMP query is performed at a minimum frequency determined by the patient's risk assessment, as follows:

(a) For a high-risk patient, a PMP query must be completed at least quarterly;

(b) For a moderate-risk patient, a PMP must be completed at least semiannually; and

(c) For a low-risk patient, a PMP must be completed at least annually.

(5) The dentist shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.

(6) The dentist shall ensure a PMP query is performed when providing episodic care to a patient whom the dentist knows to be receiving opioids for chronic pain, in accordance with WAC 246-817-971.

(7) If the dentist is using an electronic medical record or EMR that integrates access to the PMP into the workflow of the EMR, the dentist shall ensure a PMP query is performed for all prescriptions of opioids and medications listed in WAC 246-817-975.

(8) For the purposes of this section, the requirement to consult the PMP does not apply when the PMP or the EMR cannot be accessed by the dentist or their designee due to a temporary technological or electrical failure.

(9) Pertinent concerns discovered in the PMP must be documented in the patient record.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-817-910 Definitions.
- WAC 246-817-925 Informed consent.
- WAC 246-817-940 Long-acting opioids, including methadone.
- WAC 246-817-945 Episodic care.

WSR 19-02-044
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed December 26, 2018, 11:32 a.m., effective April 15, 2019]

Effective Date of Rule: April 15, 2019.

Purpose: WAC 246-330-199 Fees—License, change of ownership, refund process, adopting increases in initial license and renewal fees for ambulatory surgical facilities (ASF). Current fees only generate about thirty-seven percent of funding needed to support all legislatively mandated activities. These include licensure, inspections, complaint investigations, enforcement, and program administration. Inspections include precicensure and ongoing health and safety inspections to confirm compliance with minimum standards and identify deficiencies that pose patient safety risks. The increased fees are projected to fully fund the ASF program and avoid a projected funding gap of \$1,616,000 over three years.

Citation of Rules Affected by this Order: Amending WAC 246-330-199.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Other Authority: RCW 70.230.100, 70.230.050.

Adopted under notice filed as WSR 18-19-052 on September 14, 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 1, Repealed 0.

Date Adopted: December 26, 2018.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 12-10-010, filed 4/19/12, effective 6/1/12)

WAC 246-330-199 Fees—License, change of ownership, refund process. This section establishes the initial and renewal license fees, change of ownership fee, late fee, and request for refund of an initial license fee for an ambulatory surgical facility (ASF).

(1) Initial and renewal license fees. An initial license or a renewal license and fee are valid for three years from date of issuance. An applicant for an initial or renewal license must submit one of the following fees to the department:

AMBULATORY SURGICAL FACILITY INITIAL AND RENEWAL FEES

Fee Type	Fees		
	Performs 1,000 or Fewer Surgical Procedures on an Annual Basis	Performs 1,001 - 5,000 Surgical Procedures on an Annual Basis	Performs More than 5,000 Surgical Procedures on an Annual Basis
Initial and Renewal License	\$3,630	\$4,447	\$5,410
<u>Accredited</u> or Medicare Certified	\$((4,781)) 12,900	\$((5,925)) 16,000	\$((7,273)) 19,650
State Licensed Only	\$((6,507)) 17,550	\$((8,142)) 22,000	\$((10,068)) 27,200

(a) Accredited means an ASF is accredited by one of the organizations identified in WAC 246-330-025 (1)(b).

(b) Medicare certified means an ASF is certified by the Centers for Medicare and Medicaid Services (CMS).

(c) State licensed only means an ASF that is not accredited and is not medicare certified.

(2) Late fee. A licensee must send the department a late fee in the amount of fifty dollars per day, not to exceed one thousand dollars, whenever the renewal fee is not paid by thirty days before the license expiration (date as indicated by the postmark).

(3) Change of ownership. The change of ownership fee is good for that transaction and does not change the original license ending date. The person purchasing or taking over ownership of a licensed ASF must:

(a) Send the department a change of ownership fee in the amount of five hundred dollars thirty days before the change of ownership becomes final (date as indicated by the postmark); and

(b) Receive from the department a new license valid for the remainder of the current license period.

(4) An applicant may request a refund for initial licensure as follows:

(a) Two-thirds of the initial fee paid after the department has received an application but has not conducted an on-site survey or provided technical assistance and has not issued a license; or

(b) One-third of the initial fee paid after the department has received an application and has conducted either an on-site survey or provided technical assistance but not issued a license.

WSR 19-02-046
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed December 27, 2018, 6:20 a.m., effective January 27, 2019]

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

Purpose: The health care authority is correcting WAC references, removing "medical assistance" from definition section titles, and correcting a reference to the name of a WAC section title.

Citation of Rules Affected by this Order: Amending WAC 182-500-0025, 182-500-0065, 182-503-0540, 182-512-0010, 182-512-0300, 182-519-0100, and 182-519-0110.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-21-187 on October 24, 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 7, 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 7, Repealed 0.

Date Adopted: December 27, 2018.

Wendy Barcus
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-500-0025 (~~(Medical assistance)~~) Definitions—D. "Delayed certification" means agency or the agency's designee approval of a person's eligibility for medical assistance made after the established application processing time limits.

"Dental consultant" means a dentist employed or contracted by the agency or the agency's designee.

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

"Disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that:

~~((1))~~ (a) Can be expected to result in death;

~~((2))~~ (b) Has lasted or can be expected to last for a continuous period of not less than twelve months; or

~~((3))~~ (c) In the case of a child age seventeen or younger, means any physical or mental impairment of comparable severity.

Decisions on SSI-related disability are subject to the authority of federal statutes and rules codified at 42 U.S.C.

Sec 1382c and 20 C.F.R., parts 404 and 416, as amended, and controlling federal court decisions, which define the old-age, survivors, and disability insurance (OASDI) and SSI disability standard and determination process. See WAC (~~(388-500-0015)~~) 182-500-0015 for definition of "blind."

"Domestic partner" means an adult who meets the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who has been issued a certificate of state registered domestic partnership from the Washington secretary of state.

"Dual eligible client" means a client who has been found eligible as a categorically needy (CN) or medically needy (MN) medicaid client and is also a medicare beneficiary. This does not include a client who is only eligible for a medicare savings program as described in chapter (~~(388-517)~~) 182-517 WAC.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-500-0065 (~~(Medical assistance)~~) Definitions—L. "Limitation extension" see WAC (~~(388-501-0169)~~) 182-501-0169.

"Limited casualty program (LCP)" means the medically needy (MN) program.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-503-0540 Assignment of rights and cooperation. (1) When you become eligible for any of the agency's health care programs, you assign certain rights to the state of Washington. You assign all rights to any type of coverage or payment for health care that comes from:

(a) A court order;

(b) An administrative agency order; or

(c) Any third-party benefits or payment obligations for medical care which are the result of **subrogation** or contract (see WAC (~~(388-501-0100)~~) 182-501-0100).

(2) When you sign the application you assign the rights described in subsection (1) of this section to the state for:

(a) Yourself; and

(b) Any eligible person for whom you can legally make such assignment.

(3) You must cooperate with us in identifying, using or collecting third-party benefits. If you do not cooperate, your health care coverage may end unless you can show good reason not to cooperate with us. Examples of good reason include, but are not limited to:

(a) Your reasonable belief that cooperating with us would result in serious physical or emotional harm to you, a child in your care, or a child related to you; and

(b) Your being incapacitated without the ability to cooperate with us.

(4) Your WAH coverage will not end due solely to the noncooperation of any third party.

(5) You will have to pay for your health care services if you:

(a) Received and kept the third-party payment for those services; or

(b) Refused to give to the provider of care your legal signature on insurance forms.

(6) The state is limited to the recovery of its own costs for health care costs paid on behalf of a recipient of health care coverage. The legal term which describes the method by which the state acquires the rights of a person for whom the state has paid costs is called subrogation.

AMENDATORY SECTION (Amending WSR 11-23-091, filed 11/17/11, effective 11/21/11)

WAC 182-512-0010 Supplemental security income (SSI) standards((§)), SSI-related categorically needy income level (CNIL)((§)), and countable resource standards. (1) The SSI payment standards, also known as the federal benefit rate (FBR), change each January 1st.

(2) See WAC 388-478-0055 for the amount of the state supplemental payments (SSP) for SSI recipients.

(3) See WAC ((388-513-1305)) 182-513-1205 for standards of clients living in an alternate living facility.

(4) The SSI-related CNIL standards are the same as the SSI payment standards for single persons and couples. Those paying out shelter costs have a higher standard than people who have supplied shelter.

(5) The countable resource standards for SSI and SSI-related CN medical programs are:

- | | |
|------------------------------|---------|
| (a) One person | \$2,000 |
| (b) A legally married couple | \$3,000 |

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

WAC 182-512-0300 SSI-related medical—Resources eligibility. (1) At 12:00 a.m. on the first day of the month a client's countable resources must be at or below the resource standard to be eligible for noninstitutional medical benefits for that month. If the total of the client's countable resources is above the resource standard at 12:00 a.m. on the first day of the month, the client is ineligible for noninstitutional medical benefits for that entire month regardless of resource status at the time of application during that month. For resource eligibility relating to long-term care eligibility see chapter ((388-513)) 182-513 WAC.

(2) An excluded resource converted to another excluded resource remains excluded.

(3) Cash received from the sale of an excluded resource becomes a countable resource the first of the month following conversion unless the cash is((§));

(a) Used to replace the excluded resource; ((§))

(b) Invested in another excluded resource in the same month or within the longer time allowed for home sales under WAC ((388-475-0350)) 182-512-0350; or

(c) Spent.

(4) The unspent portion of a nonrecurring lump sum payment is counted as a resource on the first of the month following its receipt with the following exception: The unspent portion of any Title II (SSA) or Title XVI (SSI) retroactive payment is excluded as a resource for nine months following the month of receipt. These exclusions apply to lump sums

received by the client, client's spouse or any other person who is financially responsible for the client.

(5) Clients applying for SSI-related medical coverage for long-term care (LTC) services must meet different resource rules. See chapter ((388-513)) 182-513 WAC for LTC resource rules.

(6) The transfer of a resource without adequate consideration does not affect medical program eligibility except for LTC services described in chapters ((388-513 and 388-515)) 182-513 and 182-515 WAC. In those programs, the transfer may make a client ineligible for medical benefits for a period of time. See WAC ((388-513-1363 through 388-513-1366)) 182-513-1363 for LTC rules.

AMENDATORY SECTION (Amending WSR 15-17-012, filed 8/7/15, effective 9/7/15)

WAC 182-519-0100 Eligibility for the medically needy program. (1) A person who meets the following conditions may be eligible for medically needy (MN) coverage under the special rules in chapters 182-513 and 182-515 WAC:

(a) Meets the institutional status requirements of WAC 182-513-1320;

(b) Resides in a medical institution as described in WAC 182-513-1395; or

(c) Receives waiver services under a medically needy in-home waiver (MNIW) under WAC 182-515-1550 or a medically needy residential waiver (MNRW) under WAC 182-515-1540.

(2) A supplemental security income (SSI)-related person who lives in a medicaid agency-contracted alternate living facility may be eligible for MN coverage under WAC 182-513-1305.

(3) A person may be eligible for MN coverage under this chapter when he or she is:

(a) Not covered under subsection (1) and (2) of this section; and

(b) Eligible for categorically needy (CN) medical coverage in all other respects, except that his or her CN countable income is above the CN income standard.

(4) MN coverage may be available if the person is:

(a) A child;

(b) A pregnant woman;

(c) A refugee;

(d) An SSI-related person, including an aged, blind, or disabled person, with countable income under the CN income standard, who is an ineligible spouse of an SSI recipient; or

(e) A hospice client with countable income above the special income level (SIL).

(5) A person who is not eligible for CN medical who applies for MN coverage has the right to income deductions in addition to, or instead of, those used to calculate CN countable income. These deductions to income are applied to each month of the base period to calculate MN countable income:

(a) The agency disregards the difference between the medically needy income level (MNIL) described in WAC 182-519-0050 and the federal benefit rate (FBR) established by the Social Security Administration each year. The FBR is the one-person SSI payment standard;

(b) All health insurance premiums, except for medicare Part A through Part D premiums, expected to be paid by the person or family member during the base period or periods;

(c) Any allocations to a spouse or to dependents for an SSI-related person who is married or who has dependent children. Rules for allocating income are described in WAC 182-512-0900 through 182-512-0960;

(d) For an SSI-related person who is married and lives in the same home as his or her spouse who receives home and community-based waiver services under chapter 182-515 WAC, an income deduction equal to the MNIL, minus the nonapplying spouse's income; and

(e) A child or pregnant woman applying for MN coverage is eligible for income deductions allowed under temporary assistance for needy families (TANF) and state family assistance (SFA) rules and not under the rules for CN programs based on the federal poverty level. See WAC 182-509-0001(4) for exceptions to the TANF and SFA rules that apply to medical programs and not to the cash assistance program.

(6) The MNIL for a person who qualifies for MN coverage under subsection (1) of this section is based on rules in chapters 182-513 and 182-515 WAC.

(7) The MNIL for all other people is described in WAC 182-519-0050. If a person has countable income at or below the MNIL, the person is certified as eligible for up to twelve months of MN medical coverage.

(8) If a person has countable income over the MNIL, the countable income that exceeds the agency's MNIL standards is called "excess income."

(9) A person with "excess income" is not eligible for MN coverage until the person gives the agency or its designee evidence of medical expenses incurred by that person, their spouse, or family members living in the home for whom they are financially responsible. See WAC 182-519-0110(8). An expense is incurred when:

(a) The person receives medical treatment or medical supplies, is financially liable for the medical expense, and has not paid the bill; or

(b) The person pays for the expense within the current or retroactive base period under WAC 182-519-0110.

(10) Incurred medical expenses or obligations may be used to offset any portion of countable income that is over the MNIL. This is the process of meeting "spenddown."

(11) The agency or its designee calculates the amount of a person's spenddown by multiplying the monthly excess income amount by the number of months in the certification period under WAC 182-519-0110. The qualifying medical expenses must be greater than or equal to the total calculated spenddown amount.

(12) A person who is considered for MN coverage under this chapter may not spenddown excess resources to become eligible for the MN program. Under this chapter, a person is ineligible for MN coverage if the person's resources exceed the program standard in WAC 182-519-0050. A person who is considered for MN coverage under WAC 182-513-1395, 182-514-0250 or 182-514-0255 is allowed to spenddown excess resources.

(13) There is no automatic redetermination process for MN coverage. A person must apply for each eligibility period under the MN program.

(14) A person who requests a timely administrative hearing under WAC (~~(388-458-0040)~~) 182-518-0025(5) is not eligible for continued benefits beyond the end of the original certification date under the MN program.

AMENDATORY SECTION (Amending WSR 15-17-012, filed 8/7/15, effective 9/7/15)

WAC 182-519-0110 Spenddown of excess income for the medically needy program. (1) A person who applies for Washington apple health (WAH) and is eligible for medically needy (MN) coverage with a spenddown may choose a three-month or a six-month base period. A base period is a time period used to compute the spenddown liability amount. The months must be consecutive calendar months, unless a condition in subsection (4) of this section applies.

(2) A base period begins on the first day of the month a person applies for WAH, unless a condition in subsection (4) of this section applies.

(3) A person may request a separate base period to cover up to three calendar months immediately before the month of application. This is called a retroactive base period.

(4) A base period may vary from the terms in subsections (1), (2), or (3) of this section if:

(a) A three-month base period would overlap a previous eligibility period;

(b) The person has countable resources over the applicable standard for any part of the required base period;

(c) The person is not or will not be able to meet the temporary assistance to needy families (TANF)-related or supplemental security income (SSI)-related requirement for the required base period;

(d) The person is eligible for categorically needy (CN) coverage for part of the required base period; or

(e) The person was not otherwise eligible for MN coverage for each month of the retroactive base period.

(5) The medicaid agency or its designee calculates a person's spenddown liability. The MN countable income from each month of the base period is compared to the effective medically needy income level (MNIL) under WAC 182-519-0050. Income over the effective MNIL standard (based on the person's household size) in each month in the base period is added together to determine the total spenddown amount.

(6) If household income varies and a person's MN countable income falls below the effective MNIL for one or more months, the difference offsets the excess income in other months of the base period. See WAC 182-519-0100(7) if a spenddown amount results in zero dollars and cents.

(7) If a person's income decreases, the agency or its designee approves CN coverage for each month in the base period when the person's countable income and resources are equal to or below the applicable CN standards. Children age eighteen and younger and pregnant women who become CN eligible in any month of the base period are continuously eligible for CN coverage for the remainder of the certification, even if there is a subsequent increase in income.

(8) Once a person's spenddown amount is determined, qualifying medical expenses are deducted. A qualifying medical expense must:

(a) Be an expense for which the person is financially liable;

(b) Not have been used to meet another spenddown;

(c) Not be the confirmed responsibility of a third party. The agency or its designee allows the entire expense if a third party has not confirmed its coverage of the expense within:

(i) Forty-five days of the date of service; or

(ii) Thirty days after the base period ends.

(d) Be an incurred expense for the person:

(i) The person's spouse;

(ii) A family member residing in the person's home for whom the person is financially responsible; or

(iii) A relative residing in the person's home who is financially responsible for the person.

(e) Meet one of the following conditions:

(i) Be an unpaid liability at the beginning of the base period;

(ii) Be for paid or unpaid medical services incurred during the base period;

(iii) Be for medical services incurred and paid during the three-month retroactive base period if eligibility for WAH was not established in that base period. Paid expenses that meet this requirement may be applied towards the current base period; or

(iv) Be for medical services incurred during a previous base period, either unpaid or paid, if it was necessary for the person to make a payment due to delays in the certification for that base period.

(9) An exception to subsection (8) of this section exists for qualifying medical expenses paid on the person's behalf by a publicly administered program during the current or the retroactive base period. The agency or its designee uses the qualifying medical expenses to meet the spenddown liability. To qualify for this exception, the program must:

(a) Not be federally funded or make payments from federally matched funds;

(b) Not pay the expenses before the first day of the retroactive base period; and

(c) Provide proof of the expenses paid on the person's behalf.

(10) Once the agency or its designee determines the expenses are a qualified medical expense under subsection (8) or (9) of this section, the expenses are subtracted from the spenddown liability to determine the date the person's eligibility for medical coverage begins. Qualifying medical expenses are deducted in the following order:

(a) First, medicare and other health insurance deductibles, coinsurance charges, enrollment fees, copayments, and premiums that are the person's responsibility under medicare Part A through Part D. (Health insurance premiums are income deductions under WAC 182-519-0100(5));

(b) Second, medical expenses incurred and paid by the person during the three-month retroactive base period if eligibility for WAH was not established in that base period;

(c) Third, current payments on, or unpaid balance of, medical expenses incurred before the current base period that were not used to establish eligibility for medical coverage in

another base period. The agency or its designee sets no limit on the age of an unpaid expense; however, the expense must be a current liability and be unpaid at the beginning of the base period;

(d) Fourth, other medical expenses that are not covered by the agency's or its designee's medical programs, minus any third-party payments that apply to the charges. A licensed health care provider must provide or prescribe the items or services allowed as a medical expense;

(e) Fifth, other medical expenses incurred by the person during the base period that are potentially payable by the MN program (minus any confirmed third-party payments that apply to the charges). This deduction is allowed even if payment is denied for these services because they exceed the agency's or its designee's limits on amount, duration, or scope of care. Scope of care is described in WAC 182-501-0060 and 182-501-0065; and

(f) Sixth, other medical expenses incurred by the person during the base period that are potentially payable by the MN program (minus any confirmed third-party payments that apply to the charges) and that are within the agency's or its designee's limits on amount, duration, or scope of care.

(11) If a person submits verification of qualifying medical expenses with his or her application that meet or exceed the spenddown liability, the person is eligible for MN medical coverage for the remainder of the base period unless their circumstances change. See WAC ((388-418-0005)) 182-504-0105 to determine which changes must be reported to the agency or its designee. The beginning of eligibility is determined under WAC 182-504-0020.

(12) If a person cannot meet the spenddown amount when the application is submitted, the person is not eligible until he or she provides proof of additional qualifying expenses that meet the spenddown liability.

(13) Each dollar of a qualifying medical expense may count once against a spenddown period that leads to eligibility for MN coverage. However, medical expenses may be used more than once if:

(a) The person did not meet his or her total spenddown liability and become eligible in a previous base period and the bill remains unpaid; or

(b) The medical expense was incurred and paid within three months of the current application, and the agency or its designee could not establish WAH eligibility for the person in the retroactive base period.

(14) The person must provide the proof of qualifying medical expense information to the agency or its designee within thirty days after the base period ends, unless there is a good reason for delay.

(15) Once a person meets the spenddown requirement and the certification begin date is established, newly identified expenses are not considered toward that spenddown unless:

(a) There is a good reason for the delay in submitting the expense; or

(b) The agency or its designee made an error when determining the correct begin date.

(16) Good reasons for delay in providing medical expense information to the agency or its designee include, but are not limited to:

(a) The person did not receive a timely bill from his or her medical provider or insurance company;

(b) The person has medical issues that prevent him or her from submitting proof on time; or

(c) The person meets the criteria for needing ~~((a supplemental accommodation under chapter 388-472 WAC))~~ equal access under WAC 182-503-0120.

(17) The agency or its designee does not pay for any expense or portion of an expense used to meet a person's spenddown liability.

(18) If an expense is potentially payable under the MN program, and only a portion of the medical expense is assigned to meet spenddown, the medical provider must not:

(a) Bill the person for more than the amount assigned to the remaining spenddown liability; or

(b) Accept or retain any additional amount for the covered service from the person. Any additional amount may be billed to the agency or its designee. See WAC 182-502-0160, Billing a client.

(19) The agency or its designee determines whether any payment is due to the medical provider on medical expenses partially assigned to meet a spenddown liability under WAC 182-502-0100.

(20) If the medical expense assigned to spenddown was incurred outside of a period of MN eligibility, or if the expense is not covered by WAH, the agency or its designee does not pay any portion of the bill.

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

Date Adopted: December 27, 2018.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-04-037, filed 1/30/18, effective 3/2/18)

WAC 182-516-0145 Irrevocable trusts containing both assets of the beneficiary and third-party assets. (1) For irrevocable trusts that contain both assets of the beneficiary and third-party assets, the medicaid agency or the agency's designee treats the assets of the beneficiary under the self-settled trust rule in effect as of the date of the trust's establishment:

(a) After August 11, 1993:

(i) For irrevocable self-settled trusts for a disabled client under age sixty-five, see WAC 182-516-0120;

(ii) For irrevocable pooled self-settled trusts for a disabled client, see WAC ~~((182-516-0130))~~ 182-516-0125; and

(iii) For all other trusts, see WAC 182-516-0130.

(b) Before August 11, 1993, see WAC 182-516-0135.

(2) For irrevocable trusts that contain both assets of the beneficiary and third-party assets, the agency or the agency's designee treats third-party assets under the third-party trust rules under WAC 182-516-0140.

WSR 19-02-047

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed December 27, 2018, 6:31 a.m., effective January 27, 2019]

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

Purpose: The agency revised this rule to correct a WAC citation in WAC 182-516-0145 (1)(a)(ii). The correct citation is WAC 182-516-0125.

Citation of Rules Affected by this Order: Amending WAC 182-516-0145.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-21-131 on October 19, 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 1, Repealed 0.

WSR 19-02-056

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 18-11—Filed December 27, 2018, 2:20 p.m., effective January 27, 2019]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: California needed to adopt amendments to Sections 1961.2 and 1961.3, Title 13 of the California Code of Regulations before we could update our adoption by reference of those changes. California has adopted their rule and it becomes [became] effective on December 12, 2018.

Purpose: We updated our rule to match revisions to California's motor vehicle emission standards for greenhouse gases approved by the California Air Resources Board on September 28, 2018. The changes we are adopting:

- Clarify that automobile makers who want to sell cars and light-duty trucks in California (and by extension in Washington) for model years 2021 through 2025 would need to meet the existing standards agreed to by California, the federal government, and automakers in 2012; and
- Update requirements and test procedures for certifying compliance with the vehicle emission standards.

Other changes:

- Updated requirements in Washington's rule for on-board diagnostic systems to match California's 2015 rule making in Sections 1968.2 and 1968.5.
- Updated the reference to California effective date for two sections to reflect the current date rather than the revision date for that citation:
 - o Section 1956.8 (g) and (h): California revisions to Section 1956.8 did not change the content in (g) and (h); and
 - o Appendix A to Article 2.1: Appendix A is part of Section 2112 so the effective date should be the effective date for Section 2112 not the date Appendix A was last revised.
- Corrected that ten sections adopted in Washington's rule are located in California's Article 2 not Article 1: Sections 1956.8 (g) and (h), 1960.1, 1961, 1961.1, 1961.2, 1961.3, 1965, 1968.2, 1968.5, 1976, and 1978.

Citation of Rules Affected by this Order: Amending WAC 173-423-070.

Statutory Authority for Adoption: RCW 70.120A.010.

Adopted under notice filed as WSR 18-22-123 on November 7, 2018.

Changes Other than Editing from Proposed to Adopted Version: We made the same change in two locations. We inserted "12/12/18" (the effective date of California's rule) in the "California Effective Date" column for Sections 1961.2 and 1961.3, and removed the sentence that stated our intent to update our adoption of these sections based on the effective date of the rule changes approved by the California Air Resources Board on September 28, 2018.

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 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 27, 2018.

Maia Bellon
Director
by Polly Zehm

AMENDATORY SECTION (Amending WSR 16-12-099, filed 5/31/16, effective 7/1/16)

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty

passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington starting January 14, 2009

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	10/8/15
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	((12/5/14)) <u>10/16/17</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	12/31/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/31/12
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 through 2016 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	((10/8/15)) <u>12/12/18</u>
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	((12/31/12)) <u>12/12/18</u>
Section 1965	Emission Control, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model-Year Motor Vehicles	10/8/15
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	((7/31/13)) <u>7/25/16</u>
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	((7/31/13)) <u>7/25/16</u>
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	10/8/15
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	10/8/15

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	11/9/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles	12/5/14
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	12/5/14
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	2/15/79
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	12/30/83
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	12/8/10

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 2112	Definitions	12/5/14
	Appendix A to Article 2.1	((8/16/09)) 12/5/14
Section 2113	Initiation and Approval of Voluntary and Influenced Emission-Related Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
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**WSR 19-02-057
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed December 27, 2018, 3:53 p.m., effective January 27, 2019]

Effective Date of Rule: Thirty-one days after filing.
 Purpose: The rules are being amended to incorporate legislation from 2017 (ESSB 5939, relating to tax incentives and fees for renewable energy) and 2018 (ESHB 2580, relating to renewable natural gas).

Citation of Rules Affected by this Order: Repealing WAC 458-20-273; and amending WAC 458-20-210, 458-20-263, and 458-29A-400.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 18-21-165 on October 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 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, 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 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: December 27, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-13-094, filed 6/19/18, effective 7/20/18)

WAC 458-20-210 Sales of tangible personal property for farming—Sales of agricultural products by farmers.

(1) **Introduction.** This rule explains the application of business and occupation (B&O), retail sales, and use taxes to the sale and/or use of feed, seed, fertilizer, spray materials, and other tangible personal property for farming. This rule also explains the application of B&O, retail sales, and litter taxes to the sale of agricultural products by farmers. Farmers should refer to WAC 458-20-101 (Tax registration and tax reporting) to determine whether they must obtain a tax registration endorsement or a temporary registration certificate from the department of revenue (department).

(a) **Examples.** This rule contains examples that identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(b) **Other rules that may be relevant.** Farmers and persons making sales to farmers may also want to refer to rules in the following list for additional information:

- (i) WAC 458-20-178 Use tax and the use of tangible personal property;
- (ii) WAC 458-20-209 Farming for hire and horticultural services performed for farmers;
- (iii) WAC 458-20-222 Veterinarians;
- (iv) WAC 458-20-239 Sales to nonresidents of farm machinery or implements, and related services;
- (v) WAC 458-20-243 Litter tax; and
- (vi) WAC 458-20-262 Retail sales and use tax exemptions for agricultural employee housing.

(2) **Who is a farmer?** A "farmer" is any person engaged in the business of growing, raising, or producing, on the person's own lands or on the lands in which the person has a present right of possession, any agricultural product to be sold. Effective July 1, 2015, a "farmer" also includes eligible apiarists that grow, raise, or produce honey bee products for sale, or provide bee pollination services. A "farmer" does not include a person growing, raising, or producing agricultural products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughterhouse, or packing house; or a person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(3) **What is an agricultural product?** An "agricultural product" is any product of plant cultivation or animal hus-

bandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035; turf; or any animal, including, but not limited to, an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, a bird, an insect, or the substances obtained from such animals. Effective July 1, 2015, "agricultural product" includes honey bee products. An "agricultural product" does not include animals defined under RCW 16.70.020 as "pet animals." Effective June 12, 2014, RCW 82.04.213 excludes marijuana from the definition of "agricultural product." Marijuana is any product with a THC concentration greater than .03 percent. RCW 82.04.213.

(4) **Who is an eligible apiarist?** An "eligible apiarist" is a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(5) **What are honey bee products?** "Honey bee products" are queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" do not include manufactured substances or articles.

(6) **What is marijuana?** "Marijuana" is any product with a THC concentration greater than .03 percent. For additional information on marijuana see RCW 69.50.101.

(7) **Sales to farmers.** Persons making sales of tangible personal property to farmers are generally subject to wholesaling or retailing B&O tax, as the case may be, on the gross proceeds of sales. Sales of some services performed for farmers, such as installing or repairing tangible personal property, are retail sales and subject to retailing B&O tax on the gross proceeds of such sales. Persons making retail sales must collect retail sales tax from the buyer, unless the sale is specifically exempt by law. Refer to subsection (9) of this rule for information about specific sales tax exemptions available for sales to farmers.

(a) **Documenting wholesale sales.** A seller must take and retain from the buyer a copy of the buyer's reseller permit, or a completed "Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions" to document the wholesale nature of any transaction.

(b) **Buyer's responsibility when the seller does not collect retail sales tax on a retail sale.** If the seller does not collect retail sales tax on a retail sale, the buyer must pay the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department, unless the sale is specifically exempt by law. The excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's excise tax return. If a deferred sales tax or use tax liability is incurred by a farmer who is not required to obtain a tax registration endorsement from the department, the farmer must report the tax on a "Consumer Use Tax Return" and remit the appropriate tax to the department. For detailed information regarding use tax see WAC 458-20-178.

The Consumer Use Tax Return may be obtained by calling the department's telephone information center at 1-800-647-7706. The return may also be obtained from the department's web site at dor.wa.gov.

(c) **Feed, seed, seedlings, fertilizer, spray materials, and agents for enhanced pollination.** Sales to farmers of feed, seed, seedlings, fertilizer, spray materials, and agents for enhanced pollination, including insects such as bees, to be used for the purpose of producing an agricultural product, whether for wholesale or retail sale, are wholesale sales.

However, when these items are sold to consumers for purposes other than producing agricultural products for sale, the sales are retail sales. For example, sales of feed to riding clubs, racetrack operators, boarders, or similar persons who do not resell the feed at a specific charge are retail sales. Sales of feed for feeding pets or work animals, or for raising animals for the purpose of producing agricultural products for personal consumption are also retail sales. Sales of seed, fertilizer, and spray materials for use on lawns and gardens, or for any other personal use, are likewise retail sales.

(i) **What is feed?** "Feed" is any substance used as food to sustain or improve animals, birds, fish, bees, or other insects, including whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, sugar, pollen patties, bone meal, fish meal, cod liver oil, double purpose limestone grit, oyster shell, and other similar substances. Food additives that are given for their beneficial growth or weight effects are "feed."

Hormones or similar products that do not make a direct nutritional or energy contribution to the body are not "feed," nor are products used as medicines.

(ii) **What is seed?** "Seed" is the propagative portions of plants commonly used for seeding or planting whether true seed, bulbs, plants, seed-like fruits, seedlings, or tubers. For purposes of this rule, "seed" does not include seeds or propagative portions of plants used to grow marijuana.

(iii) **What is fertilizer?** "Fertilizer" is any substance containing one or more recognized plant nutrients and is used for its plant nutrient content and/or is designated for use in promoting plant growth. "Fertilizer" includes limes, gypsum, and manipulated animal and vegetable manures. There is no requirement that fertilizers be applied directly to the soil.

(iv) **What are spray materials?** "Spray materials" are any substance or mixture of substances in liquid, powder, granular, dry flowable, or gaseous form, which is intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mite, mollusk, fungus, weed, and any other form of plant or animal life normally considered to be a pest. The term includes treated materials, such as grains, that are intended to destroy, control, or repel such pests. "Spray materials" also include substances that act as plant regulators, defoliants, desiccants, or spray adjuvants.

(v) **Examples.**

(A) **Example 1.** Sue grows vegetables for retail sale at a local market. Sue purchases fertilizers and spray materials that she applies to the vegetable plants. She also purchases feed for poultry that she raises to produce eggs for her personal consumption. Because the vegetables are an agricultural product produced for sale, retail sales tax does not apply to Sue's purchases of fertilizers and spray materials, provided she gives the seller a copy of her reseller permit, or a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. Retail sales tax applies to her pur-

chases of poultry feed, as the poultry is raised to produce eggs for Sue's personal consumption.

(B) **Example 2.** WG Vineyards (WG) grows grapes that it uses to manufacture wine for sale. WG purchases pesticides and fertilizers that are applied to its vineyards. WG may purchase these pesticides and fertilizers at wholesale, provided WG gives the seller a copy of their reseller permit, or a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions.

(C) **Example 3.** Seed Co. contracts with farmers to raise seed. Seed Co. provides the seed and agrees to purchase the crop if it meets specified standards. The contracts provide that ownership of the crop is retained by Seed Co., and the risk of crop loss is borne by the farmers. The farmers must pay for the seed whether or not the crop meets the specified standard. The transfer of the possession of the seed to each farmer is a wholesale sale, provided Seed Co. obtains a copy of their reseller permit, or a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions from that farmer.

(d) **Chemical sprays or washes.** Sales of chemical sprays or washes, whether to farmers or other persons, for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay are wholesale sales.

(e) **Farming equipment.** Sales to farmers of farming equipment such as machinery, machinery parts and repair, tools, and cleaning materials are retail sales and subject to retailing B&O and retail sales taxes, unless specifically exempt by law. Refer to subsections (7)(i) and (9) of this rule for information about sales tax exemptions available to farmers.

(f) **Packing materials and containers.** Sales of packing materials and containers, or tangible personal property that will become part of a container, to a farmer who will sell the property to be contained therein are wholesale sales, provided the packing materials and containers are not put to intervening use by the farmer. Thus, sales to farmers of binder twine for binding bales of hay that will be sold or wrappers for fruit and vegetables to be sold are subject to wholesaling B&O tax. However, sales of packing materials and containers to a farmer who will use the items as a consumer are retail sales and subject to retailing B&O and retail sales taxes. Thus, sales of binder twine to a farmer for binding bales of hay that will be used to feed the farmer's livestock are retail sales.

(g) **Purchases for dual purposes.** A buyer normally engaged in both consuming and reselling certain types of tangible personal property who is unable to determine at the time of purchase whether the particular property purchased will be consumed or resold must purchase according to the general nature of his or her business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a copy of its reseller permit for any part of the purchase. If the buyer principally resells the articles, the buyer may provide a copy of its reseller permit for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

If a buyer makes a purchase for dual purposes and does not give a copy of their reseller permit for any of the purchase and thereafter resells some of the articles purchased, the buyer may claim a "taxable amount for tax paid at source"

deduction. For additional information regarding purchases for dual purposes and the "taxable amount for tax paid at source" deduction see WAC 458-20-102.

(i) **Potential deferred sales tax liability.** If the buyer gives a copy of its reseller permit for all purchases and thereafter consumes some of the articles purchased, the buyer is liable for deferred sales tax and must remit the tax directly to the department. Refer to (b) of this subsection, WAC 458-20-102 and 458-20-178 for more information regarding deferred sales tax and use tax.

(ii) **Example 4.** A farmer purchases binder twine for binding bales of hay. Some of the hay will be sold and some will be used to feed the farmer's livestock. More than fifty percent of the binder twine is used for binding bales of hay that will be sold. Because the farmer principally uses the binder twine for binding bales of hay that will be sold, the farmer may provide a copy of their reseller permit, or a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions to the seller for the entire purchase. The farmer is liable for deferred sales tax on the binder twine used for binding bales of hay that are used to feed the farmer's livestock and must remit the tax directly to the department.

(h) **"Fruit bin rentals" by fruit packers.** Fruit packers often itemize their charges to farmers for various services related to the packing and storage of fruit. An example is a charge for the bins that the packer uses in the receiving, sorting, inspecting, and storing of fruit (commonly referred to as "bin rentals"). The packer delivers the bins to the grower, who fills them with fruit for eventual storage in the packer's warehouse. Charges by fruit packers to farmers for such bin rentals do not constitute the rental of tangible personal property to the farmer where the bins are under the control of the packer for use in the receiving, sorting, inspecting, and storing of fruit. These charges are income to the packer related to the receipt or storage of fruit. The packer, as the consumer of the bins, is subject to retail sales or use tax on the purchase or use of the bins. For information regarding the taxability of fruit packing by cooperative marketing associations and independent dealers acting as agents for others in the sales of fruit and produce see WAC 458-20-214.

(i) **Machinery and equipment used directly in a manufacturing operation.** Machinery and equipment used directly in a manufacturing operation by a manufacturer or processor for hire is exempt from sales and use taxes provided that all requirements for the exemptions are met. RCW 82.08.02565 and 82.12.02565. These exemptions are commonly referred to as the M&E exemption. Farmers who use agricultural products that they have grown, raised, or produced as ingredients in a manufacturing process may be entitled to the M&E exemption on the acquisition of machinery and equipment used directly in their manufacturing operation. For more information on the M&E exemption see WAC 458-20-13601.

(8) **Sales by farmers.** Farmers are not subject to B&O tax on wholesale sales of agricultural products. Effective July 1, 2015, bee pollination services provided to farmers by eligible apiarists also qualify for the exemption provided by RCW 82.04.330. Farmers who manufacture products using agricultural products that they have grown, raised, or produced

should refer to (b) of this subsection for tax-reporting information.

Farmers are subject to retailing B&O tax on retail sales of agricultural products and retailing or wholesaling B&O tax on sales of nonagricultural products, as the case may be, unless specifically exempt by law. Also, B&O tax applies to sales of agricultural products that the seller has not grown, raised, or produced on the seller's own land or on land in which the seller has a present right of possession, whether these products are sold at wholesale or retail. Likewise, B&O tax applies to sales of animals or substances derived from animals in connection with the business of operating a stockyard, slaughterhouse, or packing house. Farmers may be eligible to claim a small business B&O tax credit if the amount of B&O tax liability in a reporting period is under a certain amount. For more information about the small business B&O tax credit see WAC 458-20-104.

(a) **Litter tax.** The gross proceeds of sales of certain products, including food for human or pet consumption, are subject to litter tax. RCW 82.19.020. Litter tax does not apply to sales of agricultural products that are exempt from B&O tax under RCW 82.04.330. RCW 82.19.050. Thus, farmers are not subject to litter tax on wholesale sales of agricultural products but are liable for litter tax on the gross proceeds of retail sales of agricultural products that constitute food for human or pet consumption. In addition, farmers that manufacture products for use and consumption within this state (e.g., a farmer who produces wine from grapes that the farmer has grown) may be liable for litter tax measured by the value of the products manufactured. For more information about the litter tax see chapter 82.19 RCW and WAC 458-20-243.

Example 5. RD Orchards (RD) grows apples at its orchards. Most apples are sold at wholesale, but RD operates a seasonal roadside fruit stand from which it sells apples at retail. The wholesale sales of apples are exempt from both B&O and litter taxes. The retail sales of apples are subject to retailing B&O and litter taxes but are exempt from sales tax because the apples are sold as a food product for human consumption. Refer to subsection (9)(d) of this rule for more information about the retail sales tax exemption applicable to sales of food products for human consumption.

(b) **Farmers using agricultural products in a manufacturing process.** The B&O tax exemption provided by RCW 82.04.330 does not apply to any person selling manufactured substances or articles. Thus, farmers who manufacture products using agricultural products that they have grown, raised, or produced are subject to manufacturing B&O tax on the value of products manufactured. Farmers who sell their manufactured products at retail or wholesale in the state of Washington are also generally subject to the retailing or wholesaling B&O tax, as the case may be. In such cases, a multiple activities tax credit (MATC) may be available. Refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and WAC 458-20-19301 (Multiple activities tax credits), respectively, for more information about the manufacturing B&O tax and the MATC.

(i) **Manufacturing fresh fruits and vegetables.** RCW 82.04.4266 provides a B&O tax exemption to persons manufacturing fresh fruits or vegetables by canning, preserving,

freezing, processing, or dehydrating fresh fruits or vegetables. For purposes of this rule, "fruits" and "vegetables" does not include marijuana.

Wholesale sales of fresh fruits or vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport the goods out of this state in the ordinary course of business are also eligible for this exemption. A seller must keep and preserve records for the period required by RCW 82.32.070 establishing that the purchaser transported the goods out of Washington state.

(A) A person claiming the exemption must file a complete annual tax performance report with the department under RCW 82.32.534. In addition, persons claiming this tax preference must report the amount of the exemption on their monthly or quarterly excise tax return. For more information on reporting requirements for this tax preference see RCW 82.32.808.

(B) RCW 82.04.4266 is scheduled to expire July 1, 2025, at which time the preferential B&O tax rate under RCW 82.04.260 will apply.

(ii) **Manufacturing dairy products.** RCW 82.04.4268 provides a B&O tax exemption to persons manufacturing dairy products, not including any marijuana-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135. These products include milk, buttermilk, cream, yogurt, cheese, and ice cream, and also include by-products from the manufacturing of dairy products such as whey and casein.

The exemption also applies to persons selling manufactured dairy products to purchasers who transport the goods out of Washington state in the ordinary course of business. Unlike the exemption for certain wholesale sales of fresh fruits or vegetables (see (b)(i) of this subsection), the exemption for sales of qualifying dairy products does not require that the sales be made at wholesale.

A seller must keep and preserve records for the period required by RCW 82.32.070 establishing that the purchaser transported the goods out of Washington state or the goods were sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(A) A person claiming the exemption must file a complete annual tax performance report with the department under RCW 82.32.534. In addition, persons claiming this tax preference must report the amount of the exemption on their monthly or quarterly excise tax return. For more information on reporting requirements for this tax preference see RCW 82.32.808.

(B) RCW 82.04.4268 is scheduled to expire July 1, 2025, at which time the preferential B&O tax rate under RCW 82.04.260 will apply.

(C) Effective October 1, 2013, the exemption provided by RCW 82.04.4268 expanded to include wholesale sales by a dairy product manufacturer to a purchaser who uses the dairy products as an ingredient or component in the manufacturing in Washington of another dairy product. The definition of dairy products was expanded to include products comprised of not less than seventy percent dairy products measured by weight or volume.

(c) **Raising cattle for wholesale sale.** RCW 82.04.330 provides a B&O tax exemption to persons who raise cattle for

wholesale sale provided that the cattle are held for at least sixty days prior to the sale. Persons who hold cattle for fewer than sixty days before reselling the cattle are not considered to be engaging in the normal activities of growing, raising, or producing livestock for sale.

Example 6. A feedlot operation purchases cattle and feeds them until they attain a good market condition. The cattle are then sold at wholesale. The feedlot operator is exempt from B&O tax on wholesale sales of cattle if it held the cattle for at least sixty days while they were prepared for market. However, the feedlot operator is subject to wholesaling B&O tax on wholesale sales of cattle held for fewer than sixty days prior to the sale.

(d) **B&O tax exemptions available to farmers.** In addition to the exemption for wholesale sales of agricultural products, several other B&O tax exemptions available to farmers are discussed in this subsection.

(i) **Growing, raising, or producing agricultural products owned by other persons.** RCW 82.04.330 exempts amounts received by a farmer for growing, raising, or producing agricultural products owned by others, such as custom feed operations.

Example 7. A farmer is engaged in the business of raising cattle owned by others (commonly referred to as "custom feeding"). After the cattle attain a good market condition, the owner sells them. Amounts received by the farmer for custom feeding are exempt from B&O tax under RCW 82.04.330, provided that the farmer held the cattle for at least sixty days. Farmers are not considered to be engaging in the activity of raising cattle for sale unless the cattle are held for at least sixty days while the cattle are prepared for market. (See (c) of this subsection.)

(ii) **Processed hops shipped outside Washington for first use.** RCW 82.04.337 exempts amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, if those hops have been processed into extract, pellets, or powder in this state. However, the processor or warehouse of such products is not exempt on amounts charged for processing or warehousing such products.

(iii) **Sales of hatching eggs or poultry.** RCW 82.04.410 exempts amounts received for the sale of hatching eggs or poultry by farmers producing hatching eggs or poultry, when these agricultural products are for use in the production for sale of poultry or poultry products.

(9) **Retail sales tax and use tax exemptions.** This subsection provides information about a number of retail sales tax and corresponding use tax exemptions available to farmers and persons buying tangible personal property at retail from farmers. Some exemptions require the buyer to provide the seller with an exemption certificate. Refer to subsection (10) of this rule for additional information regarding exemption certificates.

(a) **Pollen.** RCW 82.08.0277 and 82.12.0273 exempt the sale and use of pollen from retail sales and use taxes.

(b) **Semen.** RCW 82.08.0272 and 82.12.0267 exempt the sale and use of semen used in the artificial insemination of livestock from retail sales and use taxes.

(c) **Feed for livestock at public livestock markets.** RCW 82.08.0296 and 82.12.0296 exempt the sale and use of

feed to be consumed by livestock at a public livestock market from retail sales and use taxes.

(d) **Food products.** RCW 82.08.0293 and 82.12.0293 exempt the sale and use of food products for human consumption from retail sales and use taxes. These exemptions also apply to the sale or use of livestock for personal consumption as food. For more information about food products that qualify for this exemption see WAC 458-20-244.

(e) **Auction sales of farm property.** RCW 82.08.0257 and 82.12.0258 exempt from retail sales and use taxes tangible personal property, including household goods, which has been used in conducting a farm activity, if the property is purchased from a farmer, as defined in RCW 82.04.213, at an auction sale held or conducted by an auctioneer on a farm. Effective June 12, 2014, these exemptions do not apply to personal property used by a person in the production of marijuana.

(f) **Poultry.** RCW 82.08.0267 and 82.12.0262 exempt from retail sales and use taxes the sale and use of poultry used in the production for sale of poultry or poultry products.

Example 8. A poultry hatchery produces poultry from eggs. The resulting poultry are sold to egg producers. These sales are exempt from retail sales tax under RCW 82.08.-0267. (They are also exempt from B&O tax. See subsection (8)(d)(iii) of this rule.)

(g) **Leases of irrigation equipment.** RCW 82.08.0288 and 82.12.0283 exempt the lease or use of irrigation equipment from retail sales and use taxes, but only if:

(i) The lessor purchased the irrigation equipment for the purpose of irrigating land controlled by the lessor;

(ii) The lessor has paid retail sales or use tax upon the irrigation equipment;

(iii) The irrigation equipment is attached to the land in whole or in part;

(iv) Effective June 12, 2014, the irrigation equipment is not used in the production of marijuana; and

(v) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land and is used solely on such land.

(h) **Beef and dairy cattle.** RCW 82.08.0259 and 82.12.-0261 exempt the sale and use of beef and dairy cattle, to be used by a farmer in producing an agricultural product, from retail sales and use taxes.

Example 9. John operates a farm where he raises beef and dairy cattle for sale. He also raises other livestock for sale including hogs, sheep, and goats. John's sales of beef and dairy cattle for use on a farm are exempt from retail sales tax. However, John must collect retail sales tax on all retail sales of sheep, goats, and hogs unless the sales qualify for either the food products exemption described in (d) of this subsection, or the exemption for sales of livestock for breeding purposes described in this subsection (9)(i) of this rule.

(i) **Livestock for breeding purposes.** RCW 82.08.0259 and 82.12.0261 exempt the sale or use of livestock, as defined in RCW 16.36.005, for breeding purposes where the animals are registered in a nationally recognized breed association from retail sales and use taxes.

Example 10. ABC Farms raises and sells quarter horses registered in the American Quarter Horse Association (AQHA). Quarter horses are generally recognized as a defi-

nite breed of horse, and the AQHA is a nationally recognized breed association. Therefore, ABC Farms is not required to collect sales tax on retail sales of quarter horses for breeding purposes, provided it receives and retains a completed exemption certificate from the buyer.

(j) **Bedding materials for chickens.** RCW 82.08.920 and 82.12.920 exempt from retail sales and use taxes the sale to and use of bedding materials by farmers to accumulate and facilitate the removal of chicken manure, provided the farmer is raising chickens that are sold as agricultural products.

(i) **What are bedding materials?** "Bedding materials" are wood shavings, straw, sawdust, shredded paper, and other similar materials.

(ii) **Example 11.** Farmer raises chickens for use in producing eggs for sale. When the chickens are no longer useful for producing eggs, Farmer sells them to food processors for soup and stew meat. Farmer purchases bedding materials used to accumulate and facilitate the removal of chicken manure. The purchases of bedding materials by Farmer are exempt from retail sales tax as long as Farmer provides the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. See subsection (10) of this rule for where to find an exemption certificate. The seller must retain a copy of the exemption certificate for its records.

The exemption merely requires that the chickens be sold as agricultural products. It is immaterial that Farmer primarily raises the chickens to produce eggs.

(k) **Propane or natural gas used to heat structures housing chickens.** RCW 82.08.910 and 82.12.910 exempt from retail sales and use taxes the sale to and use of propane or natural gas by farmers to heat structures used to house chickens. The propane or natural gas must be used exclusively to heat the structures, and the structures must be used exclusively to house chickens that are sold as agricultural products.

(i) **What are "structures"?** "Structures" are barns, sheds, and other similar buildings in which chickens are housed.

(ii) **Example 12.** Farmer purchases natural gas that is used to heat structures housing chickens. The natural gas is used exclusively to heat the structures, and the structures are used exclusively to house chickens. The chickens are used to produce eggs. When the chickens are no longer useful for producing eggs, Farmer sells the chickens to food processors for soup and stew meat. The purchase of natural gas by Farmer is exempt from retail sales tax as long as Farmer provides the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. See subsection (10) of this rule for where to find an exemption certificate. The seller must retain a copy of the exemption certificate for its records.

The exemption merely requires that the chickens be sold as agricultural products. It is immaterial that Farmer primarily houses these chickens to produce eggs.

(iii) **Example 13.** Farmer purchases natural gas that is used to heat structures used in the incubation of chicken eggs and structures used for washing, packing, and storing eggs. The natural gas used to heat these structures is not exempt from retail sales tax because the structures are not used exclusively to house chickens that are sold as agricultural products.

(l) **Farm fuel used for agricultural purposes.**

(i) **Diesel, biodiesel and aircraft fuels.** RCW 82.08.865 and 82.12.865 exempt from retail sales and use taxes the sale and use of diesel fuel, biodiesel fuel, and aircraft fuel, to farm fuel users for agricultural purposes. The exemptions apply to a fuel blend if all of the component fuels of the blend would otherwise be exempt if the component fuels were sold as separate products. The buyer must provide the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. See subsection (10) of this rule for where to find an exemption certificate. The seller must retain a copy of the exemption certificate for its records.

(A) The exemptions apply to nonhighway uses for production of agricultural products and for providing horticultural services to farmers. Horticultural services include:

- (I) Soil preparation services;
- (II) Crop cultivation services;
- (III) Crop harvesting services.

(B) The exemptions do not apply to uses other than for agricultural purposes. Agricultural purposes do not include:

- (I) Heating space for human habitation or water for human consumption; or
- (II) Transporting on public roads individuals, agricultural products, farm machinery or equipment, or other tangible personal property, except when the transportation is incidental to transportation on private property and the fuel used for such transportation is not subject to tax under chapter 82.38 RCW.

(ii) **Propane and natural gas used in distilling mint on a farm.** Effective October 1, 2013, RCW 82.08.220 and 82.12.220 exempt from retail sales and use taxes sales to and use by farmers of propane or natural gas used exclusively to distill mint on a farm. The buyer must provide the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. The seller must retain a copy of the exemption certificate for its records. See subsection (10) of this rule for where to find an exemption certificate. The seller must also report amounts claimed for exemption when electronically filing excise tax returns. This exemption is scheduled to expire July 1, 2017.

(m) **Nutrient management equipment and facilities.** RCW 82.08.890 and 82.12.890 provide retail sales and use tax exemptions for the sale to or use by eligible persons of:

(i) Qualifying livestock nutrient management equipment;

(ii) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(iii) Labor and services rendered in respect to repairing, cleaning, altering, or improving qualifying livestock nutrient management facilities, or to tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving such facilities.

(iv) Nonqualifying labor and services. This subsection (9)(m)(iii) of this rule does not include the sale of or charge made for labor and services rendered in respect to the constructing of new, or replacing previously existing, qualifying livestock nutrient management facilities, or tangible personal property that becomes an ingredient or component of qualify-

ing livestock nutrient management facilities during the course of constructing new, or replacing previously existing qualifying livestock nutrient management facilities.

(v) Nutrient management plan must be certified or approved. The exemptions provided by RCW 82.08.890 and 82.12.890 apply to sales made after the livestock nutrient management plan is:

(A) Certified under chapter 90.64 RCW;

(B) Approved as part of the permit issued under chapter 90.48 RCW; or

(C) Approved by a conservation district and who qualifies for the exemption provided under RCW 82.08.855. Effective June 12, 2014, the requirement for the department to issue exemption certificates was removed. A Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions should be completed and provided to the seller.

(vi) **Definitions. For the purpose of these exemptions, the following definitions apply:**

(A) **"Animal feeding operation"** means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

- Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and
- Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(B) **"Conservation district"** means a subdivision of state government organized under chapter 89.08 RCW.

(C) **"Eligible person"** means a person:

- Licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan, as required by chapter 90.64 RCW; or
- Who owns an animal feeding operation and has a permit issued under chapter 90.48 RCW; or
- Who owns an animal feeding operation and has a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical guide standards and who qualifies for the exemption provided under RCW 82.08.855.

(D) **"Handling and treatment of livestock manure"** means the activities of collecting, storing, moving, or transporting livestock manure, separating livestock manure solids from liquids, or applying livestock manure to the agricultural lands of an eligible person other than through the use of pivot or linear type traveling irrigation systems.

(E) **"Permit"** means either a state waste discharge permit or a National Pollutant Discharge Elimination System permit, or both.

(F) **"Qualifying livestock nutrient management equipment"** means the tangible personal property listed below for exclusive use in the handling and treatment of livestock manure, including repair and replacement parts for the same equipment:

- Aerators
- Agitators
- Augers
- Conveyers
- Gutter cleaners
- Hard-hose reel traveler irrigation systems

Lagoon and pond liners and floating covers
 Loaders
 Manure composting devices
 Manure spreaders
 Manure tank wagons
 Manure vacuum tanks
 Poultry house cleaners
 Poultry house flame sterilizers
 Poultry house washers
 Poultry litter saver machines
 Pipes
 Pumps
 Scrapers
 Separators
 Slurry injectors and hoses
 Wheelbarrows, shovels, and pitchforks.

(G) "**Qualifying livestock nutrient management facilities**" means the exclusive use in the handling and treatment of livestock manure of the facilities listed below:

Flush systems
 Lagoons
 Liquid livestock manure storage structures, such as concrete tanks or glass-lined steel tanks
 Structures used solely for dry storage of manure, including roofed stacking facilities.

(n) **Anaerobic digesters (effective July 1, 2018).**

(i) RCW 82.08.900 and 82.12.900 provide retail sales and use tax exemptions for purchases and uses by eligible persons:

(A) In respect to equipment necessary to process biogas from a landfill into marketable coproducts including, but not limited to, biogas conditioning, compression, and electrical generation equipment, or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving equipment necessary to process biogas from a landfill into marketable coproducts; and

(B) Establishing or operating anaerobic digesters or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving an anaerobic digester. The exemptions include sales of tangible personal property that becomes an ingredient or component of the anaerobic digester. ~~((The anaerobic digester must be used primarily (more than fifty percent measured by volume or weight) to treat livestock manure. Anaerobic digester is a facility that processes manure from livestock into biogas and dried manure using microorganisms in a decomposition process within a closed, oxygen-free container.~~

(+)) Anaerobic digester means a facility that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container as well as the equipment necessary to process biogas or digestate produced by an anaerobic digester into marketable coproducts including, but not limited to, biogas conditioning, compression, nutrient recovery, and electrical generation equipment.

(ii) Exemption certificate. Effective July 24, 2015, eligible persons no longer need to apply for an exemption certificate. An "eligible person" is any person establishing or operating an anaerobic digester ~~((to treat primarily livestock~~

~~manure)) or landfill or processing biogas from an anaerobic digester or landfill into marketable coproducts.~~

~~((+)) (iii) Records retention.~~ Persons claiming the exemptions under RCW 82.08.900 and 82.12.900 must keep records necessary for the department to verify eligibility. Sellers may make tax exempt sales only if the buyer provides the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions, and the seller retains a copy of the certificate for its files. See subsection (10) of this rule for where to find an exemption certificate.

(o) Anaerobic digesters (effective until July 1, 2018). RCW 82.08.900 and 82.12.900 provide retail sales and use tax exemptions for purchases and uses by eligible persons establishing or operating anaerobic digesters or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving an anaerobic digester. The exemptions include sales of tangible personal property that becomes an ingredient or component of the anaerobic digester. The anaerobic digester must be used primarily (more than fifty percent measured by volume or weight) to treat livestock manure. Anaerobic digester is a facility that processes manure from livestock into biogas and dried manure using microorganisms in a decomposition process within a closed, oxygen-free container.

(i) Exemption certificate. Effective July 24, 2015, eligible persons no longer need to apply for an exemption certificate. An "eligible person" is any person establishing or operating an anaerobic digester to treat primarily livestock manure.

(ii) Records retention. Persons claiming the exemptions under RCW 82.08.900 and 82.12.900 must keep records necessary for the department to verify eligibility. Sellers may make tax exempt sales only if the buyer provides the seller with a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions, and the seller retains a copy of the certificate for its files. See subsection (10) of this rule for where to find an exemption certificate.

(p) Animal pharmaceuticals. RCW 82.08.880 and 82.12.880 exempt from retail sales and use taxes the sale of and use of certain animal pharmaceuticals when sold to, or used by, farmers or veterinarians. To qualify for the exemption, the animal pharmaceutical must be administered to an animal raised by a farmer for the purpose of producing an agricultural product for sale. In addition, the animal pharmaceutical must be approved by the United States Department of Agriculture (USDA) or the United States Food and Drug Administration (FDA).

(i) Who is a veterinarian? A "veterinarian" means a person who is licensed to practice veterinary medicine, surgery, or dentistry under chapter 18.92 RCW.

(ii) How can I determine whether the FDA or USDA has approved an animal pharmaceutical? The FDA and USDA have an established approval process set forth in federal regulations. The FDA maintains a list of all approved animal pharmaceuticals called the "*Green Book*." The USDA maintains a list of approved biotechnology products called the "*Veterinary Biologics Product Catalogue*." Pharmaceuticals that are not on either of these lists have not been approved and are not eligible for the exemption.

(iii) **Example 17.** Dairy Farmer purchases sterilizing agents. The sterilizing agents are applied to the equipment and facilities where Dairy Farmer's cows are milked. Dairy Farmer also purchases teat dips, antiseptic udder washes, and salves that are not listed in either the FDA's *Green Book* of approved animal pharmaceuticals or the USDA's *Veterinary Biologics Product Catalogue* of approved biotechnology products. The purchases of sterilizing agents are not exempt as animal pharmaceuticals because the sterilizing agents are not administered to animals. The teat dips, antiseptic udder washes, and salves are likewise not exempt because they have not been approved by the FDA or USDA.

(iv) **What type of animal must the pharmaceutical be administered to?** As explained above, the exemptions are limited to the sale and use of animal pharmaceuticals administered to an animal that is raised by a farmer for the purpose of producing an agricultural product for sale. The conditions under which a farmer may purchase and use tax-exempt animal pharmaceuticals are similar to those under which a farmer may purchase and use feed at wholesale. Both types of purchases and uses require that the particular product be sold to or used by a farmer (or a veterinarian in the case of animal pharmaceuticals), and that the product be given or administered to an animal raised by a farmer for the purpose of producing an agricultural product for sale.

(v) **Examples of animals raised for the purpose of producing agricultural products for sale.** For purposes of the exemptions, the following is a nonexclusive list of examples of animals that are being raised for the purpose of producing an agricultural product for sale, presuming all other requirements for the exemption are met:

(A) Horses, cattle, or other livestock raised by a farmer for sale;

(B) Cattle raised by a farmer for the purpose of slaughtering, if the resulting products are sold;

(C) Milk cows raised and/or used by a dairy farmer for the purpose of producing milk for sale;

(D) Horses raised by a farmer for the purpose of producing foals for sale;

(E) Sheep raised by a farmer for the purpose of producing wool for sale; and

(F) "Private sector cultured aquatic products" as defined by RCW 15.85.020 (e.g., salmon, catfish, and mussels) raised by an aquatic farmer for the purpose of sale.

(vi) **Examples of animals that are not raised for the purpose of producing agricultural products for sale.** For purposes of the exemptions, the following nonexclusive list of examples do not qualify because the animals are not being raised for the purpose of producing an agricultural product for sale:

(A) Cattle raised for the purpose of slaughtering if the resulting products are not produced for sale;

(B) Sheep and other livestock raised as pets;

(C) Dogs or cats, whether raised as pets or for sale. Dogs and cats are pet animals; therefore, they are not considered to be agricultural products. (See subsection (3) of this rule); and

(D) Horses raised for the purpose of racing, showing, riding, and jumping. However, if at some future time the horses are no longer raised for racing, showing, riding, or jumping and are instead being raised by a farmer for the pur-

pose of producing foals for sale, the exemption will apply if all other requirements for the exemption are met.

(vii) **Do products that are used to administer animal pharmaceuticals qualify for the exemption?** Sales and uses of products that are used to administer animal pharmaceuticals (e.g., syringes) do not qualify for the exemptions, even if they are later used to administer a tax-exempt animal pharmaceutical. However, sales and uses of tax-exempt animal pharmaceuticals contained in a product used to administer the animal pharmaceutical (e.g., a dose of a tax-exempt pharmaceutical contained in a syringe or cotton applicator) qualify for the exemption.

~~((p))~~ (q) **Replacement parts for qualifying farm machinery and equipment.** RCW 82.08.855 and 82.12.855 exempt from retail sales and use taxes sales to and uses by eligible farmers of replacement parts for qualifying farm machinery and equipment. Also included are: Labor and services rendered during the installation of repair parts; and labor and services rendered during repair as long as no tangible personal property is installed, incorporated, or placed in, or becomes an ingredient or component of the qualifying equipment other than replacement parts.

(i) **The following definitions apply to this subsection:**

(A) "Eligible farmer" as defined in RCW 82.08.855(4).

(B) "Qualifying farm machinery and equipment" means machinery and equipment used primarily by an eligible farmer for growing, raising, or producing agricultural products, and effective July 1, 2015, providing bee pollination services, or both.

(C) "Qualifying farm machinery and equipment" does not include:

- Vehicles as defined in RCW 46.04.670, other than farm tractors as defined in RCW 46.04.180, farm vehicles and other farm implements. "Farm implements" means machinery or equipment manufactured, designed, or reconstructed for agricultural purposes and used primarily by an eligible farmer to grow, raise, or produce agricultural products, but does not include lawn tractors and all-terrain vehicles;

- Aircraft;
- Hand tools and hand-powered tools; and
- Property with a useful life of less than one year.

(D) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of qualifying farm machinery or equipment. Paint, fuel, oil, hydraulic fluids, antifreeze, and similar items are not replacement parts except when installed, incorporated, or placed in qualifying farm machinery and equipment during the course of installing replacement parts as defined here or making repairs as described above in (p) of this subsection.

(ii) **Exemption certificate.** Prior to June 12, 2014, the department was required to provide an exemption certificate to an eligible farmer or renew an exemption certificate when the eligible farmer applied for a renewal.

(A) Persons claiming the exemptions must keep records necessary for the department to verify eligibility. Sellers making tax-exempt sales must obtain, and retain in its files, a completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions from the farmer. In lieu of the exemp-

tion certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

(B) The exemptions provided by RCW 82.08.890 and 82.12.890 do not apply to sales made from July 1, 2010, through June 30, 2013.

(10) **Sales tax exemption certificates.** As indicated in subsection (9) of this rule, certain sales of tangible personal property and retail services either to or by farmers are exempt from retail sales tax. A person claiming an exemption must keep records necessary for the department to verify eligibility for each claimed exemption. Effective June 12, 2014, the requirement for the department to issue certificates to qualified farmers was removed. Instead, farmers may complete and use the department's Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions. Refer to the department's web site at dor.wa.gov for the exemption certificate. In lieu of an exemption certificate, a seller may capture the relevant data elements as provided under the streamlined sales and use tax agreement as allowed under RCW 82.08.050. Sellers must retain a copy of the exemption certificate or the data elements in their files. Without proper documentation, sellers are liable for payment of the retail sales tax on sales claimed as exempt.

AMENDATORY SECTION (Amending WSR 18-13-094, filed 6/19/18, effective 7/20/18)

WAC 458-20-263 Exemptions from retail sales and use taxes for qualifying electric generating (~~and thermal heat producing~~) systems using renewable energy sources. RCW 82.08.962 (~~, 82.08.963, 82.12.962, and 82.12.963~~) and 82.12.962 provide exemptions from the "retail sales tax" described in chapter 82.08 RCW and the "use tax" described in chapter 82.12 RCW paid with respect to the sale or use of machinery and equipment used directly in generating electricity (~~or producing thermal heat~~) using qualified renewable energy sources. This rule explains how these exemptions apply and is divided into (~~four~~) three parts as follows:

PART 1: Exemptions as Applied to Qualified Solar Systems(~~;~~);

PART 2: Exemptions as Applied to Qualified Nonsolar Renewable Energy Systems(~~;~~) and

PART 3: (~~Exemptions as Applied to Qualifying Solar Heat Systems;~~

~~PART 4;~~) General Provisions.

PART 1

Exemptions as Applied to Qualified Solar Systems

(101) (~~Solar systems that generate ten kilowatts or less.~~

(a) **Exemptions.** RCW 82.08.963 and 82.12.963 provide exemptions from retail sales and use taxes paid with the respect to the sale or use of machinery and equipment that is used directly in a solar energy system capable of generating ten kilowatts of electricity or less. The nameplate DC power rating of a system, which is an industry standard, is used to determine whether the energy system is capable of generating ten kilowatts of electricity or less. Labor charges to install the qualified machinery and equipment are also exempt from

retail sales and use taxes. Both state and local retail sales and use taxes are exempt. These exemptions are effective from July 1, 2009, and expire June 30, 2018.

(b) ~~Exemption certificate required.~~ The buyer must document this exemption at the time of sale by providing the seller (and installer, if different from the seller), a completed *Buyers' Retail Sales Tax Exemption Certificate*. The seller or installer must keep the completed form in its records for five years.

(e) ~~Instructions for sellers that E-file.~~ For sellers that E-file, the exemption permitted under Part 1, subsection (101)(a) of this rule should be listed on the line entitled *Sales of Solar Machinery/Equipment; Install Labor* on the retail sales tax deduction page of E-file.

(102)) Solar systems that generate (~~more than ten~~) **one kilowatt(s) or more.**

(a) **Partial exemptions.** (~~For buyers that do not qualify for the full exemption described in Part 1, subsection (101)(a) of this rule, there is an alternative partial exemption.~~) RCW 82.08.962 and 82.12.962 provide an exemption, in the form of a remittance (refund) from the department, equal to seventy-five percent of the retail sales and use taxes paid with respect to the sale or use of machinery and equipment used directly in solar energy systems capable of generating at least 1000 watts (one kilowatt) of electricity. The exemption also applies to amounts paid for labor and services rendered in respect to installing such machinery and equipment (~~, and may only be claimed if the exemption permitted in Part 1, subsection (101)(a) of this rule has not been claimed~~). The nameplate DC power rating of a system, which is an industry standard, is used to determine whether the solar energy system is capable of generating 1000 watts (one kilowatt) or more of electricity. The buyer must pay the total amount of the retail sales or use taxes (~~paid~~) due with the respect to the sale or use of the qualifying machinery, equipment, and labor charges to install the same. The buyer may then apply to the department for a refund of seventy-five percent of the state and local retail sales and use taxes paid. This partial exemption is effective (~~from~~) beginning July 1, 2011, and expires January 1, 2020.

(b) (~~From July 1, 2009, through June 30, 2011, these systems qualified for a one hundred percent exemption for retail sales and use taxes paid with the respect to the sale and use of qualified machinery, equipment, and labor charges to install the same at the point of sale. For documentation requirements see Part 1, subsection (101) of this rule.~~

(e)) **Required annual tax performance report.** Beginning January 1, 2018, buyers applying for a refund must complete and submit an annual tax performance report. The annual tax performance report must be filed with the department by May 31st(~~;~~) of the year immediately following the year for which the refund is claimed. For more information see Part ((4)) 3, subsection (~~((401))~~) (301)(c) of this rule.

PART 2

Exemptions as Applied to Qualified Nonsolar Renewable Energy Systems

(201) **Qualified nonsolar renewable energy systems generating one kilowatt or more.**

(a) **Partial exemptions.** RCW 82.08.962 and 82.12.962 provide an exemption equal to seventy-five percent of the retail sales and use taxes paid with respect to the sale or use of machinery and equipment used directly in a renewable energy system employing a qualified power source that generates at least 1000 watts (one kilowatt) or more of electricity. This exemption also applies to amounts paid for labor and services rendered in respect to installing such machinery and equipment. The buyer is eligible for the exemption in the form of a remittance (refund) from the department and must have paid to the seller or to the department the total amount of retail sales or use taxes (~~(paid with the)~~ due with respect to the sale or use of the machinery, equipment, and labor charges to install the same. To claim the exemption, the buyer must apply to the department for a refund. See Part ~~((4))~~ 3, subsection ~~((401))~~ (301) of this rule for instructions on how to file a claim for refund. This partial exemption is effective ~~(from)~~ beginning July 1, 2011, and expires January 1, 2020.

(b) **Refund procedure.** Beginning July 1, 2011, the buyer is eligible for the exemption in the form of a remittance (refund) from the department. The buyer must pay the total amount of the retail sales or use taxes due with the respect to the sale or use of qualifying machinery or equipment and labor charges to install the same. The buyer may then apply to the department for a refund of seventy-five percent of the state and local retail sales and use taxes paid. These exemptions expire on January 1, 2020.

(c) **Required tax performance report.** Beginning January 1, 2018, buyers applying for a refund must complete and submit an annual tax performance report. The annual tax performance report must be filed with the department by May 31st ~~(;)~~ of the year immediately following the year for which the refund is claimed. For more information see Part ~~((4))~~ 3, subsection ~~((401))~~ (301)(c) of this rule.

(202) **Qualified power sources.** The partial exemption permitted under Part 2, subsection (201)(a) of this rule applies only with respect to a renewable energy system that employs one of the following qualified power sources:

- Fuel cells;
- Wind;
- Biomass energy;
- Tidal or wave energy;
- Geothermal resources; and
- ~~((• Anaerobic digestion;))~~
- Technology that converts otherwise lost energy from exhaust ~~(; and~~
- ~~• Landfill gas)).~~

(203) **Definitions for these power sources.** For purposes of Part 2 of this rule, the terms below are defined as or include within their definition the following:

- (a) **Biomass energy.** "Biomass energy" includes:
- (i) By-products of pulping and wood manufacturing processes;
 - (ii) Animal waste;
 - (iii) Solid organic fuels from wood;
 - (iv) Forest or field residues;
 - (v) Wooden demolition or construction debris;
 - (vi) Food waste;
 - (vii) Liquors derived from algae and other sources;
 - (viii) Dedicated energy crops;

- (ix) Biosolids; and
- (x) Yard waste.

"Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) **Fuel cell.** "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

~~((e) **Landfill gas.** "Landfill gas" means biomass fuel, of the type that qualifies for federal tax credits under Title 26 U.S.C. § 45K (formerly Title 26 U.S.C. § 29) of the federal Internal Revenue Code, collected from a "landfill" as defined in RCW 70.95.030.~~

PART 3

~~Exemptions as Applied to Qualifying Solar Heat Systems~~

~~(301) Solar heat systems.~~

~~(a) **Exemption.** RCW 82.08.963 and 82.12.963 provide exemptions from retail sales and use taxes paid with the respect to the sale and use of machinery and equipment used directly in producing thermal heat using solar energy and the labor charges to install the qualified equipment, if the buyer installs a system capable of producing no more than three million BTU per day. These exemptions are valid July 1, 2013, and expire June 30, 2018.~~

~~(b) **Exemption certificate required.** The buyer must document this exemption at the time of sale by providing the seller (and installer if different from the seller) a completed *Buyers' Retail Sales Tax Exemption Certificate*. The seller or installer must keep the completed form in its records for five years.~~

~~(c) **Instructions for sellers that E file.** For sellers that E file, the exemption permitted under Part 3, subsection (301)(a) of this rule should be listed on the line entitled *Sales of Solar Machinery/Equipment; Install Labor* on the retail sales tax deduction page of E file.)~~

PART ((4)) 3

General Provisions

~~((401))~~ (301) **Requirements for a refund from the department of taxes paid, referred to as the seventy-five percent remittance.**

(a) **Required application.** This exemption, in the form of a remittance (refund) from the department, equals seventy-five percent of the retail sales and use taxes paid with respect to the sale or use of the qualifying machinery and equipment. The form that the buyer must submit to the department is the *Application for Sales Tax Refund on Purchases & Installation of Qualified Renewable Energy Equipment*. This form is available through the department's web site at dor.wa.gov under *Get a form or publication*. The application must be completed in full and mailed to the address provided on the form.

(b) **Required records.** The purchaser must provide records that will allow the department to determine whether the purchaser is entitled to a refund. The records include:

- Invoices;
- Proof of tax paid;

- Documents describing the machinery and equipment; and
- Electrical capacity of the system.

(c) **File annual tax performance report.** Effective January 1, 2018, any person claiming a seventy-five percent refund must electronically file an annual tax performance report with the department each year. This applies to buyers of solar systems generating electricity of more than ten kilowatts and other qualified renewable energy systems generating electricity of one kilowatt or more.

(d) **Separate tax performance report for each system.** The buyer must file a separate tax performance report for each system owned or operated in Washington. The annual tax performance report is due by May 31st ~~(;)~~ of the year immediately following the year for which the exemption is claimed. (Systems installed in 2017 require a tax performance report to be completed by May 31, 2018.)

(e) **Limitation on frequency for claiming exemption.** A buyer may not apply to the department for a remittance (refund) more frequently than once ~~((#))~~ per quarter.

(f) **Qualified retail sales and use taxes.** These exemptions apply to both state and local retail sales and use taxes.

~~((402)) (302) What is "machinery and equipment"?~~ For purposes of RCW 82.08.962 and 82.12.962, "machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity from qualifying sources of power. ~~((For purposes of RCW 82.08.963 and 82.12.963, "machinery and equipment" means fixtures, devices, and support facilities that are integral to the generation of electricity or production and use of thermal heat from solar energy.))~~

A "support facility" is a part of a building, structure, or improvement used to contain or steady a fixture or device. A support facility must be specially designed and necessary for the proper functioning of the fixture or device and must perform a function beyond being a building, structure, or improvement. It must have a function relative to a fixture or a device. To determine if some portion of a building is a support facility, the department examines those parts of the building ~~((are examined))~~. For example, a highly specialized structure, like a vibration reduction slab under generators in a landfill gas generating facility, is a support facility. Without the slab, the generators would not function properly. The ceiling and walls of the building housing the generator are not support facilities if they only serve to define the space and do not have a function relative to a fixture or a device.

"Machinery and equipment" does not include:

- (a) The utility grid system;
- (b) Hand-powered tools;
- (c) Property with a useful life of less than one year;
- (d) Repair parts required to restore machinery and equipment to normal working order;
- (e) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment;
- (f) Buildings; or
- (g) Building fixtures that:
 - (i) Are permanently affixed to and become a physical part of a building; but

(ii) Are not integral and necessary to the generation of electricity.

~~((403)(a)) (303) When is machinery and equipment "used directly" in generating electricity?~~ Machinery and equipment is used directly to generate electricity when it is used to:

~~((i)) (a)~~ Capture the energy of the qualifying source of power;

~~((ii)) (b)~~ Convert that energy to electricity; and

~~((iii)) (c)~~ Store, transform, or transmit that electricity for entry into or operation in parallel with electric transmission and distribution systems.

~~((b) When is machinery and equipment "used directly" in producing thermal heat?~~ Machinery and equipment is "used directly" in producing thermal heat with solar energy if it uses a solar collector or a solar hot water system that:

(i) Meets the certification standards for solar collectors and solar hot water systems developed by the solar rating and certification corporation; or

(ii) The Washington State University extension energy program determines a solar collector or solar hot water system is an equivalent collector or system.

~~(404)) (304) Examples of qualifying machinery and equipment.~~ This section provides examples of machinery and equipment that may be used directly in generating electricity and could qualify for the exemptions from retail sales and use taxes. This list is illustrative only and is not intended to provide an exhaustive list of possible qualifying machinery and equipment.

(a) **Solar.** Where solar energy is the principal source of power: Solar modules; inverters; Stirling converters; power conditioning equipment; batteries; transformers; power poles; power lines; and connectors to the utility grid system or point of use.

(b) **Wind.** Where wind is the principal source of power: Turbines; blades; generators; towers and tower pads; substations; guy wires and ground stays; power conditioning equipment; anemometers; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system or point of use.

(c) ~~((Landfill. Where landfill gas is the principal source of power: Turbines; blades; blowers; burners; heat exchangers; generators; towers and tower pads; substations; guy wires and ground stays; pipe; valves; power conditioning equipment; pressure control equipment; recording meters; transmitters; power poles; power lines; and connectors to the utility grid system or point of use.~~

~~((d)) (d)) Fuel cells.~~ Where fuel cells are the principal source of power: Fuel cell assemblies; fuel storage and delivery systems; power inverters; transmitters; transformers; power poles; power lines; and connectors to the utility grid system or point of use.

~~((405)) (305) Installation charges.~~ The exemptions from retail sales and use taxes addressed in this rule apply to installation charges for qualifying machinery and equipment, including charges for labor and services. There are no exemptions from retail sales and use taxes for:

(a) Charges for labor and services rendered in respect to constructing buildings or access roads that may be necessary

to install or use qualifying machinery and equipment ~~((Further, there are no exemptions from retail sales and use taxes paid with respect to))~~;

(b) Tangible personal property, such as a crane or forklift, purchased or rented by the buyer, the contractor, or the installer to be used to install qualifying machinery and equipment ~~((Further, there are no exemptions from retail sales and use taxes for))~~; or

(c) Services that were included in the construction contract for design, planning, studies, project management, or other charges not directly related to the actual labor for installing the qualifying machinery and equipment.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 458-20-273 Renewable energy system cost recovery.

AMENDATORY SECTION (Amending WSR 18-09-040, filed 4/12/18, effective 5/13/18)

WAC 458-29A-400 Leasehold excise tax—Exemptions. (1) Introduction.

(a) This rule explains the exemptions from leasehold excise tax provided by RCW 82.29A.130, 82.29A.132, 82.29A.134, 82.29A.135, and 82.29A.136. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(b) This rule also explains the expiration date for new tax preferences for the leasehold excise tax pursuant to the language found at RCW 82.32.805.

(c) **Rule examples.** This rule includes a number of examples that identify a set of facts and then states a conclusion. The examples should be used only as a general guide. The department of revenue (department) will evaluate each case on its particular facts and circumstances and apply both this rule and other statutory and common law authority.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending legislative amendment includes any other changes to the tax preference.

(b) "Tax preference" has the same meaning as in RCW 43.136.021 with respect to any state tax administered by the department ~~((of revenue (department)))~~, except does not include the Washington estate and transfer tax in chapter 83.100 RCW.

(3) **Operating properties of a public utility.**

(a) All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW.

(b) **Example.** Assume ABC Railroad Company is a public utility. Tracks leased to ABC Railroad Company are exempt from leasehold excise tax because ABC Railroad Company is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(4) **Student housing at public and nonprofit schools and colleges.**

(a) All leasehold interests in facilities owned or used by a school, college, or university which leasehold provides housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050.

(b) **Example.** Assume State Public University leases a building to use as a dormitory for its students. The leasehold interest associated with this building is exempt from the leasehold excise tax. This is because the dormitory is used to house State Public University's students.

(5) **Subsidized housing.**

(a) All leasehold interests of subsidized housing are exempt from leasehold excise tax if the property is owned in fee simple by the United States, the state of Washington or any of its political subdivisions, and residents of the housing are subject to specific income qualification requirements.

(b) **Example.** Assume an apartment building and the property on which it is located is:

- Owned in fee simple by the state of Washington; and
- Used as subsidized housing for residents subject to income qualification requirements.

If the United States Department of Housing and Urban Development holds the leasehold interest on the property it is exempt from leasehold excise tax. This is because the property is owned in fee simple by the state of Washington, used for subsidized housing, and the residents are subject to income qualification requirements.

(6) **Nonprofit fair associations.**

(a) All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold excise tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in fee simple by the United States, the state of Washington or any of its political subdivisions. However, if a nonprofit association subleases exempt property to a third party, the sublease is a taxable leasehold interest.

(b) **Example.** Assume a leasehold interest held by Local Nonprofit Fair Association is exempt from leasehold excise tax. Local Nonprofit Fair Association subleases some of the buildings on the fairgrounds to private parties for storage during the winter. These subleases are subject to the leasehold excise tax.

(7) **Public employee housing.**

(a) All leasehold interests in public property or property of a community center which is exempt from property tax used as a residence by an employee of the public owner or the owner of the community center which is exempt from property tax are exempt from leasehold excise tax if the employee is required to live on the public property or community center which is exempt from property tax as a condition of his or her

employment. The "condition of employment" requirement is met only when the employee is required to accept the lodging in order to enable the employee to properly perform the duties of his or her employment. However, the "condition of employment" requirement can be met even if the employer does not compel an employee to reside in a publicly owned residence or residence owned by a community center which is exempt from property tax.

(b) Examples.

(i) A park ranger employed by the National Park Service, an agency of the United States government, resides in a house furnished by the agency at a national park. The ranger is required to be on call twenty-four hours a day to respond to requests for assistance from park visitors staying at an adjacent overnight campground. The use of the house is exempt from leasehold excise tax because the lodging enables the ranger to properly perform her duties.

(ii) An employee of the Washington department of fish and wildlife resides in a house furnished by the agency at a fish hatchery although, under the terms of a collective bargaining agreement, the agency may not compel the employee to live in the residence as a condition of employment. In exchange for receiving use of the housing provided by the agency, the employee is required to perform additional duties, including regularly monitoring certain equipment at the hatchery during nights and on weekends and escorting public visitors on tours of the hatchery on weekends. The use of the house is exempt from leasehold excise tax because the lodging enables the employee to properly perform the duties of his employment. The use is exempt even though the employee would continue to be employed by the agency if the additional duties were not performed and even though state employees of an equal job classification are not required to perform the additional duties.

(iii) A professor employed by State University is given the choice of residing in university-owned campus housing free of charge or of residing elsewhere and receiving a cash allowance in addition to her regular salary. If she elects to reside in the campus housing free of charge, the value of the lodging furnished to the professor would be subject to leasehold excise tax because her residence on campus is not required for her to perform properly the duties of her employment.

(8) Interests held by enrolled Indians.

(a) Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold interests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.-451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

(b) Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax.

(c) **Example.** Assume an enrolled member of the Puyallup Tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery. The lease-

hold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian country).

(9) Leases on Indian lands to non-Indians.

(a) Leasehold interests held by non-Indians (not otherwise exempt from tax due to the application of the balancing test described in WAC 458-20-192) in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or subject to a restriction against alienation imposed by the United States are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(g) and WAC 458-29A-200.

(b) **Example.** Harry leases land held in trust by the United States for the Yakama Nation for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold excise tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues related to Indians, see WAC 458-20-192.

(10) Annual taxable rent is less than two hundred fifty dollars.

(a) Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold excise tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

(b) Examples.

(i) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(ii) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest

because they are not contiguous with the hangars used by Ace Flying Club.

(iii) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(iv) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(11) Leases for a continuous period of less than thirty days. Leasehold interests that provide use and possession of public property or property of a community center which is exempt from property tax for a continuous period of less than thirty days are exempt from leasehold excise tax. In determining the duration of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(12) Month-to-month leases in residential units to be demolished or removed.

(a) Leasehold interests in properties rented for residential purposes on a month-to-month basis pending destruction or removal for construction of a public highway or public building are exempt from the leasehold excise tax. Thus, if the state or other public entity has acquired private property for purposes of building or expanding a highway, or for the construction of public buildings at an airport, the capitol campus, or some other public facility, and the public entity rents the property for residential purposes on a month-to-month basis pending destruction or removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pending" merely means "while awaiting." The exemption is based upon the purpose for which the public entity holds the units.

(b) **Example.** State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties

for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(13) Public works contracts.

(a) Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold excise tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

(b) **Example.** Assume Tinker Construction is a contractor performing work to construct a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction. During construction of the second deck on the Nisqually Bridge any leasehold interest in real or personal property created for Tinker Construction solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold excise tax.

(14) Correctional industries in state adult correctional facilities.

(a) Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold excise tax.

(b) **Examples.**

(i) Assume ABC Retail Company, a for-profit corporation, operates and manages a business within a state prison under an agreement between it and the department of corrections. ABC Retail Company is exempt from leasehold excise tax for its use and possession of state property.

(ii) Assume ABC Charitable Society, a nonprofit organization, operates and manages a business within a state prison under an agreement between it and the department of corrections. ABC Charitable Society is exempt from leasehold excise tax for its use and possession of state property.

(15) Camp facilities for persons with disabilities.

(a) Leasehold interests in a camp facility are exempt from leasehold excise tax if the property is used to provide organized and supervised recreational activities for persons with disabilities of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property.

(b) **Example.** Assume a county park with camping facilities is leased to Charity Campgrounds, a nonprofit charitable organization that allows the property to be used by the general public for recreational activities throughout the year and as a camp for disabled persons for two weeks during the summer. Charity Campgrounds is exempt from leasehold excise tax because the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(16) Public or entertainment areas of certain baseball stadiums.

(a) Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof

or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

(b) "Public or entertainment areas" for the purposes of this subsection include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(17) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this subsection, the term "public and entertainment areas" has the same meaning as set forth in subsection (16) of this rule.

(18) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW are exempt from leasehold excise tax.

(19) **State route 16 corridor transportation systems.** All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax. RCW 82.29A.132.

(20) **Sales/leasebacks by regional transit authorities.** All leasehold interests in property of a regional transit authority or public corporation created under RCW 81.112.320 under an agreement under RCW 81.112.300 are exempt from leasehold excise tax. RCW 82.29A.134.

(21) **Interests consisting of three thousand or more residential and recreational lots.** All leasehold interests consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes are exempt from leasehold excise tax. Any combination of residential and recreational lots totaling at least three thousand satisfies the requirement of this exemption. RCW 82.29A.136.

(22) **Historic sites owned by the United States government or municipal corporations.** All leasehold interests in property listed on any federal or state register of historical sites are exempt from leasehold excise tax if the property is:

(a) Owned by the United States government or a municipal corporation; and

(b) Wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(23) **Amphitheaters.**

(a) All leasehold interests in the public or entertainment areas of an amphitheater are exempt from leasehold excise tax if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county that had a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand when the amphitheater first opened to the public.

(b) For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" do not include office areas used predominately by the lessee.

(24) **Military housing.**

(a) All leasehold interests in real property used for the placement of housing that consists of military housing units and ancillary supporting facilities are exempt from leasehold excise tax if the property is situated on land owned in fee by the United States, is used for the housing of military personnel and their families, and is a development project awarded under the military housing privatization initiative of 1996, 10 U.S.C. Sec. 2885, as existing on June 12, 2008.

(b) For the purposes of this subsection, "ancillary supporting facilities" means facilities related to military housing units, including facilities to provide or support elementary or secondary education, child care centers, day care centers, child development centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

(25) **Community colleges and technical colleges.**

(a) All leasehold interests in facilities owned or used by a community college or technical college are exempt from leasehold excise tax if the leasehold interest provides:

(i) Food services for students, faculty, and staff;

(ii) The operation of a bookstore on campus; or

(iii) Maintenance, operational, or administrative services to the community college or technical college.

(b) Provisions of RCW 82.32.805 and 82.32.808 do not apply to the exemption specified in this subsection.

(26) **Anaerobic digesters.**

(a) Beginning July 1, 2018, all leasehold interests in buildings, machinery, equipment, and other personal property which are used primarily for the operation of an anaero-

bic digester, the land upon which this property is located, and land that is reasonably necessary in the operation of an anaerobic digester are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

(b) Claims for the exemption described in (a) of this subsection must be filed with the department on the form *Leasehold excise tax exemption to operate an anaerobic digester* available at <https://dor.wa.gov>. Once filed, the exemption is valid for six assessment years following the date on which the facility or the addition to the existing facility becomes operational and may not be renewed. The department must verify and approve claims as it determines to be justified and in accordance with this subsection. No claims may be filed after December 31, 2024.

(c) For the purposes of this subsection, "anaerobic digester" means a facility that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container as well as the equipment necessary to process biogas or digestate produced by an anaerobic digester into marketable coproducts including, but not limited to, biogas conditioning, compression, nutrient recovery, and electrical generation equipment. See RCW 82.08.900.

(27) Expiration date for new tax preferences.

(a) RCW 82.29A.025 incorporates the language found at RCW 82.32.805 establishing the expiration date of new tax preferences for the leasehold excise tax.

(i) Generally, every new tax preference expires on the first day of the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference.

(ii) A future legislative amendment that expands a tax preference does not extend the tax preference beyond the period provided in this subsection unless an extension is expressly and unambiguously stated in the legislative amendment.

(b) This subsection does not apply if legislation creating a new tax preference includes an expiration date for the new tax preference.

(c) This subsection does not apply to an existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency. Future enacted legislation intended to make such clarifications or corrections must explicitly indicate that intent.

WSR 19-02-058

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 27, 2018, 3:58 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is adopting these rules with an effective date of January 1 because these rules provide rates used for refunds and property valuations during 2019.

Purpose: The department is amending:

- WAC 458-18-220 to provide the rate of interest for treasury bill auction year 2018, which is used when refunding property taxes paid in 2019, as required by RCW 84.69.100.
- WAC 458-30-262 to provide the interest rate and property tax component used when valuing classified farm and agricultural land during the 2019 assessment year, as required by RCW 84.34.065.
- WAC 458-30-590 to provide the rate of inflation published in 2018, which is used in calculating interest for deferred special benefit assessments of land removed or withdrawn from classification during 2019, as required by RCW 84.34.310.

Citation of Rules Affected by this Order: Amending WAC 458-18-220 Refunds—Rate of interest, 458-30-262 Agricultural land valuation—Interest rate—Property tax component, and 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.065, 84.34.360, 84.34.141, and 84.69.100.

Adopted under notice filed as WSR 18-21-025 on October 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 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 3, Repealed 0.

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

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

Date Adopted: December 27, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-01-147, filed 12/20/17, effective 1/1/18)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest apply to refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate is applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate	(1) The interest rate is ((4.69)) <u>5.02</u> percent; and (2) The property tax component for each county is:			
1984	1983	9.29%	COUNTY	PERCENT	COUNTY	PERCENT
1985	1984	11.27%	Adams	((1.20))	Lewis	((1.11))
1986	1985	7.36%		<u>1.39</u>		<u>1.20</u>
1987	1986	6.11%	Asotin	((1.14))	Lincoln	((1.17))
1988	1987	5.95%		<u>1.24</u>		<u>1.25</u>
1989	1988	7.04%	Benton	((1.16))	Mason	((1.17))
1990	1989	8.05%		<u>1.31</u>		<u>1.24</u>
1991	1990	8.01%	Chelan	((1.04))	Okanogan	((1.10))
1992	1991	5.98%		<u>1.12</u>		<u>1.23</u>
1993	1992	3.42%	Clallam	((1.00))	Pacific	((1.36))
1994	1993	3.19%		<u>1.07</u>		<u>1.40</u>
1995	1994	4.92%	Clark	((1.16))	Pend Oreille	((0.97))
1996	1995	5.71%		<u>1.24</u>		<u>1.05</u>
1997	1996	5.22%	Columbia	((1.13))	Pierce	1.41
1998	1997	5.14%		<u>1.20</u>		
1999	1998	5.06%	Cowlitz	((1.18))	San Juan	((0.71))
2000	1999	4.96%		<u>1.21</u>		<u>0.78</u>
2001	2000	5.98%	Douglas	((1.05))	Skagit	((1.18))
2002	2001	3.50%		<u>1.12</u>		<u>1.23</u>
2003	2002	1.73%	Ferry	((0.96))	Skamania	((0.98))
2004	2003	0.95%		<u>1.05</u>		<u>1.12</u>
2005	2004	1.73%	Franklin	((1.18))	Snohomish	((1.12))
2006	2005	3.33%		<u>1.20</u>		<u>1.16</u>
2007	2006	5.09%	Garfield	((1.08))	Spokane	((1.33))
2008	2007	4.81%		<u>1.05</u>		<u>1.36</u>
2009	2008	2.14%	Grant	((1.25))	Stevens	((0.97))
2010	2009	0.29%		<u>1.30</u>		<u>1.06</u>
2011	2010	0.21%	Grays Harbor	((1.34))	Thurston	((1.28))
2012	2011	0.08%		<u>1.40</u>		<u>1.33</u>
2013	2012	0.15%	Island	((0.89))	Wahkiakum	((0.86))
2014	2013	0.085%		<u>0.97</u>		<u>0.97</u>
2015	2014	0.060%	Jefferson	((1.03))	Walla Walla	((1.26))
2016	2015	0.085%		<u>1.09</u>		<u>1.34</u>
2017	2016	0.340%	King	((1.03))	Whatcom	((1.14))
2018	2017	1.130%		<u>1.06</u>		<u>1.22</u>
<u>2019</u>	<u>2018</u>	<u>2.085%</u>	Kitsap	((1.14))	Whitman	((1.32))
				<u>1.17</u>		<u>1.42</u>
			Kittitas	((1.02))	Yakima	((1.20))
				<u>1.07</u>		<u>1.28</u>
			Klickitat	((0.95))		
				<u>1.05</u>		

AMENDATORY SECTION (Amending WSR 18-01-147, filed 12/20/17, effective 1/1/18)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ~~((2018))~~ 2019, the interest rate and the property tax component that are used to value classified farm and agricultural lands are as follows:

AMENDATORY SECTION (Amending WSR 18-01-147, filed 12/20/17, effective 1/1/18)

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This rule provides the rates of inflation discussed in WAC 458-30-550. It

also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department - Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8

YEAR	PERCENT	YEAR	PERCENT
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	2009	-0.85 (negative)
2010	1.539	2011	2.755
2012	1.295	2013	1.314
2014	1.591	2015	0.251
2016	0.953	2017	1.553
<u>2018</u>	<u>2.169</u>		

WSR 19-02-061

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 28, 2018, 7:33 a.m., effective January 28, 2019]

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

Purpose: The purpose of this rule making is to update the address of the office of the Washington turfgrass seed commission.

Citation of Rules Affected by this Order: Amending WAC 16-545-055 and 16-545-057.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-21-172 on October 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 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: December 28, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 17-05-037, filed 2/8/17, effective 3/11/17)

WAC 16-545-055 Description of commission, address and telephone number of the Washington turfgrass seed commission. Headquartered in Kennewick at ~~((100 North Fruitland, Suite B))~~ 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336, the Washington turfgrass seed commission serves Washington turfgrass seed producers by supporting the turfgrass seed industry in the areas of research and marketing. The telephone number is 509-585-5460.

AMENDATORY SECTION (Amending WSR 17-05-037, filed 2/8/17, effective 3/11/17)

WAC 16-545-057 Request for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington Turfgrass Seed Commission, ~~((100 North Fruitland, Suite B))~~ 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email to: shanej@agmgt.com. The written request must include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

- (a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;
- (b) Inspection of any public record will be conducted in the presence of the public records officer or designee;
- (c) Public records may not be marked or altered in any manner during the inspection; and
- (d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

WSR 19-02-062

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 28, 2018, 7:34 a.m., effective January 28, 2019]

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

Purpose: The purpose of this rule making is to update the address of the office of the Washington oilseeds commission.

Citation of Rules Affected by this Order: Amending WAC 16-573-051 and 16-573-053.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-21-175 on October 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 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: December 28, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 17-05-031, filed 2/8/17, effective 3/11/17)

WAC 16-573-051 Description of commission, address, and telephone number of the Washington oilseeds commission. Headquartered in Kennewick at ~~((100 North Fruitland, Suite B))~~ 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336, the Washington oilseeds commission serves Washington oilseed producers by supporting the oilseed industry in the areas of research and marketing. The telephone number is 509-585-5460.

AMENDATORY SECTION (Amending WSR 17-05-031, filed 2/8/17, effective 3/11/17)

WAC 16-573-053 Request for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington oilseeds commission, ~~((100 North Fruitland, Suite B))~~ 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email to: shanej@agmgt.com. The written request must include:

- (a) The name, address, and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

- (a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee;

(c) Public records may not be marked or altered in any manner during the inspection;

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

WSR 19-02-063

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 28, 2018, 7:34 a.m., effective January 28, 2019]

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

Purpose: The purpose of this rule making is to update the address of the office of the Washington mint commission.

Citation of Rules Affected by this Order: Amending WAC 16-540-115 and 16-540-125.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-21-174 on October 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 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: December 28, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 17-05-034, filed 2/8/17, effective 3/11/17)

WAC 16-540-115 Description of commission, address and telephone number of the Washington mint commission. Headquartered in Kennewick at (~~(100 North Fruitland, Suite B)~~) 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336, the Washington mint commission serves Washington mint producers by supporting the mint industry in the area of research. The telephone number is 509-585-5460.

AMENDATORY SECTION (Amending WSR 17-05-034, filed 2/8/17, effective 3/11/17)

WAC 16-540-125 Request for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington Mint Commission, (~~(100 North Fruitland, Suite B)~~) 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email to: shanej@agmgt.com. The written request must include:

(a) The name, address and telephone number or other contact information of the person requesting the records;

(b) The calendar date on which the request is made; and

(c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee;

(c) Public records may not be marked or altered in any manner during the inspection; and

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

WSR 19-02-064

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 28, 2018, 7:35 a.m., effective January 28, 2019]

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

Purpose: The purpose of this rule making is to update the address of the office of the Washington alfalfa seed commission.

Citation of Rules Affected by this Order: Amending WAC 16-529-305 and 16-529-315.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-21-173 on October 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 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: December 28, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 17-05-035, filed 2/8/17, effective 3/11/17)

WAC 16-529-305 Description of commission, address and telephone number of the Washington alfalfa seed commission. Headquartered in Kennewick at (~~(100 North Fruitland, Suite B)~~) 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336, the Washington alfalfa seed commission serves Washington alfalfa seed producers by supporting the alfalfa seed industry in the areas of research and marketing. The telephone number is 509-585-5460.

AMENDATORY SECTION (Amending WSR 17-05-035, filed 2/8/17, effective 3/11/17)

WAC 16-529-315 Request for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington Alfalfa Seed Commission, (~~(100 North Fruitland, Suite B)~~) 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email to: shanej@agmgt.com. The written request must include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

- (a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;
- (b) Inspection of any public record will be conducted in the presence of the public records officer or designee;
- (c) Public records may not be marked or altered in any manner during the inspection; and
- (d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

WSR 19-02-067
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed December 28, 2018, 11:00 a.m., effective January 28, 2019]

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

Purpose: The purpose of the amendment to WAC 392-140-973 is to allow schools that participate in the community eligibility provision (CEP) meal service option and have historically been high-poverty schools ("challenging schools") for purposes of the National Board Certified Teacher (NBCT) bonus to continue to qualify as challenging schools for the duration of their CEP eligibility. Under this rule, the office of superintendent of public instruction will use historical data for CEP schools going back two years prior to CEP participation to determine if the school is an NBCT bonus challenging school. If the school met challenging school eligibility in either of the two years prior to CEP, it will be considered a challenging school for the current year.

Citation of Rules Affected by this Order: Amending WAC 392-140-973(3).

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.405.415.

Adopted under notice filed as WSR 18-21-186 on October 24, 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: December 28, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-14-103, filed 7/3/18, effective 8/3/18)

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

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

(2) Who are:

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

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

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

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

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

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

(i) 70 percent for elementary schools;

(ii) 60 percent for middle schools; or

(iii) 50 percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on March 31st of that prior year: Provided, That schools operating during the current school year as their first year may qualify as challenging, high poverty schools based upon current year data, as determined by the October 1st count on March 31st of the current year.

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

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

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

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

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

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

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

(f) Teachers and other certificated instructional staff that meet the qualifications for the challenging, high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the challenging, high poverty schools

bonus in a prorated manner, subject to the following conditions and limitations:

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

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

(g) A school participating in the community eligibility provision as authorized by section 11 (a)(1) of the Richard B. Russell National School Lunch Act may be designated as a challenging, high poverty school if the school was a challenging, high poverty school based on the student headcount enrollment eligible for the federal free or reduced price lunch program in either of the two school years immediately prior to the school's participation in the community eligibility provision.

WSR 19-02-068

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 28, 2018, 12:56 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Stumpage values which are impacted by changes to this rule, are required by statute (RCW 84.33.091) to be effective on January 1, 2019.

Purpose: WAC 458-40-610 contains the definitions of specific terms, including the term "Hauling distance zone," which will no longer be used in determining the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is also being revised to include reference to two new stumpage value areas which are used in determining the stumpage values used by harvesters of timber to calculate the timber excise tax. WAC 458-40-640 contains the "stumpage value area map" which is used in determining the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to remove the "hauling distance zones" from the map and include two additional stumpage value areas to the "stumpage value area map." WAC 458-40-680 contains several references to stumpage value areas in regard to approved scaling and grading methods used in determining the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to include reference to two additional stumpage value areas for purposes of approved scaling and grading methods, sample scaling, and conversions.

Citation of Rules Affected by this Order: Amending WAC 458-40-610 Timber excise tax—Definitions, 458-40-640 Timber excise tax—Stumpage value area (map), and 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.

Statutory Authority for Adoption: RCW 82.01.060(2) and 84.33.096.

Adopted under notice filed as WSR 18-22-072 on November 1, 2018.

A final cost-benefit analysis is available by contacting Brenton M. Madison, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1583, fax 360-534-1606, TTY 1-800-451-7985, email BrentonM@dor.wa.gov, web site dor.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 0, Repealed 0.

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

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

Date Adopted: December 28, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-14-065, filed 6/29/12, effective 7/1/12)

WAC 458-40-610 Timber excise tax—Definitions. (1) **Introduction.** The purpose of WAC 458-40-610 through 458-40-680 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-680. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Firewood.** Commercially traded firewood is considered scaled utility log grade as defined in subsection (14) of this section.

(8) **Forest-derived biomass.** Forest-derived biomass consists of tree limbs, tops, needles, leaves, and other woody debris that are residues from such activities as timber harvesting, forest thinning, fire suppression, or forest health. Forest-derived biomass does not include scalable timber products or firewood (defined in WAC 458-40-650).

(9) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, (~~(hauling distance zone,)~~) harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit may include more than one section, but harvest unit may not overlap a county boundary.

(10) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(11) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting merchantable timber from the land and delivering it to the buyer. The term includes the costs of piling logging residue on site, and costs to abate extreme fire hazard when required by the department of natural resources. Harvesting and marketing costs do not include the costs of other consideration (for example, reforestation, permanent road construction), treatment to timber or land that is not a necessary part of a commercial harvest (for example, precommercial thinning, brush clearing, land grading, stump removal), costs associated with maintaining the option of land conversion (for example, county fees, attorney fees, specialized site assessment or evaluation fees), or any other costs not directly and exclusively associated with the harvesting and marketing of merchantable timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide docu-

mented proof of such costs, or when harvesting and marketing costs (~~can not~~) cannot be separated from other costs, the deduction for harvesting and marketing costs is thirty-five percent of the gross receipts from the sale of the logs.

~~((12))~~ ~~((Hauling distance zone. An area with specified boundaries as shown on the statewide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.~~

~~((13))~~ **Legal description.** A description of an area of land using government lots and standard general land office subdivision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

~~((14))~~ **(13) Log grade.** Those grades listed in the "*Official Log Scaling and Grading Rules*" developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the "*Official Log Scaling and Grading Rules*" published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the gross scale; and meeting the following minimum requirements:

- (a) Minimum gross diameter—two inches.
- (b) Minimum gross length—twelve feet.
- (c) Minimum volume—ten board feet net scale.
- (d) Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.

~~((15))~~ **(14) Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.

~~((16))~~ **(15) MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

~~((17))~~ **(16) Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

~~((18))~~ **(17) Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.

~~((19))~~ **(18) Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.

~~((20))~~ **(19) Private timber.** All timber harvested from privately owned lands.

~~((21))~~ **(20) Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.

~~((22))~~ **(21) Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

~~((23))~~ **(22) Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.

~~((24))~~ **(23) Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding two million board feet in a calendar year.

~~((25))~~ **(24) Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.

(c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

(d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs excluding redcedar harvested in stumpage value area 6 or 7 generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with the Eastside Log Scaling Rules developed and authored by the Northwest Log Rules Advisory Group, with length not to exceed twenty feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value area 6, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

~~((26))~~ **(25) Stumpage.** Timber, having commercial value, as it exists before logging.

~~((27))~~ **(26) Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

~~((28))~~ **(27) Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

~~((29))~~ **(28) Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public

timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within twenty-four months of the date of sale, its taxable stumpage value is the actual purchase price in cash and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than twenty-four months after purchase of the stumpage, and chooses to report under the small harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are

due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

~~((20))~~ **(29) Thinning.** Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, 5, or ~~((5))~~ 9:

(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and

(b) The harvester leaves a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

AMENDATORY SECTION (Amending WSR 12-14-065, filed 6/29/12, effective 7/1/12)

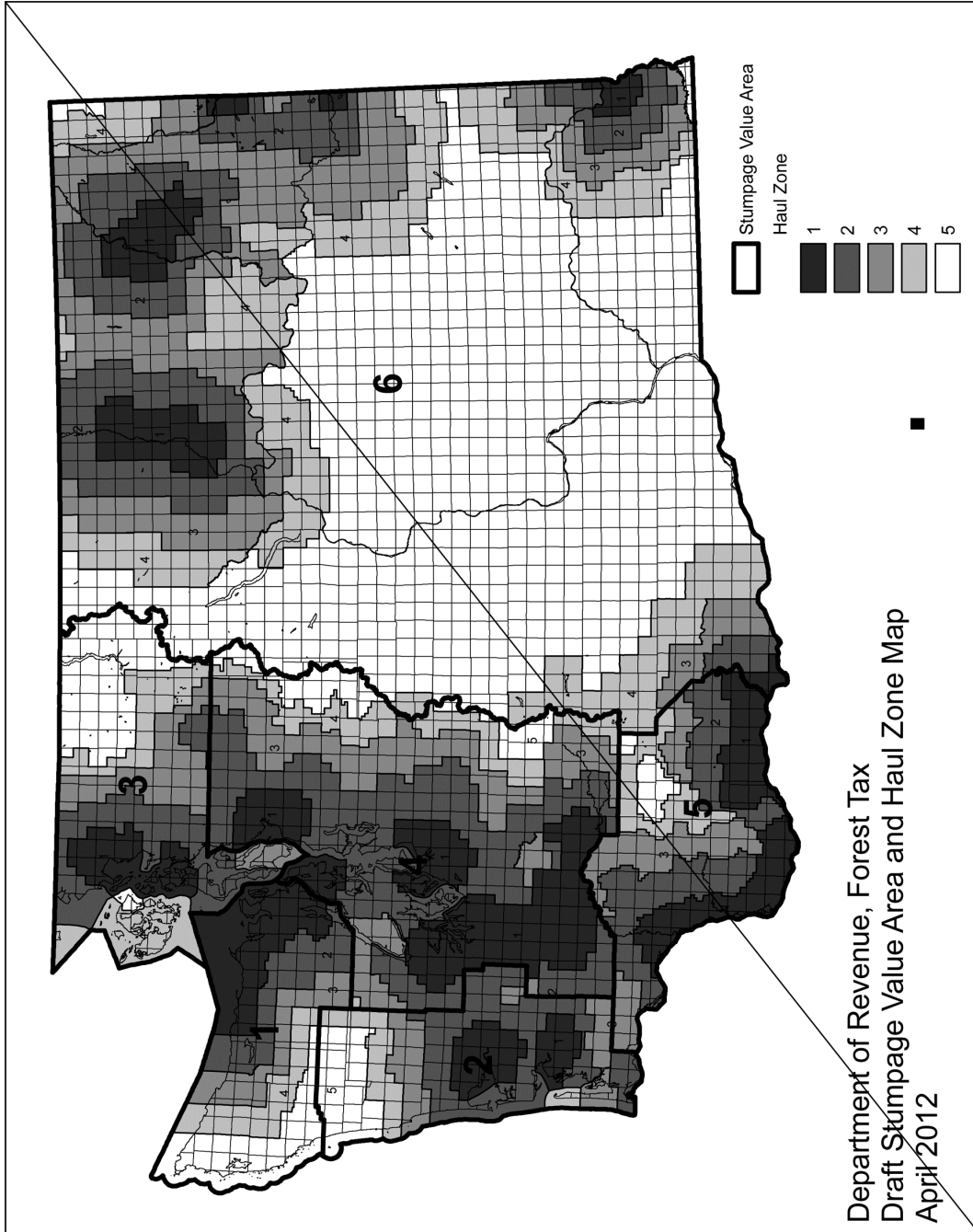
WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area ((and hauling distance zone)) map contained in this rule must be used to determine the proper stumpage value table ((and haul zone)) to be used in calculating the taxable stumpage value of timber harvested from private land.

WAC 458-40-640 Stumpage value area ((and hauling zone))—Map

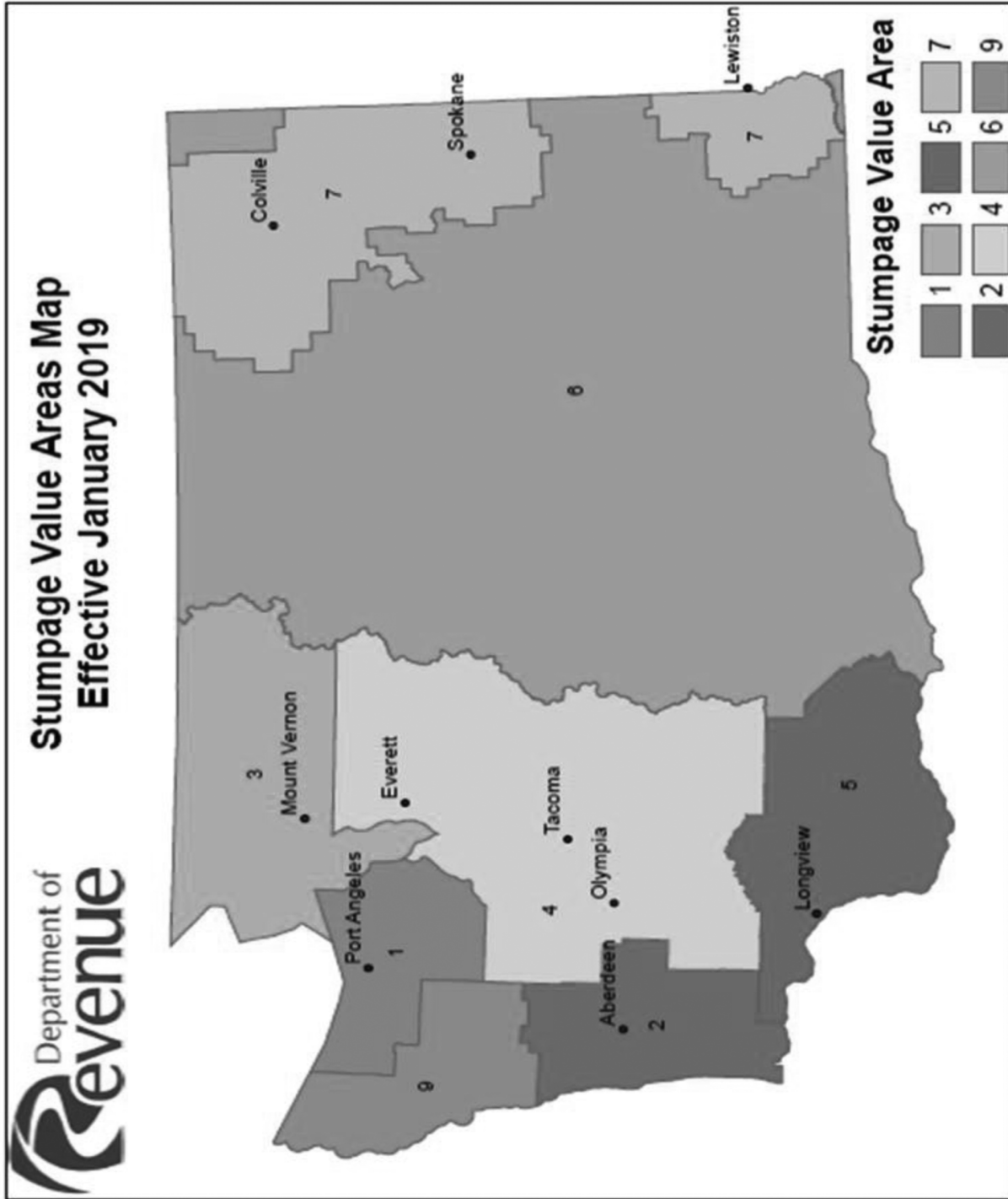
Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.

Forest Tax Stumpage Value Area (SVA) ((and Haul Zone)) Map

((



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AMENDATORY SECTION (Amending WSR 12-14-065, filed 6/29/12, effective 7/1/12)

WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value

areas 1, 2, 3, 4, ~~5~~, and ~~(5)~~ 9 is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value areas 6 and 7 is the Scribner Decimal C log rule described in the most current

edition of the "Eastside Log Scaling Handbook" as published by the Northwest Log Rules Advisory Group, except that timber harvested in stumpage value areas 6 and 7 must be scaled using the current regional taper rules at the point of origin.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not to be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. Purchasers may obtain written approval of a sample scaling method from the department of revenue. The department will maintain a list of purchasers with an approved sample scaling method. A harvester may obtain this list and a summary of the approved method for specific purchasers from the department of revenue. If a harvester has not obtained approval of a sample scaling method before harvesting, the harvester may use a purchaser's approved sample scaling method. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the sole unit of measure used to set the purchase price for logs from harvest units was weight, and the harvester does not use an approved method of sample scaling to determine volume for the stumpage value

tables, the following tables must be used for converting to Scribner Decimal C, if the harvest volume per species meets the definition listed in the table. If weight is the sole measure used for a harvest unit and the harvest volume per species does not meet the definition listed in the table below, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, <u>5</u> , & (6) <u>9</u>) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)	
Species	Quality code
	1
Douglas-fir ¹	7.50
Western Hemlock ²	8.25
Western Redcedar ³	7.0
Red Alder ⁴	7.80
Chipwood	9.0

¹ Includes Douglas-fir, Western Larch, Western White Pine and Sitka Spruce. Only for volume including less than 25% No. 2 sawmill or better log grades.

² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, Lodgepole Pine and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir." Only for volume including less than 25% No. 2 sawmill or better log grades.

³ Includes Alaska-cedar.

⁴ Maple, Black Cottonwood and other hardwoods. Only for volume including less than 40% No. 3 sawmill or better log grades.

(Stumpage Value Areas <u>6</u> & <u>7</u>) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)	
Species	Quality code
	1
Ponderosa Pine ¹	6.50
Douglas-fir ²	5.50
Lodgepole Pine	6.0
Western Hemlock ³	5.50
Englemann Spruce	4.50
Western Redcedar ⁴	4.50
Chipwood	9.0
Small Logs	6.50

¹ Only for volume with 10 or more logs 16 feet long per thousand board feet Scribner scale.

² Includes Western Larch.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁴ Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and ((~~5~~) 9) logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value areas 6 and 7 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(iv) Firewood must be converted at a rate of 3 tons per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and ((~~5~~) 9) multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

(ii) In stumpage value areas 6 and 7 multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, 5, and ((~~5~~) 9) and which has been scaled by methods and procedures published in the "Eastside Log Scaling Handbook" must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value areas 6 and 7 and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, <u>5</u> , and ((5) <u>9</u>)																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210
85	910	800	800	660	660	660	570	490	360							260	210
90	1080	930	930	820	820	690	590	490	400							260	220
95	1170	1000	1000	870	870	750	640	540								290	240
100	1190	1030	1030	900	900	760	660	550								310	250
105	1310	1160	1160	1000	1000	860	740	610								330	270
110	1370	1220	1220	1050	1050	910	780	650								380	300
115	1440	1280	1280	1100	1100	960	860	680								400	310
120	1660	1460	1460	1300	1300	1140	970	820								500	400
125	1840	1600	1600	1410	1410	1250	1080	930									
130	1920	1680	1680	1490	1490	1310	1120	970									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume Stumpage Value Areas 6 and 7																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	50	40		130	110
35					190	160	140	100	100	70	60	60	50			140	100
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.
² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

WSR 19-02-069
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed December 28, 2018, 12:59 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The forest land values rule is required by statute (RCW 84.33.140) to be effective on January 1, 2019.

Purpose: WAC 458-40-540 contains the forest land values used by county assessors for property tax purposes. This rule is being revised to provide the forest land values to be used during 2019. WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the first half of 2019. Additionally, the rule is being revised to incorporate stumpage values for two new stumpage value areas (7 and 9).

Citation of Rules Affected by this Order: Amending WAC 458-40-540 Forest land values—2019 and 458-40-660

Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2) and 84.33.096.

Adopted under notice filed as WSR 18-23-066 on November 16, 2018.

A final cost-benefit analysis is available by contacting Brenton M. Madison, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1583, fax 360-534-1606, TTY 1-800-451-7985, email BrentonM@dor.wa.gov, web site dor.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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: December 28, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-02-058, filed 12/29/17, effective 1/1/18)

WAC 458-40-540 Forest land values—((2018)) 2019. The forest land values, per acre, for each grade of forest land for the ((2018)) 2019 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2018)) 2019 VALUES PER ACRE
1	1	\$((208)) <u>211</u>
	2	((206)) <u>209</u>
	3	((192)) <u>195</u>
	4	((141)) <u>143</u>
2	1	((177)) <u>180</u>
	2	((171)) <u>173</u>
	3	((164)) <u>166</u>
	4	((116)) <u>118</u>
3	1	((137)) <u>139</u>
	2	((133)) <u>135</u>
	3	((132)) <u>134</u>
	4	((102)) <u>103</u>
4	1	((106)) <u>108</u>
	2	((103)) <u>104</u>
	3	((102)) <u>103</u>
	4	((77)) <u>78</u>
5	1	((77)) <u>78</u>
	2	((68)) <u>69</u>
	3	((67)) <u>68</u>
	4	((47)) <u>48</u>
6	1	((39)) <u>40</u>
	2	((37)) <u>38</u>
	3	((37)) <u>38</u>
	4	((35)) <u>36</u>
7	1	17
	2	17
	3	16
	4	16
8	1	1

AMENDATORY SECTION (Amending WSR 18-14-023, filed 6/26/18, effective 7/1/18)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduc-

tion. This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July 1, 2018 through December 31, 2018)) January 1 through June 30, 2019:

**((Washington State Department of Revenue
STUMPAGE VALUE TABLE**

July 1 through December 31, 2018

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Starting July 1, 2012, there are no separate Quality Codes per Species Code.

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Douglas-fir ⁽²⁾	DF	1	\$545	\$538	\$531	\$524	\$517
		2	550	543	536	529	522
		3	553	546	539	532	525
		4	616	609	602	595	588
		5	657	650	643	636	629
		6	306	299	292	285	278
Western Hemlock and Other Conifer ⁽³⁾	WH	1	395	388	381	374	367
		2	429	422	415	408	401
		3	350	343	336	329	322
		4	401	394	387	380	373
		5	510	503	496	489	482
		6	278	271	264	257	250
Western Red-cedar ⁽⁴⁾	RC	1-5	1314	1307	1300	1293	1286
		6	1302	1295	1288	1281	1274
Ponderosa Pine ⁽⁵⁾	PP	1-6	211	204	197	190	183
Red Alder	RA	1-5	626	619	612	605	598
Black Cottonwood	BC	1-5	112	105	98	91	84
Other Hardwood	OH	1-5	340	333	326	319	312
		6	23	16	9	2	1
Douglas-fir Poles & Piles	DFL	1-5	841	834	827	820	813
Western Red-cedar Poles	RCL	1-5	1549	1542	1535	1528	1521
		6	1484	1477	1470	1463	1456
Chipwood ⁽⁶⁾	CHW	1-5	13	12	11	10	9
		6	1	1	1	1	1
Small Logs ⁽⁶⁾	SML	6	28	27	26	25	24
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-6	299	292	285	278	271
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

- (3) Includes all Hemlock, Spruce and true Fir species, Lodgepole Pine in SVA 6, or any other conifer not listed on this page.
- (4) Includes Alaska Cedar.
- (5) Includes Western White Pine in SVA 6, and all Pines in SVA 1-5.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage Value per 8 lineal feet or portion thereof.
- (9) Stumpage Value per lineal foot.))

**Washington State Department of Revenue
WESTERN WASHINGTON STUMPAGE VALUE TABLE**

January 1 through June 30, 2019

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir ⁽²⁾	DF	1	\$507
		2	590
		3	576
		4	635
		5	620
Western Hemlock and Other Conifer ⁽³⁾	WH	9	493
		1	384
		2	474
Western Red-cedar ⁽⁴⁾	RC	3	375
		4	408
		5	512
		9	370
		1-5	1251
Ponderosa Pine ⁽⁵⁾	PP	9	1237
		1-5	207
Red Alder	RA	9	193
		1-5	661
Black Cottonwood	BC	9	647
		1-5	90
Other Hardwood	OH	9	76
		1-5	335
Douglas-fir Poles & Piles	DFL	9	321
		1-5	845
Western Red-cedar Poles	RCL	9	831
		1-5	1483
Chipwood ⁽⁶⁾	CHW	9	1469
		1-5	16
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	9	14
		1-9	285

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Posts ⁽⁸⁾	LPP	1-9	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-9	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-9	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes all Pines in SVA 1-5 & 9.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.
- (9) Stumpage value per lineal foot.

**Washington State Department of Revenue
EASTERN WASHINGTON STUMPAGE VALUE TABLE**

January 1 through June 30, 2019

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir ⁽²⁾	DF	6	\$315
		7	329
Western Hemlock and Other Conifer ⁽³⁾	WH	6	272
		7	286
Western Red-cedar ⁽⁴⁾	RC	6	1193
		7	1207
Ponderosa Pine ⁽⁵⁾	PP	6	193
		7	207
Other Hardwood	OH	6	9
		7	9
Western Red-cedar Poles	RCL	6	1444
		7	1458
Chipwood ⁽⁶⁾	CHW	6	1
		7	1
Small Logs ⁽⁶⁾	SML	6	23
		7	25
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	6-7	285
		6-7	0.35
Posts ⁽⁸⁾	LPP	6-7	0.35

Species Name	Species Code	SVA	
		(Stumpage Value Area)	Stumpage Values
DF Christmas Trees ⁽²⁾	DFX	6-7	0.25
Other Christmas Trees ⁽²⁾	TFX	6-7	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, and Lodgepole Pine in SVA 6-7, or any other conifer not listed on this table.
- (4) Includes Alaska-Cedar.
- (5) Includes Western White Pine in SVA 6-7.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.
- (9) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((July 1 through December 31, 2018)) January 1 through June 30, 2019:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and (5) 2
 ((July 1 through December 31, 2018))
 January 1 through June 30, 2019

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 ((July 1 through December 31, 2018))
 January 1 through June 30, 2019

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	

III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	\$0.00

Note: This adjustment only applies to published MBF sawlog values.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

WSR 19-02-071

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 31, 2018, 7:53 a.m., effective January 31, 2019]

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

Purpose: The department is amending the requirements regarding restricted holding facilities in chapter 16-30 WAC by:

- Requiring additional oversight of category 1 restricted holding facilities.
- Removing the certificate of veterinary inspection exemption for out-of-state cattle entering a category 2 restricted holding facility.
- Requiring additional oversight of category 3 restricted holding facilities.
- Increasing notification and reporting requirements.
- Amending the definition of "official individual identification" to mean an official United States Department of Agriculture (USDA) approved individual identification tag.
- Adding a definition of "designated surveillance area."
- Removing the restriction that a category 2 restricted holding facility has to be a "dry" feed yard "with no provision for grazing."
- Repealing WAC 16-30-025 and 16-30-030 and removing all references to "restricted feed lot."
- Clarifying that category 2 restricted holding facilities can have both in-state and out-of-state cattle.
- Changing some references of "cattle" to "livestock."

Citation of Rules Affected by this Order: Repealing WAC 16-30-025 and 16-30-030; and amending WAC 16-30-010, 16-30-035, 16-30-038, 16-30-039, and 16-30-040.

Statutory Authority for Adoption: RCW 16.36.040.

Adopted under notice filed as WSR 18-21-184 on October 24, 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 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 7, Repealed 0.

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

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

Date Adopted: December 31, 2018.

Derek I. Sandison
Director

Chapter 16-30 WAC

~~((RESTRICTED FEEDLOTS AND))~~ RESTRICTED HOLDING FACILITIES

AMENDATORY SECTION (Amending WSR 10-20-091, filed 9/30/10, effective 10/31/10)

WAC 16-30-010 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

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

"Designated surveillance area" means a disease surveillance area in the Greater Yellowstone Area within the states of Idaho, Montana, and Wyoming where brucellosis positive elk are known or suspected to exist. In these areas, commingling of elk and livestock, and livestock exposure to tissue containing *Brucella*, is possible.

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

"Official individual identification" means ~~((identifying an animal or group of animals using devices or methods including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of brand inspection from a brand inspection authority who is recognized by the director))~~ official United States Department of Agriculture (USDA) approved individual identification tag.

Note: Official USDA ear tags are imprinted with an individual identification number, bears the official U.S. shield, and are tamper proof.

"Restricted animals" means animals being held in a restricted holding facility ~~((or a restricted feedlot)).~~

AMENDATORY SECTION (Amending WSR 10-20-091, filed 9/30/10, effective 10/31/10)

WAC 16-30-035 Types of restricted holding facilities.

(1) Restricted holding facilities are isolated areas approved and licensed by the director, as advised by the state veterinarian. Fees associated with restricted holding facilities are referenced under chapter 16-91 WAC.

(2) There are three categories of restricted holding facilities.

(a) A category 1 restricted holding facility is a facility where imported animals are held in quarantine until they meet animal health import requirements prior to movement.

(b) A category 2 restricted holding facility is a ~~((dry feed yard with no provision for grazing where cattle that have~~

~~been imported into the state and are))~~ feed yard where livestock are fed and destined for slaughter only. Livestock are confined for feeding((=Cattle)) as designated by a diagram of the restricted holding facility per WAC 16-30-039 (2)(c). Livestock in a category 2 restricted holding facility must remain in slaughter channels and move only to a federally inspected slaughter plant or other restricted facilities of like status.

(c) A category 3 restricted holding facility is a holding facility for permanently quarantined animals.

AMENDATORY SECTION (Amending WSR 10-20-091, filed 9/30/10, effective 10/31/10)

WAC 16-30-038 Conditions ~~((of permit))~~ to operate restricted holding facilities. (1) The following requirements are applicable to all categories of restricted holding facilities:

(a) The restricted holding facility area shall house restricted animals separate and apart from all other nonrestricted animals. There may be no contact between animals not also similarly restricted and no commingling between separate shipments of animals.

(b) The restricted holding facility will be maintained in a sanitary condition to mitigate disease risk.

(c) The ~~((department of agriculture))~~ state veterinarian will be notified immediately of any outbreak of any infectious or contagious disease or of any significant morbidity/mortality event.

(d) Milk from restricted animals may not be used for human consumption.

(e) Restricted holding facilities must be clearly identified as such by signs permanently affixed at all corners stating "restricted holding facility" in letters a minimum of six inches in height.

(f) The disposition of dead animals will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

(g) Accurate records will be kept for six years to account for all animals entering and leaving the restricted holding facility. Records must be open for review by authorized department of agriculture personnel during normal business hours, and must be provided to the department upon the director's or state veterinarian's request.

(h) The state veterinarian has the authority to enter the restricted holding facility at any reasonable time to conduct tests, examinations, and inspections.

(2) **Additional requirements for a category ~~((4))~~ one restricted holding facility.** In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category ~~((4))~~ one restricted holding facility must abide by the following conditions:

(a) All animals entering a category ~~((4))~~ one restricted holding facility must have official individual identification listed on the certificate of veterinary inspection.

(b) No animals may be removed from the category ~~((4))~~ one restricted holding facility until they meet state and federal import regulations.

(c) The state veterinarian must be notified when animals in a category one restricted holding facility have met state

and federal import regulations by submitting animal testing and vaccination records prior to movement of the animal.

(d) Animals may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent to a federally inspected slaughter ~~((establishment))~~ plant and have not commingled with any other animals not also similarly restricted. Category one restricted holding facilities must report to the state veterinarian the official individual identification of any animals that move out of the facility to a federally inspected slaughter plant or to a category two restricted holding facility prior to movement of the animals. Animals that have commingled with others not also similarly restricted will be quarantined and must be tested negative for disease as determined by the state veterinarian within thirty days before being released from the holding facility.

(e) Notifications of animal movement shall be submitted to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington St. S.E.
P.O. Box 42577
Olympia, WA 98504-2577
Email: ahealth@agr.wa.gov

(f) The state veterinarian will conduct at least two and up to four random, unannounced audits during each licensing period. The rate for audits is established in WAC 16-91-040. The audits will consist of a physical inspection.

(g) Subsection (2)(f) of this section shall not limit the number of inspections necessary to investigate potential violations or limit the number of inspections to ensure compliance after a violation is found.

(3) Additional requirements for a category ~~((2))~~ two restricted holding facility. In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category ~~((2))~~ two restricted holding facility must abide by the following conditions:

(a) All livestock that enter Washington state destined to a category two restricted holding facility must enter with a certificate of veterinary inspection that includes the entry permit number.

(b) Cattle imported from Canada are required to have individual official identification and must be confined to the initial category two restricted holding facility until moved to a federally inspected slaughter plant.

(c) Category two restricted holding facilities may purchase and import cattle from a designated surveillance area if the cattle do not originate from a herd known to be exposed to brucellosis. Female cattle entering a category two restricted holding facility from a designated surveillance area must be:

(i) Officially brucellosis vaccinated; or

(ii) Brucellosis tested negative within thirty days prior to movement.

(d) All livestock in a category two restricted holding facility must remain in slaughter channels.

(e) There may be no contact between ~~((cattle))~~ livestock not also similarly restricted.

~~((b) Cattle))~~ (f) Livestock may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent immediately to a federally inspected slaughter plant~~((-~~

~~((e)))~~ or moved to a facility of like status. Category two restricted holding facilities that move livestock to a facility of like status must report to the state veterinarian the number of livestock being moved, the official individual identification if applicable, the date the livestock will be moved, and the physical address of where the livestock will be moving to, prior to movement of the livestock.

(g) Notifications of animal movement shall be submitted to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington St. S.E.
P.O. Box 42577
Olympia, WA 98504-2577
Email: ahealth@agr.wa.gov

(h) There must be a minimum of thirty feet between the restricted holding facility and other lots and facilities.

~~((f))~~ (i) No common fences and gates may be used.

~~((e) Cattle))~~ (j) Livestock in the restricted holding facility must not share water or feeding facilities accessible to other areas.

~~((f))~~ (k) The state veterinarian will conduct at least two and up to four random, unannounced audits during each licensing period. The audits will consist of a physical inspection. The licensee is also required to periodically confirm with the department ~~((cattle))~~ livestock shipments identified on state ~~((import))~~ entry permits and certificate of veterinary inspections as destined to the restricted holding facility by telephone or email. The rate for audits is established in WAC 16-91-040, but the total amount charged per licensed restricted holding facility shall not exceed one thousand five hundred dollars in a calendar year.

~~((g) (f) of this subsection))~~ (l) Subsection (3)(k) of this section shall not limit the number of inspections necessary to investigate potential violations or limit the number of inspections or total amount charged to ensure compliance after a violation is found. Category ~~((2))~~ two restricted holding facilities that have been found to be in violation of animal health or import regulations may be charged for audits and inspections in excess of the one thousand five hundred dollar limit in ~~((f))~~ (k) of this subsection. This section shall not limit the department from charging the time and mileage fee for inspecting livestock and related records during an investigation of a proven violation of ~~((section 3, chapter 66, Laws of 2010))~~ RCW 16.36.140.

(4) Additional requirements for category ~~((3))~~ three restricted holding facilities. In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category ~~((3))~~ three restricted holding facility must abide by the following conditions:

(a) The operator of a category ~~((3))~~ three restricted holding facility must abide by quarantine conditions set forth by the state veterinarian.

(b) Accurate records will be kept accounting for all animals entering the category ((3)) three restricted holding facility for the length of the quarantine.

(c) An animal in a category ((3)) three restricted holding facility may be legally removed from the facility only upon the animal's death or if the animal is moved from the location by permit from the state veterinarian's office on a United States Department of Agriculture VS form 1-27 for the movement of restricted or quarantined animals to another category ((3)) three restricted holding facility.

(d) If an animal dies or is moribund in a category ((3)) three restricted holding facility, the operator of the holding facility will immediately notify the state veterinarian of the animal's condition. The state veterinarian may require inspection and testing of the animal before disposal.

(e) The state veterinarian will conduct at least two and up to four random, unannounced audits during each licensing period. The rate for audits is established in WAC 16-91-040. The audits will consist of a physical inspection.

(f) Subsection (4)(e) of this section shall not limit the number of inspections necessary to investigate potential violations or limit the number of inspections to ensure compliance after a violation is found.

AMENDATORY SECTION (Amending WSR 10-20-091, filed 9/30/10, effective 10/31/10)

WAC 16-30-039 Applications for a restricted (~~feedlot or restricted~~) holding facility. (1) Application forms to establish a (~~restricted feedlot or~~) restricted holding facility may be obtained from:

Washington State Department of Agriculture
Animal Services Division
1111 Washington St. S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
Phone: 360-902-1878((-))
Email: ahealth@agr.wa.gov

(2) Applicants for (~~restricted feedlots and~~) restricted holding facilities must provide the following information on the application form:

- (a) Name and address of applicant;
- (b) Location of the (~~restricted feedlot or~~) restricted holding facility; and
- (c) (~~Drawing of the layout~~) Diagram of the (~~restricted feedlot or~~) restricted holding facility.

AMENDATORY SECTION (Amending WSR 10-20-091, filed 9/30/10, effective 10/31/10)

WAC 16-30-040 Expiration and revocation of (~~restricted feedlot and~~) restricted holding facility (~~permits~~) licenses. (1) All (~~permits~~) licenses for restricted (~~feedlots and~~) holding facilities expire on the 30th day of June of the year following the date of issue. Restricted (~~feedlots and~~) holding facilities must be inspected annually upon renewal and at any other time as determined by the director. Renewal of a restricted (~~feedlot or a restricted~~) holding facility license is contingent upon accurate recordkeeping.

(2) Any violation of chapter 16.36 RCW or any of the rules adopted under that chapter is sufficient cause for the suspension or revocation of any (~~permit~~) license to operate a (~~restricted feedlot or~~) restricted holding facility. In all proceedings for suspension or revocation of a (~~restricted feedlot or~~) restricted holding facility (~~permit~~) license, the owner or manager has the right to request a hearing before revocation is made permanent. Any action shall be taken under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-30-025 Restricted feedlots.
- WAC 16-30-030 Conditions of permit to operate a restricted feedlot.

WSR 19-02-072

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 31, 2018, 7:54 a.m., effective January 31, 2019]

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

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

- Align with recently enacted legislation to require a certificate of veterinary inspection for all livestock imported into a category 2 restricted holding facility.
- Changing some references of "cattle" to "livestock."

Citation of Rules Affected by this Order: Amending WAC 16-54-010, 16-54-030, and 16-54-031.

Statutory Authority for Adoption: RCW 16.36.040.

Adopted under notice filed as WSR 18-21-183 on October 24, 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 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 3, Repealed 0.

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

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

Date Adopted: December 31, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 16-23-108, filed 11/18/16, effective 12/19/16)

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

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

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

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

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

"Consigned" means to deliver for custody or sale.

"Dairy cattle" means all cattle, regardless of age or sex or current use, that are of a breed used to produce milk or other dairy products for human consumption including, but not limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, and Milking Shorthorn.

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

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

"Domestic bovine" means domesticated cattle, including bison.

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

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

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

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

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

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

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

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

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

"NPIP" means the National Poultry Improvement Plan.

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

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

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

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

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

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

"Restricted holding facility" means an isolated area approved and licensed by the director under chapter 16-30 WAC, as advised by the state veterinarian.

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

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

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

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

"Wild animals" is defined in RCW 77.08.010.

AMENDATORY SECTION (Amending WSR 16-23-108, filed 11/18/16, effective 12/19/16)

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

(2) Certificate of veterinary inspection:

(a) A certificate of veterinary inspection must accompany all animals entering Washington state, except where specifically exempted in this chapter. Certificates of veterinary inspection expire thirty days from the date of issuance.

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

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

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

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

~~((are: (i) Consigned to))~~ will be delivered within twelve hours after entry into Washington state to:

~~(i) Federally inspected slaughter facilities for immediate slaughter; or~~

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

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

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

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

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

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

(b) Swine;

(c) Rams;

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

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

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

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

(h) Wild and exotic animals.

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

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
Email: ahealth@agr.wa.gov
Phone: 360-902-1878.

AMENDATORY SECTION (Amending WSR 12-02-067, filed 1/3/12, effective 2/3/12)

WAC 16-54-031 Physical address requirements. (1)

Certificate of veterinary inspection, entry permit, movement permit, and temporary grazing permits shall contain the destination physical address for animals entering Washington state except where specifically exempted in this section. For purposes of this section, a physical address is the actual street location of the destination.

(2) All animals must be transported and delivered directly to the physical address noted on the certificate of veterinary inspection, entry permit, movement permit, or temporary grazing permit.

(a) Animals shall not be diverted to any other physical address except for a temporary destination due to a medical emergency where the immediate health of the animal is in jeopardy. If a physical address destination change is necessary for a medical emergency, the notification requirements listed in subsection (3) of this section shall apply.

(b) Notification requirements listed in subsection (3) of this section will apply to category two restricted holding facilities, as defined in chapter 16-30 WAC, when ~~((cattle))~~ livestock are not transported and delivered to the destination physical address as permitted on the original entry permit and noted on the certificate of veterinary inspection. Category two restricted holding facilities may only change the destination physical address as permitted on the original permit and certificate of veterinary inspection if the ~~((cattle))~~ livestock will be transported and delivered to a lot of like status.

(3) Requirements for reporting changes to physical address destinations noted in subsection (2) of this section.

(a) Contact the department within twenty-four hours by phone at 360-902-1878 or by email at ahealth@agr.wa.gov.

(b) Report the official document number and the physical address to where the animal(s) was transported and delivered to.

(4) Failing to provide the required destination physical address or acceptable alternative per subsection (5)(a) of this section or diverting animals from the destination physical address may result in a civil penalty as authorized by RCW 16.36.113 and defined in chapter 16-90 WAC.

(5) Exemptions to destination physical address requirements.

(a) If the destination physical address cannot be determined due to no physical address assigned by the appropriate county jurisdiction or local emergency services, the following shall apply:

(i) Descriptive driving directions to the physical location of where the animal(s) is being transported and delivered to must be included on the certificate of veterinary inspection, entry permit, movement permit or temporary grazing permit; or

(ii) The global positioning system (GPS) coordinates of the physical location of where the animal(s) is being transported and delivered to must be included on the certificate of veterinary inspection, entry permit, movement permit or temporary grazing permit. GPS coordinates must contain two latitude or three longitude digits to the left of the decimal point and six digits to the right of the decimal point.

(b) Poultry, or other animals, that are permitted under this chapter and chapter 16.30 RCW and are approved by the United States Postal Service's (USPS) list of mailable live animals are exempt from the destination physical address requirement. For a list of mailable live animals, please visit http://pe.usps.com/text/pub52/pub52c5_007.htm.

WSR 19-02-084
PERMANENT RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)

[Filed December 31, 2018, 5:05 p.m., effective January 31, 2019]

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

Purpose: WAC 246-937-040 Training and education, the veterinary board of governors (board) is adopting rule amendments to allow additional options for veterinary medication clerk (VMC) applicants to meet their training requirements for registration. Currently, a VMC applicant must meet their training requirement through "completion of on-the-job training program following guidelines approved by the board." The board worked with the pharmacy quality assurance commission to develop a model training program that serves as the "guidelines approved by the board." The rule adds the option of educational programs that meet at least the same criteria as those developed in the model training program. This rule gives VMC applicants additional options for meeting their training requirement for registration.

Citation of Rules Affected by this Order: Amending WAC 246-937-040.

Statutory Authority for Adoption: RCW 18.92.030.

Adopted under notice filed as WSR 18-16-087 on July 30, 2018.

A final cost-benefit analysis is available by contacting Lorelei Walker, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4947, fax 360-236-2901, TTY 360-833-6388 or 711, email loralei.walker@doh.wa.gov, web site www.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 0, Repealed 0.

Date Adopted: September 24, 2018.

Tawney Carrier, Chair
Veterinary Board of Governors

AMENDATORY SECTION (Amending WSR 02-11-022, filed 5/7/02, effective 6/7/02)

WAC 246-937-040 Training and education. ~~(((1) The training of))~~ To qualify for registration as a veterinary medication ~~((clerk))~~ clerk, an individual must ~~((be obtained by completion of))~~:

(1) Be a high school graduate or equivalent.

(2) Be sponsored by a veterinarian licensed in the state of Washington.

(3) Complete either an on-the-job training program ~~((following guidelines approved by the board.~~

~~(2) The minimum educational requirement must be high school graduation or equivalency))~~ or an educational program that meets, at a minimum, the criteria set in the model training program approved by the veterinary board of governors and the pharmacy quality assurance commission.

WSR 19-02-086
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed January 2, 2019, 9:28 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: To adopt changes to chapter 51-54A WAC, Washington state amendments to the 2015 International Fire Code, as follows:

Mass Timber: The purpose is to comply with ESB 5450.

IBC/IFC 3101/3801: The purpose is to resolve inconsistent and conflicting code requirements between NFPA 130, the IBC and IFC as they pertain to passenger rail systems.

IFC 907.10.2 And 907.10.3: The purpose of this is to add the ESA/NTS as an approved testing and maintenance certification to the code.

Citation of Rules Affected by this Order: New WAC 51-54A-0701, 51-54A-3308 and 51-54A-3900; and amending WAC 51-54A-0907 and 51-54A-8000.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Other Authority: Chapter 19.27 RCW.

Adopted under notice filed as WSR 18-21-156 on October 22, 2018.

A final cost-benefit analysis is available by contacting Richard Brown, 1500 Jefferson Street S.E., P.O. Box 41449, Olympia, WA 98504-1449, phone 360-407-9277, email Richard.brown@des.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 3, Amended 2, Repealed 0.

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

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

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

Date Adopted: December 3, 2018.

Doug Orth
Council Chair

NEW SECTION

WAC 51-54A-0701 General.

701.3 Owner's responsibility. The owner shall maintain an inventory of all required fire-resistance-rated construction, construction installed to resist the passage of smoke and the construction included in Sections 703 through 707 and Sections 602.4.1 and 602.4.2 of the *International Building Code*. Such construction shall be visually inspected by the owner annually and properly repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space.

AMENDATORY SECTION (Amending WSR 18-01-104, filed 12/19/17, effective 7/1/18)

WAC 51-54A-0907 Fire alarm and detection systems.

907.2.3 Group E. Group E occupancies shall be provided with a manual fire alarm system that initiates the occupant notification signal utilizing one of the following:

1. An emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6; or

2. A system developed as part of a safe school plan adopted in accordance with RCW 28A.320.125 or developed as part of an emergency response system consistent with the provisions of RCW 28A.320.126. The system must achieve all of the following performance standards:

2.1 The ability to broadcast voice messages or customized announcements;

2.2 Includes a feature for multiple sounds, including sounds to initiate a lock down;

2.3 The ability to deliver messages to the interior of a building, areas outside of a building as designated pursuant to the safe school plan, and to personnel;

2.4 The ability for two-way communications;

2.5 The ability for individual room calling;

2.6 The ability for a manual override;

2.7 Installation in accordance with NFPA 72;

2.8 Provide 15 minutes of battery backup for alarm and 24 hours of battery backup for standby; and

2.9 Includes a program for annual inspection and maintenance in accordance with NFPA 72.

~~((Exceptions:))~~ 1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.

EXCEPTIONS:

2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, such as individual portable school classroom buildings; provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

3. Where an existing approved alarm system is in place, an emergency voice/alarm system is not required in any portion of an existing Group E building undergoing any one of the following repairs, alteration or addition:

3.1 Alteration or repair to an existing building including, without limitation, alterations to rooms and systems, and/or corridor configurations, not exceeding 35 percent of the fire area of the building (or the fire area undergoing the alteration or repair if the building is comprised of two or more fire areas); or

3.2 An addition to an existing building, not exceeding 35 percent of the fire area of the building (or the fire area to which the addition is made if the building is comprised of two or more fire areas).

4. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

4.1 Interior corridors are protected by smoke detectors.

4.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.

4.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

5. Manual fire alarm boxes shall not be required in Group E occupancies where all of the following apply:

5.1 The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

5.2 The emergency voice/alarm communication system will activate on sprinkler waterflow.

5.3 Manual activation is provided from a normally occupied location.

907.2.3.1 Sprinkler systems or detection. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

907.2.6 Group I. A manual fire alarm system that activates the occupant notification system shall be installed in Group I occupancies. An automatic smoke detection system that notifies the occupant notification system shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2, 907.2.6.3.3 and 907.2.6.4.

EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas of Group I-1 and I-2 occupancies shall not be required at exits if located at nurses' control stations or other constantly attended staff locations, provided such stations are visible and continually accessible and that travel distances required in Section 907.4.2 are not exceeded.

2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official.

907.2.6.1 Group I-1. An automatic smoke detection system shall be installed in *corridors*, waiting areas open to *corridors* and *habitable spaces* other than *sleeping units* and kitchens. The system shall be activated in accordance with Section 907.4.

- EXCEPTIONS:
1. For Group I-1 Condition 1 occupancies, smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.
 2. Smoke detection is not required for exterior balconies.

907.2.6.4 Group I-4 occupancies. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group I-4 occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

- EXCEPTIONS:
1. A manual fire alarm system is not required in Group I-4 occupancies with an occupant load of 50 or less.
 2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

907.5.2.1.2 Maximum sound pressure. The maximum sound pressure level for audible alarm notification appliances shall be 110 dBA at the minimum hearing distance from the audible appliance. For systems operating in public mode, the maximum sound pressure level shall not exceed 30 dBA over the average ambient sound level. Where the average ambient noise is greater than 95 dBA, visible alarm notification appliances shall be provided in accordance with NFPA 72 and audible alarm notification appliances shall not be required.

907.10 NICET: National Institute for Certification in Engineering Technologies and ESA/NTS: Electronic Security Association/National Training School.

907.10.1 Scope. This section shall apply to new and existing fire alarm systems.

907.10.2 Design review: All construction documents shall be reviewed by a NICET III, an ESA/NTS Certified Fire Alarm Designer (CFAD) Level III Fire in fire alarms, or a licensed professional engineer (PE) in Washington prior to being submitted for permitting. The reviewing professional shall submit a stamped, signed, and dated letter; or a verification method approved by the local authority having jurisdiction indicating the system has been reviewed and meets or exceeds the design requirements of the state of Washington and the local jurisdiction (effective July 1, 2018).

907.10.3 Testing/maintenance: All inspection, testing, maintenance and programing not defined as "*electrical construction trade*" by chapter 19.28 RCW shall be completed by a NICET II or ESA/NTS Certified Fire Alarm Technician (CFAT) Level II Fire in fire alarms (effective July 1, 2018).

NEW SECTION

WAC 51-54A-3308 Owner's responsibility for fire protection.

3308.8 Fire safety requirements for buildings of Types IV-A, IV-B, and IV-C construction. Buildings of Types IV-A, IV-B, and IV-C construction designed to be greater than six stories above grade plane shall meet the following requirements during construction unless otherwise approved by the fire code official.

1. Standpipes shall be provided in accordance with Section 3313.
2. A water supply for fire department operations, as approved by the fire code official and the fire chief.
3. Where building construction exceeds six stories above grade plane, at least one layer of noncombustible protection where required by Section 602.4 of the *International Building Code* shall be installed on all building elements more than four floor levels, including mezzanines, below active mass timber construction before erecting additional floor levels.

EXCEPTION: Shafts and vertical exit enclosures shall not be considered a part of the active mass timber construction.

4. Where building construction exceeds six stories above grade plane required exterior wall coverings shall be installed on all floor levels more than four floor levels, including mezzanines, below active mass timber construction before erecting additional floor level.

EXCEPTION: Shafts and vertical exit enclosures shall not be considered a part of the active mass timber construction.

NEW SECTION

WAC 51-54A-3900 Fixed guideway transit and passenger rail systems.

3901.1 Scope. Fixed guideway transit and passenger rail systems shall be in accordance with NFPA 130.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-8000 Referenced standards.

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations	609.3
NFPA 720-15 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units . . .	103.9
<u>NFPA 130-17 Standard for Fixed Guideway Transit and Passenger Rail Systems</u>	<u>3901.1</u>

**WSR 19-02-087
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed January 2, 2019, 9:32 a.m., effective January 2, 2019]

Effective Date of Rule: January 2, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: ESSB 6037 (chapters 26.26A and 26.26B RCW) became effective

on January 1, 2019. These rules are necessary to implement the law.

Purpose: Chapter 246-490 WAC, Vital statistics, the department of health (department) adopted new sections of rule to establish procedural requirements for individuals to file assertions, acknowledgments, denials, and rescissions of parentage with the department, and require supplemental information to identify the correct subject of the record to process an establishment of parentage court order. WAC 246-491-990 Vital records fees, is amended to establish new fees for filing assertions, acknowledgments, denials, and rescissions of parentage, and clarify existing fees.

Citation of Rules Affected by this Order: New WAC 246-490-300, 246-490-305 and 246-490-310; and amending WAC 246-491-990.

Statutory Authority for Adoption: ESSB 6037 (chapters 26.26A and 26.26B RCW).

Other Authority: RCW 43.70.150.

Adopted under notice filed as WSR 18-20-119 on October 3, 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 3, 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 3, 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 3, Amended 1, Repealed 0.

Date Adopted: January 2, 2019.

John Wiesman, DrPH, MPH
Secretary

ESTABLISHING PARENTAGE ON A BIRTH RECORD

NEW SECTION

WAC 246-490-300 Establishing a presumption of parentage with an assertion of parentage. (1) When the individual who gave birth and the individual seeking to establish parentage were married after the birth of the child, the individual seeking to establish parentage shall file an assertion with the department to establish a presumption of parentage consistent with RCW 26.26A.115.

(2) If required to establish a presumption of parentage, the individual shall file an assertion prior to filing a voluntary acknowledgment of parentage with the department.

(3) The assertion may only be filed with the department on the forms provided by the department. The form must be completed and sent to the department along with the applicable fees established in WAC 246-491-990.

NEW SECTION

WAC 246-490-305 Establishing parentage with a voluntary acknowledgment of parentage or denial of parentage. (1) The individual who gave birth and an alleged genetic parent, an intended parent through assisted reproduction, or a presumed parent may use an acknowledgment of parentage that complies with RCW 26.26A.200 through 26.26A.265 to establish parentage. When the completed acknowledgment of parentage form is filed with the department and a denial of parentage is not required, the parent's name will be added to the child's birth record.

(2) If a presumed parent or an alleged genetic parent will not be the parent listed on the child's birth record, the presumed parent or an alleged genetic parent may sign a denial of parentage that complies with RCW 26.26A.200 through 26.26A.265. If the presumed parent or an alleged genetic parent does not sign a denial of parentage, the department shall require a court ordered establishment of parentage to change the birth record. Submission of the court order to the department must comply with the requirements of WAC 246-490-310.

(a) The acknowledgment of parentage and denial of parentage forms are considered completed when both forms are filed with the department.

(b) After both forms are filed, the department will change the child's birth record in accordance with the forms. The individual seeking to establish parentage will be listed as a parent.

(3) An individual who signed an acknowledgment of parentage or denial of parentage form may file a rescission of parentage form on or before sixty days from the time the acknowledgment or denial of parentage forms were filed with the department or the date of the first court proceeding relating to parentage of the child, whichever occurs first. Once a complete rescission that meets the time requirements has been filed with the department, the department will:

(a) Notify the individuals who signed an acknowledgment of parentage or denial of parentage form in writing to the individuals' address listed on the acknowledgment of parentage or denial of parentage form that a rescission was filed with the department. Failure to give the notice does not affect the validity of the rescission; and

(b) Change the child's record to the prior record information before the acknowledgment or denial of parentage form was filed.

(4) After a rescission is filed as described in subsection (3) of this section, a new acknowledgment of parentage form may be filed with the department.

(5) After sixty days, a challenge of parentage requires a court proceeding, consistent with chapter 26.26A RCW.

(6) For the purpose of this section, "witnessed" has the same meaning as RCW 26.26A.010. A person signing the witnessed statement must be at least eighteen years of age and not related by blood or marriage to the individuals who sign an acknowledgment of parentage, denial of parentage, or rescission of parentage form.

(7) An acknowledgment of parentage, denial of parentage, or rescission of parentage form must be completed, signed, witnessed or notarized, and submitted to the depart-

ment with the applicable fee required by WAC 246-491-990. Incomplete forms will not be filed and will be returned.

(8) To receive a birth certificate reflecting the change, a certificate order form must be sent to the department along with the applicable fee required by RCW 70.58.107.

NEW SECTION

WAC 246-490-310 Court ordered establishment of parentage. (1) If parentage is established by court order, the court or parents of the child must submit a certified copy of the court order to the department.

(2) The department may require supplemental information to locate and change the child's birth record to comply with a court order that establishes parentage. The parents listed in the court order must provide the supplemental information. The department may request the following information in order to comply with the court order:

- (a) Full name of child, as listed on the child's birth record;
- (b) Child's date of birth;
- (c) Full name of the individual who gave birth, as listed on the child's birth record;
- (d) Full legal name, date of birth, and place of birth for the individual being added as a parent; and
- (e) Any additional information needed to locate the birth record.

(3) If the department cannot locate the child's birth record, the department will not change the record until the parents listed in the court order provide the supplemental information requested by the department.

AMENDATORY SECTION (Amending WSR 91-02-049, filed 12/27/90, effective 1/31/91)

WAC 246-491-990 Vital records fees. The department shall collect nonrefundable fees to cover program costs as follows:

((1) To prepare a sealed file following amendment of the original vital record	\$15.00
(2) To review a sealed file	\$15.00
(3) The director of the division))	
<u>(1) To prepare a sealed record following an adoption or to search the vital records system for adoption record information.</u>	<u>\$15.00</u>
<u>(2) To file an assertion of parentage, an acknowledgment or denial of parentage, or a rescission of parentage.</u>	<u>\$18.00</u>
<u>(3) Fee for hospital filed acknowledgments or denials of parentage.</u>	<u>\$5.00</u>
<u>(4) To prepare a certificate of birth record information (CBRI) letter or to provide a copy of an assertion of parentage, an acknowledgment or denial of parentage, or a rescission of parentage.</u>	<u>\$15.00</u>

(5) The secretary of health may enter into agreements with state and local government agencies to establish alternate fee schedules and payment arrangements for reimbursement of these program costs.

WSR 19-02-089

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed January 2, 2019, 9:52 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: Chapter 51-11C WAC amendment of the 2015 Washington State Energy Code, Commercial, for consistency with previously adopted rules and methods.

While reviewing code changes for the 2018 Washington State Energy Code, there were three amendments flagged that were deemed necessary to be adopted earlier than the intended July 2020 effective date.

The first two both pertain to Section C402.1.5. One makes editorial corrections to the UA calculations to correlate them with the training and implementation tools developed to assist enforcement. This also makes them consistent with the requirements in previous codes, including the limitations on glazing area found in other sections of the code. The other adds a missing section reference to the allowance for additional glazing using high efficiency glass. This change also includes coordinating changes in Sections 406.8, 503.2 and 505.1 to standardize terms.

Citation of Rules Affected by this Order: Amending WAC 51-11C-40215, 51-11C-40406, 51-11C-40608, 51-11C-50300, and 51-11C-50500.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.025.

Other Authority: Chapters 19.27A and 19.27 RCW.

Adopted under notice filed as WSR 18-12-105 [18-21-105] on October 16, 2018.

A final cost-benefit analysis is available by contacting Richard Brown, 1500 Jefferson [Street] S.E., P.O. Box 41449, Olympia, WA 98504-1449, phone 360-407-9277, email Richard.brown@des.wa.gov, web site sbccc.wa.gov [sbcc.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 5, 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: December 3, 2018.

Doug Orth
Council Chair

AMENDATORY SECTION (Amending WSR 17-10-062, filed 5/2/17, effective 6/2/17)

WAC 51-11C-40215 Section C402.1.5—Component performance alternative.

C402.1.5 Component performance alternative. Building envelope values and fenestration areas determined in accordance with Equation 4-2 shall be permitted in lieu of compliance with the *U*-factors and *F*-factors in Table C402.1.4 and C402.4 and the maximum allowable fenestration areas in Section C402.4.1.

Equation 4-2

$$A + B + C + D = \leq \text{Zero}$$

Where:

- A = Sum of the (UA Dif) values for each distinct assembly type of the building thermal envelope, other than slabs on grade
- UA Dif = UA Proposed - UA Table
- UA Proposed = Proposed *U*-value x Proposed Area
- UA Table = (*U*-factor from Table C402.1.4 or C402.4) x Area
- B = Sum of the (FL Dif) values for each distinct slab on grade perimeter condition of the building thermal envelope
- FL Dif = FL Proposed - FL Table
- FL Proposed = Proposed *F*-value x Proposed Perimeter length
- FL Table = (*F*-factor specified in Table C402.1.4) x Proposed Perimeter length

The maximum allowed prescriptive vertical fenestration area, identified as "Vertical Fenestration Area allowed" in factor CA below, ~~((as a percent of))~~ is the gross above-grade wall area ~~((ratio is))~~ times either:

1. 30%
2. 40% if the building complies with Section C402.4.1.1 or Section ~~((C402.1.4.1))~~ C402.4.1.4; or
3. 40% if the *U*-values used in calculating A for vertical fenestration are taken from Section C402.4.1.3 rather than Table C402.4

Where the proposed vertical fenestration area is less than or equal to the ~~((maximum allowed prescriptive))~~ Vertical Fenestration Area allowed, the value of C (Excess Vertical Glazing Value) shall be zero. Otherwise:

- C = (CA x UV) - (CA x U_{Wall}), but not less than zero
- CA = (Proposed Vertical Fenestration Area) - (Vertical Fenestration Area allowed)
- ~~((UA_{Wall} = Sum of the (UA Proposed) values for each opaque assembly of the exterior wall))~~
- UAW = Sum of the (UA ~~((proposed))~~ table) values for each above-grade wall assembly
- U_{Wall} = UAW / (sum of proposed wall area ~~((excludes vertical fenestration area))~~ + CA)
- UAV = Sum of the (UA ~~((Proposed))~~ Table) values for each vertical fenestration assembly
- UV = UAV / Total Vertical Fenestration Area allowed

Where the proposed skylight area is less than or equal to the skylight area allowed by Section C402.4.1, the value of D (Excess Skylight Value) shall be zero. Otherwise:

- D = (DA x US) - (DA x U_{Roof}), but not less than zero
- DA = (Proposed Skylight Area) - (Allowable Skylight Area from Section C402.4.1)
- UAR = Sum of the (UA ~~((Proposed))~~ Table) values for each roof assembly
- U_{Roof} = UAR / (sum of proposed roof area ~~((excludes skylight area))~~ + DA)
- UAS = Sum of the (UA ~~((Proposed))~~ Table) values for each skylight assembly
- US = UAS / ~~((total))~~ the Allowable Skylight Area from Section C402.4.1

Where required by other sections of the code Proposed Total Envelope UA and Allowed Total Envelope UA shall be calculated as:

$$\text{Proposed Total Envelope UA} = \text{Sum of UA Proposed and FL Proposed for each distinct envelope assembly}$$

$$\frac{\text{Allowed Total Envelope UA}}{\text{Sum UA Table - C — D}} \equiv$$

Where:

$$\frac{\text{Sum UA Table}}{\text{Sum of UA Table and FL Table for each distinct envelope assembly}} \equiv$$

C402.1.5.1 Component U-factors. The U-factors for typical construction assemblies are included in Chapter 3 and Appendix A. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 3 or Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook—Fundamentals*, using the framing factors listed in Appendix A.

For envelope assemblies containing metal framing, the U-factor shall be determined by one of the following methods:

1. Results of laboratory measurements according to acceptable methods of test.
2. ASHRAE *Handbook—Fundamentals* where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in ASHRAE *Handbook—Fundamentals*.
4. Effective framing/cavity R-values as provided in Appendix A.

When return air ceiling plenums are employed, the roof/ceiling assembly shall:

- a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and
 - b. For gross area purposes, be based upon the interior face of the upper plenum surface.
5. Tables in ASHRAE 90.1 Normative Appendix A.

C402.1.5.2 SHGC rate calculations. ((Solar heat gain coefficient shall comply with Table C402.4. The target $SHGCA_t$ and the proposed $SHGCA_p$ shall be calculated using Equations 4-3 and 4-4 and the corresponding areas and SHGCs from Table C402.4.)) Fenestration SHGC values for individual components and/or fenestration are permitted to exceed the SHGC values in Table C402.4 and/or the maximum allowable fenestration areas in Section C402.4.1 where the proposed values result in $SHGCA_p$ less than $SHGCA_t$ as determined by Equations 4-3 and 4-4.

Equation 4-3—Target $SHGCA_t$

**Equation C402-3
Target $SHGCA_t$**

$$SHGCA_t = SHGC_{ogt}(A_{ogt}) + SHGC_{vgt}(A_{vgt} + A_{vgmt} + A_{vgmot} + A_{vgdt})$$

Where:

$SHGCA_t$ = The target combined solar heat gain of the target fenestration area.

$SHGC_{ogt}$ = The solar heat gain coefficient for skylight fenestration found in Table C402.4.

A_{ogt} = The ((proposed)) target skylight area.

$SHGC_{vgt}$ = The solar heat gain coefficient for vertical fenestration found in Table C402.4 which corresponds to the proposed total fenestration area as a percentage of gross exterior wall.

A_{vgt} = The ((proposed)) target vertical fenestration area with nonmetal framing.

A_{vgmt} = The ((proposed)) target vertical fenestration area with fixed metal framing.

A_{vgmot} = The ((proposed)) target vertical fenestration area with operable metal framing.

A_{vgdt} = The proposed vertical fenestration area of entrance doors.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

If the proposed vertical fenestration area does not exceed the Vertical Fenestration Area allowed, the target area for each vertical fenestration type shall equal the proposed area. If the proposed vertical fenestration area exceeds the Vertical Fenestration Area allowed, the target area of each vertical fenestration element shall be reduced in the base envelope design by the same percentage and the net area of each above-grade wall type increased proportionately by the same percentage so that the total vertical fenestration area is exactly equal to the Vertical Fenestration Area allowed.

If the proposed skylight area does not exceed the Allowable Skylight Area from Section C402.4.1, the target area shall equal the proposed area. If the proposed skylight area exceeds the Allowable Skylight Area from Section C402.4.1, the area of each skylight element shall be reduced in the base envelope design by the same percentage and the net area of each roof type increased proportionately by the same percentage so that the total skylight area is exactly equal to the allowed percentage per Section C402.3.1 of the gross roof area.

**Equation 4-4
Proposed $SHGCA_p$**

$$SHGCA_p = SHGC_{og}A_{og} + SHGC_{vg}A_{vg}$$

Where:

$SHGCA_t$ = The combined proposed solar heat gain of the proposed fenestration area.

$SHGC_{og}$ = The solar heat gain coefficient of the skylights.

A_{og} = The skylight area.

$SHGC_{vg}$ = The solar heat gain coefficient of the vertical fenestration.

A_{vg} = The vertical fenestration area.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-40406 Section C404.6—Pipe insulation.

C404.6 Insulation of piping. Piping from a water heater to the termination of the heated water fixture supply pipe shall be insulated in accordance with Table C403.2.9. On both the inlet and outlet piping of a storage water heater or heated water storage tank, the piping to a heat trap or the first 8 feet (2438 mm) of piping, whichever is less, shall be insulated. Piping that is heat traced shall be insulated in accordance with Table C403.2.9 or the heat trace manufacturer's instructions. Tubular pipe insulation shall be installed in accordance with the insulation manufacturer's instructions. Pipe insulation shall be continuous except where the piping passes through a framing member. The minimum insulation thickness requirements of this section shall not supersede any greater insulation thickness requirements necessary for the protection of piping from freezing temperatures or the protection of personnel against external surface temperatures on the insulation.

EXCEPTION: Tubular pipe insulation shall not be required on the following:

1. The tubing from the connection at the termination of the fixture supply piping to a plumbing fixture or plumbing appliance.
2. Valves, pumps, strainers and threaded unions in piping that is 1 inch (25 mm) or less in nominal diameter.
3. Piping from user-controlled shower and bath mixing valves to the water outlets.
4. Cold-water piping of a demand recirculation water system.
5. Tubing from a hot drinking-water heating unit to the water outlet.
6. Piping at locations where a vertical support of the piping is installed.
7. Piping surrounded by building insulation with a thermal resistance (*R*-value) of not less than R-3.
8. Hot water piping that is part of the final pipe run to the plumbing fixture and is not part of the heated-water circulation system circulation path is not required to meet the minimum insulation requirements of C404.6.

AMENDATORY SECTION (Amending WSR 16-13-089, filed 6/15/16, effective 7/16/16)

WAC 51-11C-40608 Section C406.8—Envelope option.

C406.8 Enhanced envelope performance. The Proposed Total Envelope UA of the building thermal envelope shall be 15 percent lower than the (~~maximum allowable~~) Allowed Total Envelope UA for a building of identical configuration and fenestration area in accordance with Section C402.1.5 and Equation 4-2(~~where UA equals the sum of the U-values of each distinct envelope assembly multiplied by the area in square feet of that assembly~~).

AMENDATORY SECTION (Amending WSR 16-24-070, filed 12/6/16, effective 5/1/17)

WAC 51-11C-50300 Section C503—Alterations.

C503.1 General. Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less conforming with the provisions of this code than the existing building or structure was prior to the alteration. Alterations to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this code. Alterations shall not create an unsafe or hazardous condition or overload existing building systems.

EXCEPTION: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Surface applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the code does not require the glazing fenestration to be replaced.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are insulated to full depth with insulation having a minimum nominal value of R-3.0 per inch installed per Section C402.
4. Construction where the existing roof, wall or floor cavity is not exposed.
5. *Roof recover.*
6. *Air barriers* shall not be required for *roof recover* and roof replacement where the *alterations* or renovations to the building do not include *alterations*, renovations or *repairs* to the remainder of the building envelope.
7. Replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided however that an existing vestibule that separates a conditioned space from the exterior shall not be removed.

C503.2 Change in space conditioning. Any nonconditioned space that is altered to become *conditioned space* or *semi-heated space* shall be required to be brought into full compliance with this code. Any semi-heated space that is altered to become conditioned space shall be required to be brought into full compliance with this code.

EXCEPTION: Where the component performance building envelope option in Section C402.1.5 is used to comply with this Section, the Proposed Total Envelope UA is allowed to be up to 110 percent of the (~~Target~~) Allowed Total Envelope UA. Where the total building performance option in Section C407 is used to comply with this section, the annual energy consumption of the proposed design is allowed to be 110 percent of the annual energy consumption otherwise allowed by Section C407.3.

C503.3 Building envelope. New building envelope assemblies that are part of the alteration shall comply with Sections C402.1 through C402.5 as applicable.

EXCEPTION: Air leakage testing is not required for alterations and repairs, unless the project includes a change in space conditioning according to Section C503.2 or a change of occupancy or use according to Section C505.1.

C503.3.1 Roof replacement. *Roof replacements* shall comply with Table C402.1.3 or C402.1.4 where the existing roof assembly is part of the *building thermal envelope* and contains insulation entirely above the roof deck.

C503.3.2 Vertical fenestration. The addition of *vertical fenestration* that results in a total building vertical fenestration area less than or equal to that specified in Section C402.4.1 shall comply with Section C402.4. Alterations that result in a total building vertical fenestration area greater than specified in Section C402.4.1 shall comply with one of the following:

1. Vertical fenestration alternate per Section C402.1.3 for the new vertical fenestration added.
2. Vertical fenestration alternate per Section C402.4.1.1 for the area adjacent to the new vertical fenestration added.
3. Component performance option with target area adjustment per Section C402.1.5 or the total building performance option in Section C407 for the whole building.

C503.3.2.1 Application to replacement fenestration products. Where some or all of an existing *fenestration* unit is replaced with a new *fenestration* product, including sash and glazing, the replacement *fenestration* unit shall meet the applicable requirements for *U*-factor and *SHGC* in Table C402.4.

EXCEPTION: An area-weighted average of the *U*-factor of replacement fenestration products being installed in the building for each fenestration product category listed in Table C402.4 shall be permitted to satisfy the *U*-factor requirements for each fenestration product category listed in Table C402.4. Individual fenestration products from different product categories listed in Table C402.4 shall not be combined in calculating the area-weighted average *U*-factor.

C503.3.3 Skylight area. The addition of *skylights* that results in a total building skylight area less than or equal to that specified in Section C402.4.1 shall comply with Section C402.4. *Alterations* that result in a total building skylight area greater than that specified in Section C402.4.1 shall comply with the component performance option with target area adjustment per Section C402.1.5 or the total building performance option in Section C407 for the whole building.

C503.4 Mechanical systems. Those parts of systems which are altered or replaced shall comply with Section C403. Additions or alterations shall not be made to an existing mechanical system that will cause the existing mechanical system to become out of compliance.

EXCEPTION: Existing mechanical systems which are altered or where parts of the systems are replaced are not required to be modified to comply with Section C403.6 as long as mechanical cooling is not added to the system.

All new systems in existing buildings, including packaged unitary equipment and packaged split systems, shall comply with Section C403.

Where mechanical cooling is added to a space that was not previously cooled, the mechanical system shall comply with either Section C403.6 or C403.3.

EXCEPTIONS:

1. Alternate designs that are not in full compliance with this code may be approved when the code official determines that existing building constraints including, but not limited to, available mechanical space, limitations of the existing structure, or proximity to adjacent air intakes/exhausts make full compliance impractical. Alternate designs shall provide alternate energy savings strategies including, but not limited to, Demand Control Ventilation or increased mechanical cooling or heating efficiency above that required by Tables C403.2.3(1) through C403.2.3(10).

2. Qualifying small equipment: This exception shall not be used for unitary cooling equipment installed outdoors or in a mechanical room adjacent to the outdoors. This exception is allowed to be used for other cooling units and split systems serving one zone with a total cooling capacity rated in accordance with Section C403.2.3 of less than 33,000 Btu/h (hereafter referred to as qualifying small systems) provided that these are high-efficiency cooling equipment with SEER and EER values more than 15 percent higher than minimum efficiencies listed in Tables C403.2.3 (1) through (3), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify for this exception. The total capacity of all qualifying small equipment without economizers shall not exceed 72,000 Btu/h per building, or 5 percent of its air economizer capacity, whichever is greater. That portion of the equipment serving Group R occupancies is not included in determining the total capacity of all units without economizers in a building. Redundant units are not counted in the capacity limitations. This exception shall not be used for the shell-and-core permit or for the initial tenant improvement or for Total Building Performance.

3. Chilled water terminal units connected to systems with chilled water generation equipment with IPLV values more than 25 percent higher than minimum part load efficiencies listed in Table C403.2.3(7), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify for this exception. The total capacity of all systems without economizers shall not exceed 480,000 Btu/h per building, or 20 percent of its air economizer capacity, whichever is greater. That portion of the equipment serving Group R occupancy is not included in determining the total capacity of all units without economizers in a building. This exception shall not be used for the initial permit (this includes any initial permit for the space including, but not limited to, the shell-and-core permit, built-to-suit permit, and tenant improvement permit) or for Total Building Performance Method.

Alterations to existing mechanical cooling systems shall not decrease economizer capacity unless the system complies with either Section C403.2.6 or C403.3. In addition, for existing mechanical cooling systems that do not comply with either Section C403.2.6 or C403.3, including both the individual unit size limits and the total building capacity limits on units without economizer; other alterations shall comply with Table C503.4.

When space cooling equipment is replaced, controls shall comply with all requirements under Section C403.6 and

related subsections or provide for integrated operation with economizer in accordance with Section C403.3.1.

Existing equipment currently in use may be relocated within the same floor or same tenant space if removed and reinstalled within the same permit.

**Table C503.4
Economizer Compliance Options for Mechanical Alterations**

	Option A	Option B (alternate to A)	Option C (alternate to A)	Option D (alternate to A)
Unit Type	Any alteration with new or replacement equipment	Replacement unit of the same type with the same or smaller output capacity	Replacement unit of the same type with a larger output capacity	New equipment added to existing system or replacement unit of a different type
1. Packaged Units	Efficiency: min. ¹ Economizer: C403.3 ²	Efficiency: min. ¹ Economizer: C403.3 ^{2,3}	Efficiency: min. ¹ Economizer: C403.3 ^{2,3}	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}
2. Split Systems	Efficiency: min. ¹ Economizer: C403.3 ²	Efficiency: + 10/5% ⁵ Economizer: shall not decrease existing economizer capability	Only for new units < 54,000 Btuh replacing unit installed prior to 1991 (one of two): Efficiency: + 10/5% ⁵ Economizer: 50% ⁶	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}
			For units > 54,000 Btuh or any units installed after 1991: Option A	
3. Water Source Heat Pump	Efficiency: min. ¹ Economizer: C403.3 ²	(two of three): Efficiency: + 10/5% ⁵ Flow control valve ⁷ Economizer: 50% ⁶	(three of three): Efficiency: + 10/5% ⁵ Flow control valve ⁷ Economizer: 50% ⁶ (except for certain pre-1991 systems ⁸)	Efficiency: min. ¹ Economizer: C403.3 ^{2,4} (except for certain pre-1991 systems ⁸)
4. Hydronic Economizer using Air-Cooled Heat Rejection Equipment (Dry Cooler)	Efficiency: min. ¹ Economizer: 1433 ²	Efficiency: + 10/5% ⁵ Economizer: shall not decrease existing economizer capacity	Option A	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}
5. Air-Handling Unit (including fan coil units) where the system has an air-cooled chiller	Efficiency: min. ¹ Economizer: C403.3 ²	Economizer: shall not decrease existing economizer capacity	Option A (except for certain pre-1991 systems ⁸)	Option A (except for certain pre-1991 systems ⁸)
6. Air-Handling Unit (including fan coil units) and Water-cooled Process Equipment, where the system has a water-cooled chiller ¹⁰	Efficiency: min. ¹ Economizer: C403.3 ²	Economizer: shall not decrease existing economizer capacity	Option A (except for certain pre-1991 systems ⁸ and certain 1991-2004 systems ⁹)	Efficiency: min. ¹ Economizer: C403.3 ^{2,4} (except for certain pre-1991 systems ⁸ and certain 1991-2015 systems ⁹)
7. Cooling Tower	Efficiency: min. ¹ Economizer: C403.3 ²	No requirements	Option A	Option A

	Option A	Option B (alternate to A)	Option C (alternate to A)	Option D (alternate to A)
Unit Type	Any alteration with new or replacement equipment	Replacement unit of the same type with the same or smaller output capacity	Replacement unit of the same type with a larger output capacity	New equipment added to existing system or replacement unit of a different type
8. Air-Cooled Chiller	Efficiency: min. ¹ Economizer: C403.3 ²	Efficiency: + 5% ¹¹ Economizer: shall not decrease existing economizer capacity	Efficiency (two of two): (1) + 10% ¹² and (2) multistage Economizer: shall not decrease existing economizer capacity	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}
9. Water-Cooled Chiller	Efficiency: min. ¹ Economizer: C403.3 ²	Efficiency (one of two): (1) + 10% ¹³ or (2) plate frame heat exchanger ¹⁵ Economizer: shall not decrease existing economizer capacity	Efficiency (two of two): (1) + 15% ¹⁴ and (2) plate-frame heat exchanger ¹⁵ Economizer: shall not decrease existing economizer capacity	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}
10. Boiler	Efficiency: min. ¹ Economizer: C403.3 ²	Efficiency: + 8% ¹⁶ Economizer: shall not decrease existing economizer capacity	Efficiency: + 8% ¹⁶ Economizer: shall not decrease existing economizer capacity	Efficiency: min. ¹ Economizer: C403.3 ^{2,4}

¹ Minimum equipment efficiency shall comply with Section C403.2.3 and Tables C403.2.3(1) through C403.2.3(10).

² System and building shall comply with Section C403.3 (including both the individual unit size limits and the total building capacity limits on units without economizer). It is acceptable to comply using one of the exceptions to Section C403.3 or C504.3.4.

³ All equipment replaced in an existing building shall have air economizer complying with Section C403.3 unless both the individual unit size and the total capacity of units without air economizer in the building is less than that allowed in Exception 2 to Section C503.4.

⁴ All separate new equipment added to an existing building shall have air economizer complying with Section C403.3 unless both the individual unit size and the total capacity of units without air economizer in the building is less than that allowed in Exception 3 to Section C503.4.

⁵ Equipment shall have a capacity-weighted average cooling system efficiency:

- a. For units with a cooling capacity below 54,000 Btuh, a minimum of 10% greater than the requirements in Tables C403.2.3(1) and C403.2.3(2).
- b. For units with a cooling capacity of 54,000 Btuh and greater, a minimum of 5% greater than the requirements in Tables C403.2.3(1) and C403.2.3(2).

⁶ Minimum of 50% air economizer that is ducted in a fully enclosed path directly to every heat pump unit in each zone, except that ducts may terminate within 12 inches of the intake to an HVAC unit provided that they are physically fastened so that the outside air duct is directed into the unit intake. If this is an increase in the amount of outside air supplied to this unit, the outside air supply system shall be configured to provide this additional outside air and equipped with economizer control.

⁷ Have flow control valve to eliminate flow through the heat pumps that are not in operation with variable speed pumping control complying with Section C403.4.2 for that heat pump.

- When the total capacity of all units with flow control valves exceeds 15% of the total system capacity, a variable frequency drive shall be installed on the main loop pump.
- As an alternate to this requirement, have a capacity-weighted average cooling system efficiency that is 5% greater than the requirements in note 5 (i.e., a minimum of 15%/10% greater than the requirements in Tables C403.2.3(1) and C403.2.3(2)).

⁸ Systems installed prior to 1991 without fully utilized capacity are allowed to comply with Option B, provided that the individual unit cooling capacity does not exceed 90,000 Btuh.

⁹ Economizer not required for systems installed with water economizer plate and frame heat exchanger complying with previous codes between 1991 and June 2016, provided that the total fan coil load does not exceed the existing or added capacity of the heat exchangers.

¹⁰ For water-cooled process equipment where the manufacturers specifications require colder temperatures than available with waterside economizer, that portion of the load is exempt from the economizer requirements.

¹¹ The air-cooled chiller shall have an IPLV efficiency that is a minimum of 5% greater than the IPLV requirements in Table C403.2.3(7).

¹² The air-cooled chiller shall:

- a. Have an IPLV efficiency that is a minimum of 10% greater than the IPLV requirements in Table C403.2.3(7); and

- b. Be multistage with a minimum of two compressors.
- ¹³ The water-cooled chiller shall have an IPLV efficiency that is a minimum of 10% greater than the IPLV requirements in Table C403.2.3(7).
- ¹⁴ The water-cooled chiller shall have an IPLV efficiency that is a minimum of 15% greater than the IPLV requirements in Table C403.2.3(7).
- ¹⁵ Economizer cooling shall be provided by adding a plate-frame heat exchanger on the waterside with a capacity that is a minimum of 20% of the chiller capacity at standard AHRI rating conditions.
- ¹⁶ The replacement boiler shall have an efficiency that is a minimum of 8% higher than the value in Table C403.2.3(5), except for electric boilers.

C503.5 Service hot water systems. New service hot water systems that are part of the alteration shall comply with Section C404.

C503.6 Lighting and motors. Alterations that replace 50 percent or more of the luminaires in a space enclosed by walls or ceiling-height partitions, replace 50 percent or more of parking garage luminaires, or replace 50 percent or more of the total installed wattage of exterior luminaires shall comply with Sections C405.4 and C405.5. Where less than 50 percent of the fixtures in an interior space enclosed by walls or ceiling-height partitions or parking garage are new, or less than 50 percent of the installed exterior wattage is altered, the installed lighting wattage shall be maintained or reduced.

Where new wiring is being installed to serve added fixtures and/or fixtures are being relocated to a new circuit, controls shall comply with Sections C405.2.1, C405.2.3, C405.2.4, C405.2.5, C405.2.7, C405.3, and as applicable C408.3. In addition, office areas less than 300 ft² enclosed by walls or ceiling-height partitions, and all meeting and conference rooms, and all school classrooms, shall be equipped with occupancy sensors that comply with Section C405.2.1 and C408.3. Where a new lighting panel (or a moved lighting panel) with all new raceway and conductor wiring from the panel to the fixtures is being installed, controls shall also comply with the other requirements in Sections C405.2 and C408.3.

Where new walls or ceiling-height partitions are added to an existing space and create a new enclosed space, but the lighting fixtures are not being changed, other than being relocated, the new enclosed space shall have controls that comply with Sections C405.2.1, C405.2.2, C405.2.3, C405.2.4, C405.2.5 and C408.3.

Those motors which are altered or replaced shall comply with Section C405.8.

C503.7 Refrigeration systems. Those parts of systems which are altered or replaced shall comply with Section C410. Additions or alterations shall not be made to an existing refrigerated space or system that will cause the existing mechanical system to become out of compliance. All new refrigerated spaces or systems in existing buildings, including refrigerated display cases, shall comply with Section C410.

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-50500 Section C505—Change of occupancy or use.

C505.1 General. Spaces undergoing a change in occupancy shall be brought up to full compliance with this code in the following cases:

1. Any space that is converted from an F, S or U occupancy to an occupancy other than F, S or U.
2. Any space that is converted to a Group R dwelling unit or portion thereof, from another use or occupancy.
3. Any Group R dwelling unit or portion thereof permitted prior to July 1, 2002, that is converted to a commercial use or occupancy.

Where the use in a space changes from one use in Table C405.4.2 (1) or (2) to another use in Table C405.4.2 (1) or (2), the installed lighting wattage shall comply with Section C405.4.

EXCEPTION: Where the component performance alternative in Section C402.1.5 is used to comply with this section, the Proposed Total Envelope UA is allowed to be up to 110 percent of the ((target)) Allowed Total Envelope UA. Where the total building performance option in Section C407 is used to comply with this section, the annual energy consumption of the proposed design is allowed to be 110 percent of the annual energy consumption otherwise allowed by Section C407.3.