

**WSR 20-23-118**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed November 18, 2020, 9:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-141.

Title of Rule and Other Identifying Information: Chapter 16-483 WAC, Grape pest quarantine, as a result of a three year stakeholder driven federally funded grant project and a petition from the Washington winegrowers association, the department is proposing the following amendments:

1. Adding glassy winged sharpshooter, European grapevine moth, *Xiphinema index*, and grapevine red blotch virus to the list of pests under quarantine (WAC 16-483-001).

2. Clarifying that only one strain of *Xylella fastidiosa* - Pierce's Disease - is under quarantine (WAC 16-483-001).

3. Adding an updated scientific name for the grape pest phylloxera - *Viteus vitifoliae* (Fitch) - to the list of pests under quarantine (WAC 16-483-001).

4. Adding new and clarifying existing definitions (WAC 16-483-005).

5. Clarifying that the quarantine applies to infected grape plantings within Washington, as well as outside of the state (WAC 16-483-010).

6. Adding cultivation and harvesting equipment to the list of items regulated under the quarantine (WAC 16-483-020).

7. Within Washington, restricting the movement of grape planting stock from a site found infested with a quarantine pest until it meets the requirements of a pest management plan (PMP) approved by the director (WAC 16-483-030).

8. Reorganizing and clarifying the requirements for grape planting stock being shipped into the state (WAC 16-483-030).

9. Removing the exemption allowing small shipments of softwood cuttings to be visually inspected for insect pests in lieu of treatment (WAC 16-483-030).

10. Allowing tissue culture plantlets in vitro from infested states in lieu of treatment for insect pests (WAC 16-483-030).

11. Revising the acceptable treatments for insect pests to reflect current research (WAC 16-483-030).

12. Requiring all equipment used for cultivation or harvesting of grapes and vines within Washington be thoroughly washed or steam cleaned prior to movement out of an infested site, in accordance with an approved pest management plan (WAC 16-483-033).

13. Requiring phytosanitary certificates and laboratory reports (if applicable) accompany advance notice of shipments of grape planting stock imported from outside of the state (WAC 16-483-037).

14. Requiring any grapevines shipped from an infested site within the state in violation of the quarantine be returned or destroyed at the expense of the owner (WAC 16-483-040).

15. Specifying that the Clean Plant Center Northwest is not required to obtain written permission from the department when exchanging G1 material between foundation sources (WAC 16-483-050).

16. Allowing the department to issue a compliance agreement (with conditions or restrictions) to allow the movement of regulated articles not otherwise eligible for movement (WAC 16-483-050).

Hearing Location(s): On January 5, 2021, at 10:00 a.m., Skype conference line. Join by link <https://lync.wa.gov/agr.wa.gov/meet/grobinson/77GFSGDC?sl=1>. Join by phone 1-360-407-3816, Conference ID: 86838. Due to the mandated social distancing requirements in place during the current COVID-19 pandemic, the public hearing will be held solely over video and teleconference.

Date of Intended Adoption: January 12, 2021.

Submit Written Comments to: Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email [wdsrulescomments@agr.wa.gov](mailto:wdsrulescomments@agr.wa.gov), fax 360-902-2092, by 5:00 p.m., January 5, 2021.

Assistance for Persons with Disabilities: Contact Deanna Painter, phone 360-902-2061, TTY 800-833-6388 or 711, email [dpainter@agr.wa.gov](mailto:dpainter@agr.wa.gov), by December 29, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In May 2015, the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (USDA APHIS) funded a grant, managed by the Washington Wine Industry Foundation, called "Harmonizing Protocols in the Northwest - A Pilot Project Driven by Stakeholders." The grant project utilized grape industry stakeholders to drive development of a harmonized approach to grapevine virus certification, quarantines, and regulatory programs across multiple states. After a harmonized pest list was agreed upon by the Pacific Northwest states, the Washington Winegrowers Association petitioned the department to modify the rules to adopt these standards. The proposed rule amendment will create a regionally harmonized quarantine for regulatory programs in Idaho, Oregon, and Washington.

There are multiple anticipated effects from the proposed changes. One of which is that other states will be required to certify on a phytosanitary certificate, that vines are free of any of the newly added quarantine pests. This must be done either through a certification program (for virus and bacterial pests), area freedom (for insect and nematode pests), or by treatment prior to shipping (for insect pests). Another anticipated effect is that a pest management plan must be implemented prior to moving any equipment or grape planting stock from a growing site within Washington, if a quarantine pest has been detected at the site. Additionally, all equipment used for cultivation or harvesting of grapes and vines within Washington must be thoroughly washed or steam cleaned prior to movement out of an infested site.

Reasons Supporting Proposal: The thriving Washington grape industry has earned a reputation for producing high quality grapes that make premier wines and juices. Much of this success is due to superior growing conditions and the absence of some of the major grape pests that plague other grape growing regions. Surveys have shown Washington is free of European grapevine moth, glassy winged sharpshooter, and vine mealybug. Of particular concern to Washington grape growers are the leaf roll-associated viruses and red blotch virus, which delay ripening and reduce quality as well as yields. Although these viruses are found in some

Washington vineyards, it is important to limit any further spread.

Since Washington's industry is built on own-rooted vines, grape growers are also concerned about the increase in finds of root infesting phylloxera, which kills own-rooted *vinifera* grapevines. If phylloxera becomes widespread in Washington, growers will need to shift entire vineyards to grafted vines over time, changing the state's growing practices significantly.

The Washington department of agriculture (WSDA) has maintained the grape pest quarantine since 1970, to safeguard the grape industries of Washington from establishment of harmful pests that could endanger production, quality, and yield. The proposed changes serve to strengthen that protection for the sustainability of Washington nurseries, vineyards, and wineries.

The proposed amendments are intended to strengthen Washington's wine and juice industry by: (1) Reducing the chances a quarantine pest will be imported into the state on infested grape planting stock; (2) reducing the spread of quarantine pests from infested grape planting sites to noninfested sites within the state; and (3) harmonizing Washington's rules with Oregon and Idaho to make it easier for Washington planting stock growers to ship their stock out of state.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

Statute Being Implemented: Chapters 15.08 and 17.24 RCW.

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

Name of Proponent: Washington Winegrowers Association, private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Cindy Cooper, 1111 Washington Street, Olympia, WA 98504, 360-870-5069.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

The proposed rule does impose more-than-minor costs on businesses.

### Small Business Economic Impact Statement

Chapter 16-483 WAC  
Grape Pest Quarantine  
November 11, 2020

**SECTION 1: Describe the proposed rule, including: A brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.**

Overview and Background: Chapter 17.24 RCW mandates "a strong system" to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. WSDA is charged with implementing that mandate by excluding plant and bee pests and diseases from the pest free areas of the state through regula-

tion of agricultural commodity movement and quarantine of infested areas. RCW 17.24.041 authorizes the director of WSDA to adopt quarantine areas by rule and to prohibit the movement of all regulated commodities from quarantined areas.

Washington is the second largest producer of grapes in the United States, contributing over \$7 billion annually to the state's economy. There are over seventy-nine thousand acres of grapevines in Washington, fifty-eight thousand of which are wine grapes (*Vitis vinifera*). The remaining twenty-one thousand acres are juice grapes. Wine grape acreage has more than doubled during the last ten years while the acreage of juice grapes has remained relatively stable.

The thriving Washington grape industry has earned a reputation for producing high quality grapes that make premier wines and juices. Much of this success is due to superior growing conditions and the absence of some of the major grape pests that plague other grape growing regions. Surveys have shown Washington is free of European grapevine moth, glassy winged sharpshooter, and vine mealybug. Of particular concern to Washington grape growers are the leaf roll-associated viruses and red blotch virus, which delay ripening and reduce quality as well as yields. Although these viruses are found in some Washington vineyards, it is important to limit any further spread.

Since Washington's wine grape industry is built on own-rooted vines, grape growers are also concerned about the increase in finds of root infesting phylloxera, which kills own-rooted *vinifera* grapevines. Own-rooted vines are vines that have not been grafted to a root stock. In areas where phylloxera occurs, wine grapes must be grafted on tolerant rootstocks, significantly increasing planting costs. After severe winter freezes (a common occurrence in the major production acreage of eastern Washington) grafted grapevines can be killed to the ground. Once this occurs, the vine must be replanted instead of simply growing a new shoot from the roots as own-rooted grapevines do. If phylloxera becomes widespread in Washington, growers will need to shift entire vineyards to grafted vines over time, changing the state's growing practices significantly.

To support and strengthen Washington's grape industry, WSDA has maintained two important tools to limit pest introductions and their spread:

- Grape pest quarantine, chapter 16-483 WAC, which establishes a quarantine against harmful pests of grapevines that could endanger the grape industries of Washington.
- Grape planting stock—Registration and certification, chapter 16-462 WAC, which provides a source of disease and pest free planting stock by establishing standards for a voluntary certification program.

WSDA periodically updates the provisions of the quarantine and certification rules, based on the most updated information available regarding the spread of grapevine pests that have the potential to threaten Washington grapevine growers. This ensures a strong system is in place to protect the grape and wine industry. These rules impact both commercial grape growers and grape planting stock producers.

In May 2015, USDA APHIS acknowledged the benefit of and the industry's desire to standardize the requirements between the three Pacific Northwest states and funded a grant, managed by the Washington Wine Industry Foundation, called "Harmonizing Protocols in the Northwest - A Pilot Project Driven by Stakeholders." The project was intended to create a regional approach for grapevine virus certification, as well as harmonize quarantines and regulatory programs for grapevine nursery stock certification in Idaho, Oregon, and Washington. California later joined the project. The project utilized grape industry stakeholders across multiple states to develop the harmonized rule and aligned quarantine, by conducting outreach to industry stakeholders which ensured a high level of participation.

By engaging stakeholders and agencies, the project was able to develop a common pest list, compare existing grapevine pest quarantines, and identify universally acceptable cultural mitigations for common pests. The proposed rule changes are being made as a result of a petition for rule making from the Washington Winegrowers Association. These changes will standardize requirements for the movement of certified grapevines between Pacific Northwest states and strengthen protection of Washington's regional grape and wine industries.

The Northwest Foundation Block Advisory Group (NFBAG) was utilized throughout the process to advise regulators, as well as sound out deliverables and their feasibility. NFBAG represents industry interests by advising the Washington State University (WSU) Clean Plant Center Northwest on the Foundation Block including management, direction, selection of plant material, distribution, and phytosanitary issues (testing and retesting). They also assist on all policies and procedures, funding needs, quarantine issues, program reviews, and industry reports. Members include wine, juice and table grape growers, wineries, nurseries, universities, and the departments of agriculture from Idaho, Oregon, and Washington.

Proposed Rule Amendments: As a culmination of the tri-state harmonization efforts, WSDA received an industry petition in November 2018, requesting a revision of the agency's grape pest quarantine (chapter 16-483 WAC). As a result of the petition for rule making, the department is proposing the following amendments:

17. Adding glassy winged sharpshooter, European grapevine moth, *Xiphinema index*, and grapevine red blotch virus to the list of pests under quarantine (WAC 16-483-001).

18. Clarifying that only one strain of *Xylella fastidiosa* - Pierce's Disease - is under quarantine (WAC 16-483-001).

19. Adding an updated scientific name for the grape pest phylloxera - *Viteus vitifoliae* (Fitch) - to the list of pests under quarantine (WAC 16-483-001).

20. Adding new and clarifying existing definitions (WAC 16-483-005).

21. Clarifying that the quarantine applies to infected grape plantings within Washington, as well as outside of the state (WAC 16-483-010).

22. Adding cultivation and harvesting equipment to the list of items regulated under the quarantine (WAC 16-483-020).

23. Within Washington, restricting the movement of grape planting stock from a site found infested with a quarantine pest until it meets the requirements of a pest management plan (PMP) approved by the director (WAC 16-483-030).

24. Reorganizing and clarifying the requirements for grape planting stock being shipped into the state (WAC 16-483-030).

25. Removing the exemption allowing small shipments of softwood cuttings to be visually inspected for insect pests in lieu of treatment (WAC 16-483-030).

26. Allowing tissue culture plantlets in vitro from infested states in lieu of treatment for insects (WAC 16-483-030).

27. Revising the acceptable treatments for insect pests to reflect current research (WAC 16-483-030).

28. Requiring all equipment used for cultivation or harvesting of grapes and vines within Washington be thoroughly washed or steam cleaned prior to movement out of an infested site, in accordance with an approved PMP (WAC 16-483-033).

29. Requiring phytosanitary certificates and laboratory reports (if applicable) accompany advance notice of shipments of grape planting stock imported from out of state (WAC 16-483-037).

30. Requiring any grapevines shipped from an infested site within the state in violation of the quarantine be returned or destroyed at the expense of the owner (WAC 16-483-040).

31. Specifying that the Clean Plant Center Northwest is not required to obtain written permission from the department when exchanging G1 material between foundation sources (WAC 16-483-050).

32. Allowing the department to issue a compliance agreement (with conditions or restrictions) to allow the movement of regulated articles not otherwise eligible for movement (WAC 16-483-050).

Required Professional Services: The proposed rule amendment would not require professional services. A business may choose to hire professional services to develop a PMP, however it will not be mandatory.

**SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.** NAICS codes are self-reported by each business and therefore may not accurately reflect the actual number of nurseries and grape producers operating in Washington state.

NAICS Code (4, 5 or 6 Digit)	NAICS Business Description	**Number of Businesses in Washington	±Minor Cost Threshold = 1% of Average Annual Payroll	*Minor Cost Threshold = 0.3% of Average Annual Revenue
111332	Grape Vineyards	254	\$4,785.74	\$429.50
111421	Nursery and Tree Production	720	\$4,836.69	\$2,372.40

NAICS Code (4, 5 or 6 Digit)	NAICS Business Description	**Number of Businesses in Washington	±Minor Cost Threshold = 1% of Average Annual Payroll	*Minor Cost Threshold = 0.3% of Average Annual Revenue
312130	Wineries	1912	\$3,522.66	\$3,381.76
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers	1010	\$9,042.12	\$16,190.34
444220	Nursery, Garden Center and Farm Supply Stores	2730	\$3,173.49	\$3,502.11

\* Data source: 2017 Washington state department of revenue.

± Data source: 2018 Quarterly Census of Employment and Wages (Bureau of Labor Statistics).

\*\* Data source: 2020 Washington state department of revenue.

**SECTION 3: Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: Cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.** WSDA worked with the Washington Winegrowers Association to email a survey to around seven hundred wine grape growers across the state. The agency also worked with WSU to email the same survey to juice grape growers. This was done in an effort to better understand what impact the proposed amendment may have on businesses. The survey asked the following questions:

- Does your vineyard, winery, or nursery employ less than fifty people, either part-time or full-time, in a year?
- Do you move equipment, supplies, or labor between separate growing sites in Washington?
- How many sites share equipment or labor?
- Do you move equipment or labor between counties? If so, how many counties?
- Do you have an existing PMP, or follow best management practices (BMPs) in your production practices?
- What resources do you use to determine your BMPs and pest management practices?
- If you do not currently have a written PMP, how many hours would you estimate it would take you to create one?

A total of forty-four businesses responded to the anonymous survey; of those businesses, thirty-three were small and eleven were large. Under the proposed rule amendment, if a quarantine pest is detected at a growing site within the state, that business must implement a PMP approved by WSDA, before equipment or grape planting stock may be moved from the site. A PMP is only required if a quarantine pest is detected at a growing site **and** the business wants to transport equipment or grape planting stock from that site.

Table 3.1 shows a breakdown of some of the survey data collected. Of the businesses surveyed, eighty percent (thirty-five businesses) reported they have a PMP in place or follow BMPs. Of the small businesses, eight do not have a PMP or practice BMPs. However, three of those eight businesses also reported they do not move equipment, supplies, or labor between growing sites within the state. Of the large businesses, one does not have a PMP or practice BMPs and they reported moving equipment, supplies, or labor between two growing sites within the state. Therefore, only five small businesses and one large business that participated in the survey could see a cost increase associated with the proposed amendment if a quarantine pest were detected at their growing site. It's important to note, many businesses have BMPs already in place. BMPs typically outline mitigation steps to lower the risk of spreading pests. Businesses following BMPs will likely already have a lot of the equipment and procedures in place that would be needed in a PMP.

**Table 3.1: Breakdown of survey answers by business size:**

Business size	Move equipment, supplies, or labor between sites	Have an existing PMP or BMPs	Use university publications, private crop consultants, and/or grape/wine assoc. for PMP or BMP resources	Average time expected to develop a PMP
Small Businesses	Yes - 20 No - 13	Yes - 25 No - 8	Yes - 32 No - 1	9 hours
Large Businesses	Yes - 7 No - 4	Yes - 10 No - 1	Yes - 11 No - 0	4 hours

Under the proposed rule amendment, the primary costs businesses would incur are related to equipment, labor, or supplies needed to develop and implement a PMP. It's difficult to predict these costs, as they are highly variable and situationally specific. Costs will depend on a number of factors including the type of pest detected, if multiple types of pests

are detected, size of the infested area, if a business already practices BMPs or has a PMP in place, and what equipment is already available to the business.

There will be no increased costs associated with licensing, inspection, or other fees. If a quarantine pest is found, a business will not pay for any related inspections. WSDA is

required to conduct quarantine enforcement without charge. All fee schedules associated with the WSDA program authorized to enforce chapter 16-483 WAC revolve around requested services, rather than quarantine enforcement. Additionally, there will be no cost to businesses for the review and approval of a PMP by WSDA.

**Loss of sales or revenue:** The proposed amendments will not result in a decrease in sales or revenue for businesses selling fruit. This is because the quarantine does not apply to fruit grown in an infested field; it only applies to the grapevine. Therefore, if a field was found to be infested, the fruit grown in the field could still be sold, but the vine could not be moved from the field unless a WSDA approved PMP was in place. However, nurseries selling grape planting stock could see a decrease in sales or revenue if quarantined pests were detected at a growing site. The nurseries would not be able to ship vines from that site unless a PMP was implemented. In addition, it is unlikely commercial grape growers would want to purchase planting stock that is infested with quarantined pests. If a business implements a PMP to mitigate the possible spread of a quarantine pest, the department does not expect businesses to lose sales or revenue.

**Expanding and modifying the list of pests under quarantine:** Proposed amendments to WAC 16-483-001 expand the list of pests under quarantine to include grapevine red blotch virus, glassy winged sharpshooter, European grapevine moth, and *Xiphinema index*. The current quarantine already includes *Xylella fastidiosa*. However, the proposed amendment clarifies that it is only a strain of *Xylella fastidiosa* - Pierce's Disease - that is under quarantine, as the only strain that infects grapevines. The proposed amendment also adds an updated scientific name for the pest grape phylloxera - *Viteus vitifoliae* (Fitch). These changes were requested by the Washington Winegrowers Association and recommended by NFBAG, in an effort to strengthen protection of Washington's regional grape and wine industry from harmful pests. Washington is currently free of European grapevine moth, glassy winged sharpshooter, and *Xiphinema index*, according to official survey findings. By adding these economically harmful pests to the state's quarantine list, WSDA may more effectively regulate grape planting stock entering Washington from states with infested areas, thus reducing the chances of introduction into the state. Although grapevine red blotch virus has been found in Washington, it is not widespread. Adding it to the quarantine list will help reduce further spread of the virus into vineyards by preventing new introductions from other states.

For Washington vineyards and grapevine nurseries, adding these pests to the quarantine may have an indirect impact on where they can source imported grape planting stock. The grape pest quarantine only allows entry of planting stock produced as part of an official state virus-tested certification program. Currently, only Oregon and California have such a program, approved by WSDA. Washington businesses which source grape planting stock from these states, may be required to find a new source nursery, if the current certified nursery is within an area known to be infested with a quarantine pest and cannot meet new mitigations added to the quarantine requirements. For instance, there are known infested areas in California that may have difficulty meeting quaran-

tine requirements for glassy winged sharpshooter or Pierce's Disease (*Xylella fastidiosa*). If nurseries in these areas are not willing or able to meet the proposed quarantine requirements, they will no longer be able to ship to Washington growers. Additionally, as other states develop new certification programs for grape planting stock, those programs must be approved by WSDA before the planting stock from those states can be imported into Washington under this quarantine.

Standardizing the pest list for the movement of certified grapevines between Pacific Northwest states will make regional trade easier for businesses in Washington. It will allow nurseries in Washington to meet one consistent set of interstate shipping requirements found in the harmonized quarantines of Oregon, Idaho, and California. By harmonizing the list of quarantine pests, WSDA is also standardizing the pest treatments required for interstate movement. This is evident from the requirement to use a hot water dip as a treatment for root pests prior to shipping. The quarantine language was reviewed and is standardized with the treatment time and temperature required by Oregon, Idaho, and California's rules. This means Washington nurseries do not have to track three different required treatments to ship regionally.

There are no probable costs of compliance associated with proposed amendments to WAC 16-483-001, the quarantine pest list.

**Adding new and clarifying existing definitions:** Proposed amendments to WAC 16-483-005 include adding a definition for "G1 foundation sources" and modifying the definition for "phytosanitary certificate." These changes harmonize WSDA quarantine definitions with those found in the North American Plant Protection Organization (NAPPO) glossary of phytosanitary terms, and in the National Clean Plant Network glossary. They also improve the readability of the rule language. There are no probable costs of compliance associated with proposed amendments to WAC 16-483-005.

Clarifying that the quarantine applies to infected grape plantings within Washington, as well as outside of the state: Proposed amendments to WAC 16-483-010 clarify that the quarantine applies to infected grape plantings within Washington state, as well as to grapevines imported from outside of the state. This clarification is being proposed in order to reduce the spread of quarantine pests from infested grape planting sites, to noninfested sites within the state. Three pests on the quarantine pest list are occasionally found in Washington vineyards (grape phylloxera, grapevine red blotch virus, and grapevine leaf roll-associated viruses). By regulating Washington vineyards for these quarantine pests, the clarified rule encourages growers to assess the pest status of their vines, prior to moving them from that site. Moving only noninfested planting stock will minimize the spread of quarantine pests within Washington. Clarifying this language allows WSDA to take action on quarantine pest finds and protect the industry to a higher degree. Grape virologists at WSU estimate that grapevine red blotch virus can be eliminated from Washington entirely within five years, once this rule goes into effect.

As a result of the proposed amendments, there will be additional restrictions on the movement of grape planting stock from infested sites within the state. These restrictions are outlined in WAC 16-483-030. The restriction on move-

ment will reduce the spread of quarantined pests within the state, thus saving businesses on the costs associated with fighting these pests long-term, and replacement of low yield, low vigor or dead vines. A recent WSU study on economic impacts of grapevine leaf roll disease, for example, indicated that a grower can lose up to \$20,000 per acre over a twenty year period depending on the quantity of yield reduction and the scale of decline in fruit quality.

The cost of compliance associated with proposed amendments to WAC 16-483-010 would be the same as those identified under WAC 16-483-030. More details on the associated costs can be found in the subsection titled "Pest management plan estimated costs."

Adding cultivation and harvesting equipment to the list of items regulated under the quarantine: Proposed amendments to WAC 16-483-020 add equipment used for cultivation or harvesting grapes or grapevines to the list of articles regulated under the quarantine. WAC 16-483-033 already regulates this equipment by requiring it to be thoroughly washed or steam cleaned prior to entry into the state. Adding equipment used for cultivation or harvesting to the list of regulated articles simply links the provisions in the two sections of rule, and recognizes they are regulated within the state as well. More details on the associated costs can be found in the subsection titled "Pest management plan estimated costs."

Restricting the movement of grape planting stock found infested with a quarantine pest unless it meets the requirements of a PMP approved by the director: Proposed amendments to WAC 16-483-030 require that within the state of Washington, grape planting stock produced at a site found infested with a quarantine pest may only be moved from that site if it meets the requirements of a PMP approved by WSDA. It also clarifies and adds some requirements for grape planting stock being shipped into the state. Growing sites which have a PMP in place will have a lower risk of spreading a quarantine pest to other sites in Washington. In turn, this will help keep the state's vineyards producing higher yields and result in longer lived vines.

Under the proposed amendments, a business will only be required to have a PMP approved by the department if their growing site is found to be infested with a quarantine pest and they wish to move grapevines or equipment off the infested site within the state. Businesses are not required to have an approved PMP if the growing site is considered free of quarantined pests or the business does not move grapevines or equipment between sites. More information on costs associated with the PMP can be found under the subsection "Pest management plan estimated costs."

Reorganizing and clarifying the requirements for grape planting stock being shipped into the state: WAC 16-483-030 specifies the requirements for businesses outside of Washington to ship grape planting stock into Washington state. The proposed amendment updates the language required on phytosanitary certificates and updates acceptable treatments for grapevine insect pests. These amendments reflect currently acceptable treatment protocols and ensure the paperwork accompanying the shipment of imported planting stock reflects quarantine requirements. There are no direct costs to Washington businesses associated with revised phytosanitary

and treatment requirements under WAC 16-483-030, as costs will be borne by the shipper.

Removing the exemption allowing small shipments of softwood cuttings to be visually inspected for insect pests in lieu of treatment: Proposed amendments to WAC 16-483-030 would remove an exemption related to softwood cuttings shipped into Washington state. This exemption allowed shipments of softwood cuttings under five hundred articles, to be shipped into Washington if the shipment had been inspected by a state, district, or territory plant regulatory official and was visually found to be free from insect pests such as grape phylloxera and vine mealybug. Removal of this exemption means that every shipment of grape propagative material, no matter how small will require a phytosanitary certificate to enter Washington. There are no direct costs to Washington businesses associated with the removal of this exemption, as costs will be borne by the shipper.

Allowing tissue culture plantlets in vitro from infested states in lieu of treatment for insects: Proposed amendments to WAC 16-483-030 would add the option for businesses from states infested with quarantine insect species, to ship grape tissue cultures in vitro or grape plantlets ex vitro. Since they are grown under sterile conditions, plants in tissue culture have never been exposed to contamination by quarantined insect pests and do not require treatment to eliminate these pests. It is easy to verify tissue cultures are free of pests by visual inspection. There's no direct costs to Washington businesses as a result of the proposed amendments, as costs are borne by the shipper.

Revising the acceptable treatments for insect pests to reflect current research: A thorough review of proposed amendments to WAC 16-483-030 confirms that the hot water treatment currently in rule aligns with similar quarantine treatments required in California and Oregon rules. The acceptable hot water treatment has not been changed. The second option for treating vines for insect pests was revised to allow any labeled fumigant to be used, rather than specifying Methyl Bromide treatment only. This better reflects current practice and research. This may provide businesses with more options when treating for insect pests. There's no direct costs to Washington businesses as a result of the proposed amendments, as costs are borne by the shipper.

Requiring all equipment used for cultivation or harvesting of grapes and vines within Washington be thoroughly washed or steam cleaned prior to movement out of an infested site in accordance with an approved PMP: Proposed amendments to WAC 16-483-033 would require that all equipment used for cultivation or harvesting of grapes and vines in Washington be thoroughly washed or steam cleaned to remove all soil and plant material prior to movement out of an infested site within the state. This must be done in accordance with a WSDA approved PMP. Cleaning equipment prior to moving it out of an infested site will reduce the risk of spreading a pest to a noninfested site. This same requirement has always been mandatory for all grape cultivation or harvesting equipment entering Washington from another state. The proposed amendment simply clarifies that the requirement applies to the movement of equipment within the state if it comes from a site infested with a quarantine pest.

There may be increased costs associated with this requirement, depending on what cleaning or sanitizing equipment a business already has available on-site and what procedures they plan to utilize. Some businesses may need to purchase a hose, sprayer, or portable cleaning station. Costs associated with this requirement are expected to be minimal and are analyzed further in the subsection titled "Pest management plan estimated costs."

Requiring phytosanitary certificates and laboratory reports (if applicable) accompany advance notice of shipments of grape planting stock imported from out of state: Proposed amendments to WAC 16-483-037 require anyone importing grape planting stock into the state to include a phytosanitary certificate and laboratory reports (if applicable), when notifying the department in advance of receiving the shipment. The current rule already requires anyone importing grape planting stock to notify the department in advance. The proposed amendment simply specifies that the notification must be accompanied by a phytosanitary certificate and laboratory reports (if applicable). Shipments of grape planting stock are already required to be accompanied by an official certificate. The proposed amendment requires that this certificate be a phytosanitary certificate, with specified additional declarations. There are minimal costs associated with complying with the proposed amendments since businesses are already required to notify the department when importing planting stock. Costs to include a phytosanitary certificate and possibly laboratory reports with the advance notice are expected to take less than one hour for a business to complete. This should equate to less than \$50 per year. Costs for obtaining a phytosanitary certificate are borne by the shipper in the origin state.

Requiring any grapevines shipped from an infested site within the state in violation of the quarantine be returned or destroyed at the expense of the owner: Currently, grapevines shipped into the state in violation of the quarantine will be destroyed or returned to the point of origin at the expense of the owner. The proposed amendment to WAC 16-483-040 expands this provision to include shipments of grapevines moved from an infested site within the state. Under RCW 19.85.040, agencies are required to analyze the costs of compliance for businesses required to comply with the proposed rule. The proposed amendment specifies the actions the department may take if a business does not comply with quarantine requirements. There are no probable costs associated with this amendment for businesses that comply with the quarantine. Only violators will bear the cost of noncompliance.

Specifying that the Clean Plant Center Northwest is not required to obtain written permission from the department when exchanging G1 material between foundation sources: Currently, the quarantine exempts grape planting stock imported for experimental or trial purposes by USDA or WSU as long as they obtain written permission from the department. The proposed amendments to WAC 16-483-050 further exempts the Clean Plant Center Northwest from obtaining written permission from the department when exchanging G1 material between foundation sources, for any reason. Since the Clean Plant Center Northwest is under the umbrella of WSU, an analysis of the impact is not required.

However, there are no increased costs associated with adding an exemption for WSU.

Proposed changes to WAC 16-483-050 add exemptions to the quarantine requirements. The exemption section of the quarantine language is being expanded to allow an exemption specifically for the Clean Plant Center Northwest to exchange G1 foundation material with other clean plant centers, without obtaining the director's permission. As G1 material has been fully tested and found to be free of grape virus pathogens, it is in the best interest of the state to allow exchange of foundational material held at clean plant centers under controlled conditions that pose no risk of introducing quarantine pests. There is no cost to businesses to add this exemption.

Allowing the department to issue a compliance agreement (with conditions or restrictions) to allow the movement of regulated articles not otherwise eligible for movement: Proposed amendments to WAC 16-483-050 allow the department to issue a compliance agreement (with conditions or restrictions) to other entities to allow the movement of regulated articles not otherwise eligible for movement. There may be a rare instance when it is of benefit to the industry to allow such movement. If agreed to by the director, these articles would move under a compliance agreement listing specific conditions eliminating the risk of moving grape quarantine pests into the state. The cost of an agreement would be \$50 per year for licensed Washington nurseries and \$62.50 per year for vineyards, regardless of business size.

Pest management plan estimated costs: Proposed amendments to WAC 16-483-030 and 16-483-033 require that grape planting stock and equipment may not be moved from an infested site unless the requirements of a WSDA approved PMP have been met. WSDA will work with businesses individually to develop a PMP. Plan requirements will be determined on a case-by-case basis based on which quarantine pest has been detected, what BMPs are already put in place by the business, and what equipment is readily available. This will help keep costs to a minimum, as businesses may be able to utilize equipment and supplies they already have, and preference will be given to lowest cost options that mitigate the risk of spread.

A PMP will only be required for businesses which have a growing site where a quarantine pest has been found and they wish to transport equipment or grape planting stock out of that site. In 2019, there was only one business where WSDA officially detected a quarantine pest at a growing site. Since the grape pest quarantine does not regulate fresh fruit of grapes, most vineyards within the state are not inspected or tested by WSDA. Though there are vineyard plantings that show visual symptoms of grapevine leaf roll virus and grapevine red blotch virus, most vineyard managers voluntarily implement BMPs and do not move infected stock or propagate from vines showing symptoms, replacing them over time with virus-tested certified stock. Therefore, many of the likely requirements of a PMP are already voluntarily adopted by businesses within the industry as BMPs for preventing the spread of pests. In fact, all but one of the businesses surveyed reported that they used some sort of outside resource (university publications, private crop consultants, or grape/wine associations) to determine BMPs and components of a PMP.

There is insufficient data to analyze the exact costs associated with establishing a PMP. Costs vary greatly depending on which pest is detected and what resources are already available to the business. Resources needed to manage each pest may vary. Some proposed and current quarantine pests such as glassy winged sharpshooter, European grapevine moth, vine mealybug, Pierce's Disease, and *Xiphinema index* are not known to occur in Washington, so it is unlikely a business will need to develop a PMP to mitigate them. These pests have been included in the quarantine as a preventative measure. WSDA will audit incoming vines for these pests to ensure they are not introduced into the state. Additionally, quarantine pests such as grapevine virus A, grapevine virus B, and grape fanleaf virus do not occur often and are not readily spread within a growing site, due to the absence of vectors (organisms that transmit a disease from one plant to another). The only likely requirement for mitigation of these viruses under a PMP would be either replacement of infected vines with virus-tested certified stock, or simply avoiding taking cuttings from infected vines for further propagation. The least costly requirements will likely be implemented to mitigate the risk of spread. However, multiple quarantine pests may be found at one growing site, which could increase overall costs.

Phylloxera is a pest that cannot be eradicated. It progressively weakens grapevines and eventually kills the vine. A continuous PMP will need to be followed in fields found to be infested. At this time, only wingless, root-feeding forms of phylloxera have been found in Washington state. Removal of infested vines simply spreads the phylloxera more widely. WSU recommends leaving infested vines undisturbed. Root phylloxera do not move readily in the well-drained soils found in Washington's major grape production areas.

Costs for equipment and supplies needed to implement a PMP will vary depending on what a business already has access to and the pest they are managing. The following four cost scenarios outline what equipment and resources may be needed to implement a PMP for a small business with approximately five acres. Since equipment and resources vary depending on the type of pest detected, the scenarios estimate PMP costs for infestations of phylloxera, leaf roll virus, *Xiphinema index*, and a quarantine insect pest. The cost range for a larger business was not estimated, as the survey results showed that all but one large business had a PMP already in place. Therefore, it's assumed that costs to large businesses would be minimal as they would already have much of the necessary equipment for a PMP.

**Cost Scenarios:** All scenarios are estimating costs for a smaller business with approximately five acres.

Scenario 1: Potential costs associated with a PMP for phylloxera. Phylloxera cannot be eradicated, so [it] must be managed on an ongoing basis.			
Equipment and Resources	Details	Cost Occurrence	Estimated Cost
Sampling	4 hour WSDA fee at \$62.50/hour	Annually	\$250.00
Testing	\$25 PCR and \$10 virus	Annually	\$25.00
Pest management plan	Developed with WSDA	Once	Average staff time to develop plan is 9 hours at \$50/hour is \$450
Staff training	Two-hour training provided by WSDA or WSU (training content is free) Cost for staff time will vary	Annually	Cost for 2 hours of staff time at \$50/hour is \$100
Portable cleaning station	Garden cart plus 50 gallon tank	Once	Cart: \$85 - \$135 Tank: \$115 - \$230
Cleaning sprayer	Sprayer with hose attachment	Once	\$53 - \$90
Disinfectant for equipment	Such as Virex (used by WSDA)	Depends on usage - every few years	\$65 - \$168
Booties for entering contaminated field	Box of 100	Annually depending on usage	\$28 - \$40
Rubber gloves	Box of 200 or 300	Annually depending on usage	\$25 - \$45
Staff time to clean equipment	Cost for staff time will vary depending on how often a business needs to move equipment from an infested site	Ongoing	Cost for 4 hours of staff time at \$50/hour is \$200
Estimated total:			\$1,396 - \$1,733



Scenario 2: Potential costs associated with a PMP for leaf roll virus. Leaf roll virus can be controlled by vine removal, combined with vector control and propagating only from virus tested vines.			
Equipment and Resources	Details	Cost Occurrence	Estimated Cost
Sampling	4 hour WSDA fee at \$62.50/hour	Annually	\$250
Testing vines used for propagation	\$25 PCR and \$10 virus Only vines that will be used for taking cuttings need to be tested if they show symptoms of virus	Annually	\$25
Pest management plan	Developed with WSDA	Once	Average staff time to develop plan is 9 hours at \$50/hour is \$450
Staff training	Two-hour training provided by WSDA or WSU (training content is free) Cost for staff time will vary	Annually	Cost for 2 hours of staff time at \$50/hour is \$100
Vector control	~ 1 gallon treatment for mealy bugs	Per label at appropriate life stages	\$200 - \$250
Replant with certified virus tested vines over time	Cost of plants and labor will vary	Cumulative over time	\$400
Estimated total:			\$1,425 - \$1,475

Scenario 3: Potential costs associated with a PMP for nematodes. <i>Xiphinema index</i> can be controlled with testing of soil and treatment of sites prior to planting.			
Equipment and Resources	Details	Cost Occurrence	Estimated Cost
Sampling	4 hour WSDA fee at \$62.50/hour	Annually	\$250
Testing	\$25 PCR and \$10 virus	Annually	\$25
Pest management plan	Developed with WSDA	Once	Average staff time to develop plan is 9 hours at \$50/hour is \$450
Staff training	Two-hour training provided by WSDA or WSU (training content is free) Cost for staff time will vary	Annually	Cost for 2 hours of staff time at \$50/hour is \$100
Portable cleaning station	Garden cart plus 50 gallon tank	Once	Cart: \$85 - \$135 Tank: \$115 - \$230
Cleaning sprayer	Sprayer with hose attachment	Once	\$53 - \$90
Disinfectant for equipment	Such as Virex (used by WSDA)	Depends on usage - every few years	\$65 - \$168
Booties for entering contaminated field	Box of 100	Annually depending on usage	\$28 - \$40
Rubber gloves	Box of 200 or 300	Annually depending on usage	\$25 - \$45
Staff time to clean equipment	Cost for staff time will vary depending on how often a business needs to move equipment from an infested site	Varies	Cost for 4 hours of staff time at \$50/hour is \$200
Estimated total:			\$1,396 - \$1,733

Scenario 4: Potential costs associated with a PMP for a quarantine insect pest. Quarantined insects can be eradicated.			
Equipment and Resources	Details	Cost Occurrence	Estimated Cost
Sampling	4 hour WSDA fee at \$62.50/hour	Annually	\$250
Testing	\$25 PCR and \$10 virus	Annually	\$25
Pest management plan	Developed with WSDA	Once	Average staff time to develop plan is 9 hours at \$50/hour is \$450
Staff training	Two-hour training provided by WSDA or WSU (training content is free)  Cost for staff time will vary	Annually	Cost for 2 hours of staff time at \$50/hour is \$100
Systemic or contact insecticide	1 gallon	Per label at appropriate life stages	\$40 - \$150
Treatment	Labor cost	Per label at appropriate life stages	Cost for 4 hours of staff time at \$50/hour is \$200
Estimated total:			\$1,065 - \$1,175

Most PMPs will likely require some form of the equipment listed in each scenario. Aside from the PMP and training, many businesses will already have some, if not all, of this equipment available. The exact equipment required for a PMP will vary depending on the pest or pests detected. In some cases, once treatment has occurred, there would no longer be costs associated with the PMP. But, pests such as grapevine leaf roll-associated viruses, grapevine red blotch virus, and grape phylloxera cannot be eradicated through treatment, so mitigation under a PMP would be ongoing. WSDA will work with businesses to develop the PMP, as well as assist with training staff, free of charge. If a five acre business did not have any of the necessary equipment available, then the estimated cost range would be \$1,396 - \$1,733 for phylloxera, \$1,425 - \$1,475 for leaf roll virus, \$1,396 - \$1,733 for *Xiphinema index*, and \$1,065 - \$1,175 for a quarantine insect pest.

Aside from any initial training, staff hours are not expected to increase as a result of the proposed amendments. There may be costs associated with recordkeeping for businesses required to establish a PMP. Some plans may require testing results and other records be made available to WSDA upon request. Recordkeeping costs associated with the proposed amendments are expected to require approximately two hours each month during the growing season. At a cost of \$50 per hour for staff time, this would equal approximately \$350 per year.

Considering the costs associated with developing and implementing a PMP for each of the cost scenarios, com-

pared with the associated recordkeeping costs (\$350), the estimated cost range of compliance is \$1,415 to \$2,083. Depending on the pest detected, this could be an annual or one-time cost. However, a PMP is only needed if a business has a site that is infested with a quarantine pest and the business wants to move plants or equipment from the infested site.

**SECTION 4: Analyze whether the proposed rule may impose more-than-minor costs on businesses in the industry.** As stated previously, there is insufficient data to determine the exact costs businesses may incur as a result of the proposed rule amendments. This is because each situation in which a PMP is required will be different and the equipment already available to businesses will vary.

The estimated cost range to comply with the proposed amendments are \$1,415 to \$2,083 either annually or as a one-time cost. Most of these costs are associated with drafting and implementing a PMP. However, a PMP is only needed if a business has a site that is infested with a quarantine pest and the business wants to move plants or equipment from the infested site. In some cases, a business may never have to draft or implement a PMP. Table 4.1 shows estimated costs under four possible scenarios, compared to the minor cost thresholds for impacted industries.

**Table 4.1: Potential costs associated with the proposed amendment compared to the minor cost threshold for impacted industries:**

	Grape Vineyards (111332)	Nursery and Tree Production (111421)	Wineries (312130)	Wine and Distilled Alcoholic Beverage Merchant Wholesalers (424820)	Nursery, Garden Center and Farm Supply Stores (444220)
Minor cost threshold**	\$4,785.74	\$4,836.69	\$3,522.66	\$9,042.12	\$3,173.49
Cost for phylloxera PMP*	\$2,083.00	\$2,083.00	\$2,083.00	\$2,083.00	\$2,083.00
Cost for leaf roll virus PMP*	\$1,825.00	\$1,825.00	\$1,825.00	\$1,825.00	\$1,825.00
Cost for <i>Xiphinema index</i> PMP*	\$2,083.00	\$2,083.00	\$2,083.00	\$2,083.00	\$2,083.00
Cost for quarantine insect PMP*	\$1,525.00	\$1,525.00	\$1,525.00	\$1,525.00	\$1,525.00

\* Upper estimate of the cost range plus \$350 for any additional recordkeeping costs.

\*\* Higher minor cost threshold used for comparison.

Red square indicates costs are likely to exceed the minor cost threshold.

The minor cost thresholds identified in Table 4.1 are the higher thresholds listed in Section 2. Costs are not expected to exceed the minor cost thresholds for businesses in industries identified in Section 2.

**SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule.** RCW 19.85.040(1) requires the department to compare the cost of compliance for small businesses with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs: (a) Cost per employee; (b) cost per hour of labor; or (c) cost per one hundred dollars of sales.

Although some businesses were willing to answer survey questions related to the proposed amendments, none were willing to provide details on current PMPs or associated costs. Due to this and the specialization of each PMP, there is not sufficient data to calculate this comparison using the criteria from RCW 19.85.040(1).

Of the businesses which participated in the survey, eleven were large and thirty-three were small. All but one of the large businesses reported that they already have a PMP in place. The majority of small businesses reported they also have a plan in place, however eight do not. Of those eight, three stated that they do not move equipment between growing sites. Therefore, of the survey participants only five small businesses and one large business would be impacted by the proposed amendments if a quarantine pest was detected at their growing site and the business wants to move plants or equipment from the infested site. From the survey data collected, it may be assumed that the majority of large businesses will likely have a PMP in place. Small businesses could be less likely to have a plan already established and may have less equipment on hand. Although it's difficult to determine exact costs from the survey data collected, it can be assumed that small businesses will likely be disproportionately impacted by the proposed rule amendment by having to develop a PMP and obtain any equipment necessary to implement a PMP if they don't already have it available.

**SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced, provide a clear explanation of why.** It is concluded that the proposed rule amendment will have a disproportionate impact on small businesses. The following information is provided for further explanation and clarification.

RCW 19.85.030(2) requires consideration of the following methods of reducing the impact of the proposed amendment on small businesses:

(a) *Reducing, modifying, or eliminating substantive regulatory requirements:* Any reduction, modification, or elimination of the regulatory requirements of the proposed rule amendment could increase the risk of grape pests and viruses

infesting Washington grapevines and undermine the purpose of the quarantine. Additionally, the proposed amendments harmonize the quarantine requirements in Washington with those of Idaho and Oregon. If the amendments are not adopted, then these quarantined pests may become established in Washington state. WSDA periodically updates the provisions of the quarantine and grape planting stock certification rules, based on the most updated information available regarding the spread of grapevine pests that have the potential to threaten Washington growers. This ensures a strong system is in place to protect the grape and wine industry. Not amending the rule to harmonize with Oregon and Idaho will also make it more difficult for Washington planting stock growers to ship their stock out of state.

(b) *Simplifying, reducing, or eliminating recordkeeping and reporting requirements:* Reporting requirements: Under the current rule, anyone importing grape planting stock into the state must notify the department in advance of receiving the shipment. The notification must include an official certificate. The only change to this reporting requirement is to specify that the "official certificate" has to be a phytosanitary certificate and may need to include laboratory reports (if applicable). Without a phytosanitary certificate that attests the planting stock is in compliance with state regulations, the department would have a limited ability to enforce the provisions of the quarantine and protect Washington grape growers. Once the planting stock is received and the department determines it does not comply with provisions of the quarantine, the business may have to destroy or ship the planting stock back to the state of origin at their expense.

Recordkeeping requirements: Some businesses may be required to draft and implement a PMP. An effective PMP includes recordkeeping to demonstrate effective pest management efforts to eliminate the risk of spread of quarantine pests. Without recordkeeping, the department would be unable to assess if appropriate measures were taken to prevent the spread of pests of concern. Any reduction in recordkeeping would make it more difficult for WSDA to monitor the effectiveness of a PMP. Therefore, it is not possible to simplify, reduce, or eliminate this requirement.

(c) *Reducing the frequency of inspections:* This rule does not specify a requirement for inspections.

(d) *Delaying compliance timetables:* Delaying compliance timetables is not a viable mitigation measure. Any delay will result in maintaining a higher risk of spread for grape pests. Although delaying compliance timetables is not an option, WSDA expects to work with businesses and the materials already available to them, to develop an effective PMP. Both Oregon and Idaho are also in the process of modifying their rules to harmonize with recommendations of the "Harmonizing Protocols in the Northwest - A Pilot Project Driven by Stakeholders" project.

(e) *Reducing or modifying fine schedules for noncompliance:* This rule does not contain any fines for noncompliance.

(f) *Any other mitigation techniques including those suggested by small businesses or small business advocates:*

WSDA will work closely with each business to develop a PMP. Each PMP will be customized to the business that implements it. In an effort to reduce costs for businesses, WSDA will assist in developing a plan that utilizes equipment and resources that are already available to the business. This flexibility will help keep costs low for businesses. No other mitigation techniques were suggested by small businesses or small business advocates.

**SECTION 7: Describe how small businesses were involved in the development of the proposed rule.** Industry groups representing small businesses were involved throughout the development of the proposed rule, which included the "Harmonizing Protocols in the Northwest - A Pilot Project Driven by Stakeholders." This project engaged stakeholders and regulatory agencies in comparing existing grapevine pest quarantines and certification programs, developing a common pest list, and identifying universally acceptable testing methods and cultural mitigations for common pests.

Representatives of all segments of the wine and grape industry were invited to attend meetings and discussions regarding changes to the rule. These stakeholders represented both small and large businesses within the industry. They were also invited to attend focus groups where the language was developed. Further outreach was done through industry associations and presentations at WSU viticulture industry events.

**SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.** No jobs are estimated to be created or lost as a result of compliance with the proposed rule. However, failure to adopt the proposed amendments to the quarantine could result in the spread of quarantine pests. This could affect the ability of Washington grapevine producers to export their stock to other states. It could also affect grape quality and yields. Tools such as the grape pest quarantine rule, protect growers by preventing the introduction and spread of pests. Without these tools in place, some growers may experience difficulty exporting their planting stock, which may in turn, negatively affect jobs.

A copy of the statement may be obtained by contacting Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, TTY 800-833-6388, email [wsdarulescomm ents@agr.wa.gov](mailto:wsdarulescomm ents@agr.wa.gov).

November 12, 2020  
Brad White  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-001 Establishing a quarantine.** (1) A quarantine is established against harmful pests of grapevines that could endanger the grape industries of Washington.

- (2) Quarantine pests include:
- (a) Grapevine fanleaf virus;
  - (b) Grapevine leafroll associated viruses;
  - (c) Grapevine virus A;
  - (d) Grapevine virus B;
  - (e) Grapevine red blotch virus;

- (f) Pierce's disease (a strain of *Xylella fastidiosa*);
- ~~((f))~~ (g) Grapevine phylloxera (*Daktulosphaira vitifoliae*, *Viteus vitifoliae* (Fitch)); ~~(and~~
- ~~(g))~~ (h) Vine mealybug (*Planococcus ficus*);
- ~~(i)~~ Glassy winged sharpshooter (*Homalodisca vitripennis*);
- ~~(j)~~ European grapevine moth (*Lobesia botrana*); and
- ~~(k)~~ *Xiphinema index*.

**AMENDATORY SECTION** (Amending WSR 00-05-105, filed 2/16/00, effective 3/18/00)

**WAC 16-483-005 Grape virus quarantine—Definitions.** "Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or the director's authorized representative.

"G1 foundation sources" means any National Clean Plant Network-funded clean plant center, or other sources approved by the director.

"Grape planting stock" means live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant (*Vitis* species), except fruit, capable of propagation.

~~"((Official))~~ Phytosanitary certificate" means ~~((a))~~ an official document issued by ((an official)) the plant protection organization ((including but not limited to phytosanitary certificates, inspection certificates, or other letters, tags, stamps, or similar documents certifying plant quality or condition)) in the state, district or territory of origin, attesting that a consignment has been inspected and meets phytosanitary import requirements, through specific additional declarations. The department may issue compliance agreements that take the place of a phytosanitary certificate.

**AMENDATORY SECTION** (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-010 Area under quarantine.** The area under quarantine includes all states, districts, and territories of the United States. Within the state of Washington, sites with grape plantings infested with a quarantine pest from WAC 16-483-001 are subject to additional restrictions.

**AMENDATORY SECTION** (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-020 Regulated articles.** Grape planting stock including live plants, hardwood cuttings, softwood cuttings, and any other plant parts capable of propagation, except fruit are regulated under the terms of this quarantine. Equipment used in harvesting grapes in another state, or in an infested site within the state is a regulated article.

**AMENDATORY SECTION** (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-030 Restrictions.** ~~((Grape planting stock will be admitted into the state of Washington provided the following provisions are complied with:~~

~~(1) An official certificate issued by the plant protection organization of the state, district, or territory of origin certifying that the grapevines meet the requirements of this chapter must accompany the grape planting stock into the state.~~

~~(2)) (1) Within the state of Washington, grape planting stock produced in a site found infested with a quarantine pest may only be moved from that site if it meets requirements of a pest management plan that is:~~

~~(a) Designed to prevent the spread of quarantine pests from that site; and~~

~~(b) Approved by the director.~~

~~(2) Grape planting stock entering the state must be accompanied by an official phytosanitary certificate that certifies the grape planting stock was produced in accordance with the regulations of an official grapevine virus certification program that includes inspection and testing for grapevine fanleaf virus, grapevine leafroll associated viruses, grapevine virus A, grapevine virus B, grapevine red blotch virus and *Xylella fastidiosa* (Pierce's disease strain). The official phytosanitary certificate must:~~

~~(a) Include a statement that "The grape planting stock ((has been certified)) was produced in accordance with the regulations of an official grapevine virus certification program ((that includes inspection and testing by methods approved by the director for grapevine fanleaf virus, grapevine leafroll associated viruses, grapevine virus A, grapevine virus B, and *Xylella fastidiosa*).~~

~~(3) Each shipment of grapevines, grape rootstock, or softwood cuttings from a state infested with grapevine phylloxera or vine mealybug require one of the following statements on the certificate:~~

~~(a) The grapevines, rootstock, or softwood cuttings were)) in the state of origin."; and~~

~~(b) Include one of the following statements:~~

~~(i) "The grape planting stock was grown in and shipped from an area known to be free from grape phylloxera ((and)), vine mealybug, glassy winged sharpshooter, and European grapevine moth, by official survey"; or~~

~~((b) The grapevines, rootstock, or softwood cuttings were grown under an approved sterile media system; or~~

~~(c) For small shipments (five hundred articles or less), softwood cuttings were inspected by a state, district, or territory plant regulatory official and were found to be free from grape phylloxera and vine mealybug; or~~

~~((d)) (ii) "The grape planting stock was grown in containers of soilless media, in a greenhouse screened to exclude grape phylloxera, vine mealybug, glassy winged sharpshooter and European grapevine moth"; or~~

~~(iii) "The shipment consists entirely of tissue cultures in vitro, or plantlets ex vitro"; or~~

~~(iv) A statement that the grapevines, rootstock, or softwood cuttings were ((subject)) subjected to one of the two treatments in subsection ((4)) (3) of this section, or other treatments determined to be effective and ((are)) approved in writing by the director. The treated grapevines must be stored ((in a manner)) after treatment ((that would)) in a manner to prevent reinfestation. The details of the treatment must be listed on the accompanying phytosanitary certificate.~~

~~((4)) (3) Acceptable treatments for grapevine insect pests include:~~

(a) Hot water treatment. Dormant, rooted grapevines or rootstock shall be washed to remove all soil or other propagative media. Dormant rooted plants or rootstock shall be immersed in a hot water bath for a period of not less than three minutes nor more than five minutes at a temperature of not less than 125°F (52°C), nor more than 130°F (55°C) ((at any time during immersion)); or

(b) ((Methyl bromide)) Fumigation treatment. Grapevines, rootstock, or softwood cuttings may be treated ((by methyl bromide fumigation. The fumigation shall be in an approved gastight fumigation chamber, equipped with a heating unit, fan for dispersal of gas and clearing the chamber of gas after fumigation, and interior thermometer readable from the outside. Fumigation shall be with a dosage of two pounds (0.908 kg) of methyl bromide per one thousand cubic feet (twenty-eight cubic meters) for a period of three hours at a temperature of between 65°F (18.3°C) and 70°F (21.1°C). The fan shall be operated for a period of ten minutes after the injection of the gas.

~~(5) All shipments of grapevines, rootstock, or softwood cuttings from a quarantine area shall be plainly marked with the contents on the outside of the package or container as "grapevines," "grape rootstock," or "grape cuttings)) with a fumigant labeled for such purpose.~~

~~(4) Each shipment of grape planting stock originating from a state infested with *Xiphinema index* as determined by the department must be accompanied by an official phytosanitary certificate that, in addition to the requirements in WAC 16-483-030(2), must include:~~

~~(a) A statement that "The potted grape plants in this shipment were grown in soilless media"; or~~

~~(b) A statement that "The grape planting stock in this shipment was grown in an area of the state where *Xiphinema index* is not found, by official survey"; or~~

~~(c) Where there is no recent official survey, a statement that "The grape planting stock in this shipment was grown in a field sampled and tested and found to be free from *Xiphinema index* in the growing season immediately prior to harvest. Official lab results are attached." Phytosanitary certificates providing this statement must be accompanied by test results from the growing season prior to harvest showing the vines were grown in a field free of *Xiphinema index*.~~

~~(5) All shipments of grape planting stock shall be plainly marked with the contents on the outside of the package or container as "grapevines," "grape rootstock," or "grape cuttings."~~

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

**AMENDATORY SECTION** (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-033 Equipment cleaning requirements.**

(1) All equipment used for cultivation or harvesting of grapes ((in the grape insect pest quarantine areas)) and vines must be thoroughly washed or steam cleaned to remove all soil and plant material prior to entry into the state of Washington, and prior to movement out of an infested site within the state according to the approved pest management plan for the

infested site. Such equipment shall be subject to inspection by ~~((authorized inspectors of))~~ the department.

(2) Any equipment found to be in violation of this ~~((cleaning requirement))~~ section shall be subject to detention by the department until such equipment is thoroughly cleaned at the expense of the owner or shipper, or provisions are made by the owner or shipper to immediately transport the equipment directly out of the state.

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-037 Notification requirement.** Persons bringing ~~((grapevines))~~ grape planting stock into the state must ~~((first))~~ notify the department in advance, under this grape pest quarantine. Notification may be by U.S. mail, email, or ~~((telex))~~ facsimile to: Plant Protection Division, Washington State Department of Agriculture, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560; email: [PlantServices@agr.wa.gov](mailto:PlantServices@agr.wa.gov); ~~((fax))~~ facsimile: 360-902-2094~~((, prior to the shipment of grapevines or cuttings under the grape pest quarantine into this state from an infested area))~~. Such notice shall include, ~~((but not be limited to))~~ at a minimum, the ~~((approximate))~~ number of grapevines, rootstocks, or softwood cuttings; the ~~((shipper))~~ shipper's name and address; the ~~((consignee))~~ consignee's name and address; the method of treatment used, if applicable; ~~((and))~~ the approximate date of delivery; and applicable copies of phytosanitary certificates and lab reports.

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-040 Disposition of products shipped in violation of this quarantine—Violations.** At the option and expense of the owner, the department will return to the point of origin or destroy any grapevines shipped into the state of Washington, or moved from an infested site within the state, in violation of this chapter.

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

**WAC 16-483-050 Grape pest quarantine—Exemptions.** (1) The restrictions on the movement of regulated articles set forth in this chapter do not apply to grape planting stock imported for experimental or trial purposes by the United States Department of Agriculture or Washington State University~~((;))~~, provided~~((;))~~ the director's written permission is first obtained.

(2) The Clean Plant Center Northwest is not required to obtain the director's permission when exchanging G1 material between G1 foundation sources.

(3) The department, upon receipt of an application in writing, may issue a compliance agreement allowing movement into this state, or movement within this state, of regulated articles not otherwise eligible for movement under the provisions of this quarantine order. Movement of such articles will be subject to any conditions or restrictions stipulated in the agreement. These conditions and restrictions may vary

depending upon the intended use of the article and the potential risk of introduction or spread of a harmful pest or disease.

### WSR 20-24-008

#### WITHDRAWAL OF PROPOSED RULES EMPLOYMENT SECURITY DEPARTMENT

(By the Code Reviser's Office)

[Filed November 19, 2020, 9:38 a.m.]

WAC 192-170-080, proposed by the employment security department in WSR 20-10-072, appearing in issue 20-10 of the Washington State Register, which was distributed on May 20, 2020, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor  
Washington State Register

### WSR 20-24-009

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF REVENUE

(By the Code Reviser's Office)

[Filed November 19, 2020, 9:42 a.m.]

WAC 458-20-141, proposed by the department of revenue in WSR 20-10-068, appearing in issue 20-10 of the Washington State Register, which was distributed on May 20, 2020, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor  
Washington State Register

### WSR 20-24-010

#### WITHDRAWAL OF PROPOSED RULES UTILITIES AND TRANSPORTATION COMMISSION

(By the Code Reviser's Office)

[Filed November 19, 2020, 9:42 a.m.]

WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-73-999, 480-75-999, 480-93-999, 480-108-999, 480-109-999, 480-120-999, and 480-123-999, proposed by the utilities and transportation commission in WSR 20-10-052, appearing in issue 20-10 of the Washington State Register, which was distributed on May 20, 2020, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor  
Washington State Register

**WSR 20-24-027**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed November 20, 2020, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-17-139.

Title of Rule and Other Identifying Information: New WAC 230-03-133 Defining "scientific."

Hearing Location(s): On January 14, 2021, at 9:00 a.m., at Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. Public hearings will take place at scheduled commission meetings. The meeting dates, times, and locations are tentative. Visit our website at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) approximately seven days prior to the meeting, select "The Commission," and then select "Public Meetings" to confirm hearing date, location, start time, and agenda items.

Date of Intended Adoption: January 14, 2021.

Submit Written Comments to: Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, email [rules.coordinator@wsgc.wa.gov](mailto:rules.coordinator@wsgc.wa.gov), fax 360-486-3632, by January 1, 2021.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email [julie.anderson@wsgc.wa.gov](mailto:julie.anderson@wsgc.wa.gov), by January 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission is considering adopting proposed rule language defining "scientific" as authorized in RCW 9.46.0209 and 9.46.070.

Reasons Supporting Proposal: SB 6120 was signed on March 26, 2020, which amended RCW 9.46.0209 (1)(i) to include "scientific" to the list of purposes of which a bona fide charitable or nonprofit organization may be organized or operated and therefore qualify for licensure to operate gambling activities under the Gambling Act.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SB 6120 was signed on March 26, 2020, which amended RCW 9.46.0209 (1)(i) to include "scientific" to the list of purposes of which a bona fide charitable or nonprofit organization may be organized or operated and therefore qualify for licensure to operate gambling activities under the Gambling Act.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Considine, Attorney, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3469; Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512; and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

November 20, 2020

Ashlie Laydon

Rules Coordinator

**NEW SECTION**

**WAC 230-03-133 Defining "scientific."** "Scientific" as used in RCW 9.46.0209 means the carrying on of scientific research in the public interest. Scientific research will be regarded as carried out in the public interest if it either is performed for the federal or state government or is directed toward benefiting the public. This includes scientific research carried out for the purpose of:

- (1) Aiding in the scientific education of students; or
- (2) Obtaining scientific information which is published in a treatise, thesis, trade publication, or other form that is made available to the public; or
- (3) Discovering a cure for a disease.

**WSR 20-24-028**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed November 20, 2020, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-094.

Title of Rule and Other Identifying Information: WAC 230-14-080 Prize limits and percentage of winners required, 230-14-085 Calculating markup for merchandise prizes, 230-14-220 Prize limits for carry-over jackpot pull-tab series, and 230-14-090 Controlling prizes.

Hearing Location(s): On January 14, 2021, at 9:00 a.m., at Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. Public hearings will take place at scheduled commission meetings. The meeting dates, times, and locations are tentative. Visit our website at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) approximately seven days prior to the meeting, select "The Commission," and then select "Public Meetings" to confirm hearing date, location, start time, and agenda items.

Date of Intended Adoption: January 14, 2021.

Submit Written Comments to: Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, email [rules.coordinator@wsgc.wa.gov](mailto:rules.coordinator@wsgc.wa.gov), fax 360-486-3632, by January 1, 2021.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email [julie.anderson@wsgc.wa.gov](mailto:julie.anderson@wsgc.wa.gov), by January 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling

commission is considering amending its rules to increase certain pull-tab prize limits, specifically single cash prizes, merchandise prizes, and carry-over jackpot prize limits. Rule making will also consider payout and cash reserve requirements as it pertains to pull-tab prizes.

Reasons Supporting Proposal: Under current rules, single prize and merchandise prizes are limited at \$2,500 and carry-over jackpot prizes are limited at \$5,000. The gambling commission received a petition requesting an increase of the current limits on single cash and merchandise prizes to \$5,000 and an increase of current limits on carry-over jackpot prizes to \$10,000. The petition was accepted as this change would complement SB 6357, which was passed by the legislature this year and increased the single chance pull-tab price from \$1 to \$5.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington hospitality association (WHA), private.

Name of Agency Personnel Responsible for Drafting: Brian Considine, Attorney, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3469; Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512; and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(a)(i).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule change was requested by WHA to compliment SB 6357, now codified in RCW 9.46.110 (2)(b), that increased the single chance pull-tab price/wager limit from \$1 to \$5. The WHA made this request stating that it believed this change would help pull-tab businesses in the state by increasing gambling activity and business revenue with higher prizes along with the new higher wager limits authorized by the legislature. Under the proposed change, pull-tab operators may, but are not required to, increase single cash prize limits, merchandise prize limits, and/or carry-over jackpot prize limits. Therefore, a licensee does not need to incur any costs under these proposed rules unless it determines that increasing prize limits is in its best business interests. The implementation of this option may impose some minor costs to businesses if they choose to offer higher limit pull-tab games. However, any increased cost, including a higher cost-point for operators as manufacturers will need to build in the additional risk into their sale price, should be offset by increased revenue through new sales of pull-tab games. Therefore, the commission expects this rule change would ultimately not impose anything more than minor costs, if any cost at all. Instead, the result should be positive net revenue, or the business would not decide to offer it, which is still an option. Consequently, a small business economic impact statement is not required.

November 20, 2020

Ashlie Laydon  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-17-077, filed 8/14/09, effective 1/1/10)

**WAC 230-14-080 Prize limits and percentage of winners required.** Punch board or pull-tab operators must not possess, display, put out for play, sell, or otherwise transfer punch boards or pull-tab series that:

(1) Have a total payout of less than sixty percent of the total gross gambling receipts of the board or series, except in cumulative prize pool pull-tab games. In cumulative prize pool pull-tab games, the sixty percent prize payout requirement will be calculated based on the total amount of prizes from the cumulative prize pool board and the instant winners from each series, divided by the number of series contained in the game; and

(2) Offer boards or series, except for progressive series or carry-over jackpots, with a single cash prize that is more than ~~((twenty five hundred))~~ five thousand dollars; or

(3) Offer a single merchandise prize that is more than ~~((twenty five hundred))~~ five thousand dollars including markup; or

(4) Have a single pull-tab or punch with multiple winning combinations that are more than the prize limit; or

(5) Offer prizes for purchasing the last pull-tab or last punch (last sale) that are more than:

(a) One hundred dollars cash; or

(b) Merchandise that costs the licensee more than one hundred dollars; or

(c) The highest prize offered, whichever is less; or

(6) Series that have a key to any winning numbers or symbols.

AMENDATORY SECTION (Amending WSR 08-11-044, filed 5/14/08, effective 7/1/08)

**WAC 230-14-085 Calculating markup for merchandise prizes.** (1) To calculate sixty percent of total gross for merchandise prizes, operators take the amount actually paid for the prize and add to it no more than fifty percent of that cost as markup.

(2) Gift certificates from a licensee's own establishment may be used as merchandise prizes for pull-tab games but must not be included in the sixty percent payout calculation.

(3) The total cost to the operator for the purchase of a prize must not exceed ~~((twenty five hundred))~~ five thousand dollars.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

**WAC 230-14-220 Prize limits for carry-over jackpot pull-tab series.** Operators may use pull-tab series which include carry-over jackpots. Operators must use the following calculations for prizes and prize payouts for carry-over jackpots:

(1) Guaranteed prizes must be sixty percent or more of gross gambling receipts available from the pull-tab series.



"Guaranteed prizes" means all prizes available, excluding the contribution amount or carry-over jackpot; and

(2) The manufacturer determines the contribution amount and the method of play and discloses both on the flare; and

(3) The contribution amount for each series must not be more than five hundred dollars; and

(4) An accumulated carry-over jackpot must not be more than ~~((five))~~ ten thousand dollars; and

(5) If the carry-over jackpot is awarded, the sum of the advance-level prize and the carry-over jackpot prize combined must not be more than ~~((five))~~ ten thousand dollars; and

(6) If the operator carries over the jackpot to a new series, the total of the advance-level prize and the consolation prize must not be more than five hundred dollars.

**AMENDATORY SECTION** (Amending WSR 10-09-032, filed 4/14/10, effective 7/1/10)

**WAC 230-14-090 Controlling prizes.** Punch board and pull-tab operators must:

(1) Protect players from fraud and game manipulation.

(2) Award all prizes won.

(3) Only award cash or merchandise as prizes. A player who has won a cash prize may make a request to the person redeeming the winning pull-tab that the player be given additional pull-tabs instead of cash. An operator may agree to such a request.

(4) Not offer to pay cash instead of merchandise prizes.

(5) Not award additional punches or tabs as a prize. Prizes, however, may involve the opportunity to advance and win a larger prize on the same punch board or pull-tab series. Operators must award an immediate additional opportunity to advance called a bonus prize when offered in a bonus pull-tab series or a step-up prize when offered on a punch board.

(6) Immediately pay out a minimum of two thousand five hundred dollars for verified cash prizes won and pay the remaining balance within twenty-four hours by check. The winner may request that the operator pay up to the entire prize balance by check. Operators must then issue a check for the entire prize balance within twenty-four hours.

(7) Have funds available to pay out all cash prizes offered. A licensee's failure to pay out all cash prizes as required by this rule is prima facie evidence of defrauding the public and a violation of RCW 9.46.190.

## WSR 20-24-035

### PROPOSED RULES

#### HEALTH CARE AUTHORITY

[Filed November 20, 2020, 2:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-107.

Title of Rule and Other Identifying Information: WAC 182-513-1105 Personal needs allowance (PNA) and room and board standards in a medical institution and alternate living facility (ALF).

Hearing Location(s): On January 5, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To attend the virtual public hearing, you must register at <https://attendee.gotowebinar.com/register/4755918165672449039>. **Webinar ID:** 186-501-491.

After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than January 6, 2021.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by January 5, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), by December 18, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules to increase the personal needs allowance from \$70.00 to \$71.12 effective January 1, 2021. Funding is approved for this increase which affects those receiving long-term services and supports in medical institutions and alternate living facilities. Amending subsection 2(a), 2(b) and (5) to reflect \$71.12. Added references to WAC 388-478-0006 in subsection (3) and (4). Amending the publication web address in subsection (8).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 74.09.340.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 74.09.340.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Mark Westenhaver, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1324.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative

standards, including fees set or adjusted under the authority of RCW 19.80.045.

November 20, 2020

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-047, filed 9/26/18, effective 1/1/19)

**WAC 182-513-1105 Personal needs allowance (PNA) and room and board standards in a medical institution and alternate living facility (ALF).** (1) This section describes the personal needs allowance (PNA), which is an amount set aside from a client's income that is intended for personal needs, and the room and board standard.

(2) The PNA in a state veteran's nursing facility:

(a) Is ~~(((\$70))~~ \$71.12, effective January 1, 2021, for a veteran without a spouse or dependent children receiving a needs-based veteran's pension in excess of \$90;

(b) Is ~~(((\$70))~~ \$71.12, effective January 1, 2021, for a veteran's surviving spouse with no dependent children receiving a needs-based veteran's pension in excess of \$90; or

(c) Is \$160 for a client who does not receive a needs-based veteran's pension.

(3) The PNA in a medical institution for clients receiving aged, blind, or disabled (ABD) cash assistance or temporary assistance for needy families (TANF) cash assistance is the client's personal and incidental (CPI) cash payment, as described in WAC 388-478-0006, based on residing in a medical institution, which is \$41.62.

(4) The PNA in an alternate living facility (ALF) for clients receiving ABD cash assistance or TANF cash assistance is the CPI, as described in WAC 388-478-0006, based on residing in an ALF that is not an adult family home, which is \$38.84.

(5) The PNA for clients not described in subsections (2), (3), and (4) of this section, who reside in a medical institution or in an ALF, is ~~(((\$70))~~ \$71.12, effective January 1, 2021.

(6) Effective January 1, 2018, and each year thereafter, the amount of the PNA in subsection (5) of this section may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors, and disability social security benefits as published by the federal Social Security Administration. This adjustment is subject to state legislative funding.

(7) The room and board standard in an ALF used by home and community services (HCS) and the developmental disabilities administration (DDA) is based on the federal benefit rate (FBR) minus the current PNA as described under subsection (5)(b) of this section.

(8) The current PNA and room and board standards used in long-term services and supports are published under the institutional standards on the Washington apple health (medicaid) income and resource standards chart located at ~~(([www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources](http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources)))~~ [www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources](http://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources).

**WSR 20-24-043**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH**

(Occupational Therapy Practice Board)

[Filed November 23, 2020, 12:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-08-073.

Title of Rule and Other Identifying Information: WAC 246-847-125, Applicants currently licensed in other states or territories. The occupational therapy practice board is proposing to clarify requirements for continued competency for occupational therapist or occupational therapy assistant out-of-state applicants that have been licensed for less than two years.

Hearing Location(s): On January 22, 2021, at 9:10 a.m.

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the occupational therapy practice board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting: Please join the meeting from your computer, tablet or smartphone <https://global.gotomeeting.com/join/860970933>.

You can also dial in using your phone. United States: +1 (571) 317-3122. Access Code: 860-970-933.

New to GoToMeeting? Get the app now and be ready when your first meeting starts: Please join the meeting from your computer, tablet or smartphone <https://global.gotomeeting.com/join/860970933>.

Date of Intended Adoption: January 22, 2021.

Submit Written Comments to: Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by January 20, 2021.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, fax 360-236-4883, TTY 711, email <https://fortress.wa.gov/doh/policyreview>, by January 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies the requirements for an applicant licensed in another state or jurisdiction for less than two years. Current licensing standards require thirty hours of continued competency for all out-of-state applicants. However, the continued competency requirements are not required until a licensee has been licensed for two years. The proposed amendments clarify that those licensed in another state or jurisdiction for at least two years need to obtain thirty hours of continued competency prior to obtaining state licensure. Proposed rule language is clearer and allows Washington licensees and out-of-state applicants to have the same standard for continued competency.

Reasons Supporting Proposal: Proposed language is clearer and benefits recent graduates licensed in another state by not requiring them to obtain continued competency in an unreasonable amount of time prior to applying for Washington licensure. Rule making will establish enforceable and consistent licensing requirements.

Statutory Authority for Adoption: RCW 18.59.130.

Statute Being Implemented: RCW 18.59.130.

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

Name of Proponent: Department of health, occupational therapy practice board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4883.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email kathy.weed@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impact small businesses. The proposed rules only impact the person's license without significant cost to small businesses.

November 23, 2020  
Sunny Anderson, OTA  
Chair

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

**WAC 246-847-125 Applicants currently licensed in other states or territories.** ~~((Any))~~ An initial applicant currently licensed to practice as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States as provided in RCW 18.59.070(2), may be licensed by endorsement. An applicant ~~((s must))~~ shall comply with the requirements for licensure as specified in chapters 18.59 RCW and 246-847 WAC and submit proof of:

(1) Current licensure from another United States jurisdiction;

(2) Having passed the examinations as defined in WAC 246-847-080; and

(3) For applicants who have been licensed in another jurisdiction for at least two years, completion of thirty hours of continued competency within the two-year period immediately preceding ~~((the application))~~ licensure.

## WSR 20-24-045

### PROPOSED RULES

#### WENATCHEE VALLEY COLLEGE

[Filed November 23, 2020, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-140.

Title of Rule and Other Identifying Information: WAC 132W-115-080, 132W-115-110, and 132W-112-060, student conduct procedures.

Hearing Location(s): On January 20, 2021, at 3:45 p.m., at Wenatchee Valley College, 1300 Fifth Street, Wenatchee, WA 98801, Zoom meeting.

Date of Intended Adoption: February 17, 2021.

Submit Written Comments to: Reagan Bellamy, 1300 Fifth Street, Wenatchee, WA 98801, email rbellamy@wvc.edu, fax 509-682-6441, by December 1, 2020.

Assistance for Persons with Disabilities: Contact Lisa Foster, phone 509-682-6854, email lfoster@wvc.edu.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On May 22, 2020, the United States Department of Education formally issued a final rule regarding amendments to Title IX of the Education Amendments of 1972. The new regulations address the grievance process for formal complaints of sexual harassment and have taken effect on August 14, 2020.

Reasons Supporting Proposal: WAC reflects regulation changes.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Statute Being Implemented: WAC 132W-115-080, 132W-115-110, 132W-112-060.

Rule is necessary because of federal law, [no further information supplied by agency].

Name of Proponent: Wenatchee Valley College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Reagan Bellamy, 1300 Fifth Street, 509-682-6445.

A cost-benefit analysis is not required under RCW 34.05.328. Rules relate to internal governmental operations that are not subject to violation by a nongovernment party.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

November 23, 2020

Jim Richardson

President

AMENDATORY SECTION (Amending WSR 14-08-013, filed 3/20/14, effective 4/20/14)

**WAC 132W-112-060 Freedom from sexual (~~((harassment))~~) misconduct.** It is the responsibility of Wenatchee Valley College to ~~((provide and maintain a work and academic community which is free from sexual harassment. Sexual harassment violates federal and state law and will not be tolerated by Wenatchee Valley College. Any student or employee in violation of this policy and who engages in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or academic performance, will be subject to disciplinary action up to and including expulsion from the school or dismissal from employment))~~ maintain an academic work environment free of sexual

harassment, which includes sexual harassment, sexual intimidation and sexual violence. Sexual harassment of faculty, staff or students is against the law and will not be tolerated. Sexual harassment violates the dignity of individuals and impedes the realization of the college's educational mission. The college is committed to preventing and addressing sexual harassment of faculty, staff and students through education and by encouraging faculty, staff and students to report any concerns or complaints about sexual harassment. Prompt corrective measures will be taken to stop sexual harassment whenever and wherever it occurs.

**AMENDATORY SECTION** (Amending WSR 14-09-009, filed 4/4/14, effective 5/5/14)

**WAC 132W-115-080 Code of conduct.** Wenatchee Valley College expects that its students, both on and off campus, conduct themselves in a manner that maintains high standards of integrity, honesty and morality at all times. A student who does not follow college rules will be subject to such action as may be deemed appropriate by designated college authorities. Conduct, either on or off campus, should be of such nature as not to reflect adversely on the reputation of the individual or the college. Students arrested for violation of criminal law on or off campus may also be subject to disciplinary action by the college. The following misconduct on college facilities is subject to disciplinary action:

(1) Intentionally or recklessly endangering, threatening, or causing physical harm to any person or oneself, or intentionally or recklessly causing reasonable apprehension of such harm.

(2) Harassment, bullying, abuse: No student shall physically, sexually, or emotionally harass, bully, abuse, coerce, intimidate, seriously embarrass, assault, or recklessly endanger any other person.

(3) Students engaging in any activity which inhibits or interferes with the orderly operation of Wenatchee Valley College or the ability of students and/or college personnel to perform their functions in an orderly environment shall be subject to disciplinary action. No student shall intentionally or recklessly interfere with normal college or college-sponsored activities or any form of emergency services.

(4) Unauthorized entry or use of college facilities.

(5) Knowingly violating the term of any disciplinary sanction imposed in accordance with the code.

(6) Theft of property or services; knowing possession of stolen property.

(7) Violating college policies or procedures by any student or by the guest of any student.

(8) Using tobacco products on the college premises.

(9) The consumption of alcoholic beverages on college property, except in accordance with state of Washington liquor license procedures. The unlawful (as a matter of local, state or federal law) manufacture, distribution, dispensing, possession or use of alcohol, legend drugs, narcotic drugs, or controlled substances including marijuana, on college property or during college-sponsored events, whether on or off campus except when use or possession of a legend drug, narcotic drug, or controlled substance other than marijuana is

specifically prescribed by an appropriately licensed health care provider.

(10) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college.

(11) Forgery, alteration, or misuse of college documents, records, funds, or instruments of identification.

(12) Refusal to comply with the direction of college officials acting in the legitimate performance of their duties.

(13) Possession or use of firearms (licensed or unlicensed), explosives, dangerous chemicals, or other dangerous weapons or instruments. Legal defense sprays are not covered by this rule. Exceptions to this rule are permitted when the weapon is used in conjunction with an approved college instructional program or is carried by a duly commissioned law enforcement officer.

(14) Failure to comply with the college's network acceptable use policy, WashingtonOnline (WAOL) memorandum of understanding and/or misuse of computing equipment services and facilities, including use of electronic mail and the internet.

(15) Ethics violation: The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular trade, skill, craft or profession for which the student is taking courses or is pursuing as their educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

(16) Hazing: Conspiracy to engage in hazing or participation in hazing another. Hazing shall include any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Wenatchee Valley College. Consent is no defense to hazing. The term does not include customary athletic events or other similar contests or competitions. Hazing is also a misdemeanor, punishable under state law.

(17) Initiation violation: Conduct associated with initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to an organization, association or living group not amounting to a violation under the definition of hazing. Conduct covered by this definition may include embarrassment, ridicule, sleep deprivation, verbal abuse, or personal humiliation. Consent is no defense to initiation violation.

(18) Animals, with the exception of service animals, are not allowed on or in college facilities. All service animals on campus shall be under direct physical control, leashed by their owner or custodian and registered with the special populations coordinator.

(19) Gambling: Any form of gambling is prohibited.

(20) Sexual misconduct: The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC

132W-115-110 (supplemental Title IX student conduct procedures).

(a) Sexual harassment. The term "sexual harassment" means unwelcome sexual or gender based conduct, including unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

(i) Deny or limit the ability of a student to participate in or benefit from the college's educational program;

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Sexual intimidation. The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) Sexual violence. "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(iv) Statutory rape. Consensual intercourse between a person who is eighteen years of age or older, and a person who is under the age of sixteen.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(d) For purposes of this code, "consent" means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

**WAC 132W-115-110 Procedures for resolving disciplinary violations.** (1) The dean of student services is responsible for initiating disciplinary proceedings. The dean of student services may delegate this responsibility to members of his/her staff, and he/she may also establish committees or other hearing bodies to advise or act for him/her in disciplinary matters.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student involved shall be informed at the initial conference or hearing of the sanctions that may be involved.

(3) Upon initiation of formal disciplinary proceedings, the dean of student services or designee shall provide written notification to the student, either in person or by delivery via regular mail to the student's last known address, specifying the violations with which the student is charged. The dean of student services or designee shall set a time and place for meeting with the student to inform the student of the charges, the evidence supporting the charges, and to allow the student an opportunity to be heard regarding the charges and evidence.

(4) After considering the evidence in a case and interviewing the student or students involved, the dean of student services or designee may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate; not subject to the appeal rights provided in this code;

(c) Dismiss the case after verbally admonishing the student, not subject to the appeal rights provided in this code;

(d) Direct the parties to make a reasonable attempt to achieve a mediated settlement;

(e) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this chapter. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally;

(f) Refer the matter to the academic regulations committee requesting their recommendation for appropriate action. The student shall be notified in writing that the matter has been referred to the academic regulations committee.

(5) This section shall not be construed as preventing the appropriate official from summarily suspending a student.

(6) If the dean of student services or his or her designee(s) has cause to believe that any student:

(a) Has committed a felony; or

(b) Has violated any provision of this chapter; and

(c) Presents an imminent danger either to himself or herself, other persons on the college campus or to the educational process; that student shall be summarily suspended and shall be notified by certified and regular mail at the student's last known address, or shall be personally served.

Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection.

(7) During the summary suspension period, the suspended student shall not enter campus other than to meet with the dean of student services or to attend the hearing. However, the dean of student services or the college president may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for a probable cause hearing.

(8) When the president or his/her designee exercises the authority to summarily suspend a student, he/she shall cause notice thereof to be served upon that student by registered or certified mail at the student's last known address, or by causing personal service of such notice upon that student. The notice shall be entitled "notice of summary suspension proceedings" and shall state:

(a) The charges against the student including reference to the provisions of the student code or the law involved; and

(b) That the student charged must appear before the designated disciplinary officer at a time specified in the notice for a hearing as to whether probable cause exists to continue the summary suspension. The hearing shall be held as soon as practicable after the summary suspension.

(9) The summary suspension hearing shall be considered an emergency adjudicative proceeding. The proceeding must be conducted as soon as practicable with the dean of student services or designee presiding. At the summary suspension hearing, the dean of student services shall determine whether there is probable cause to believe that continued suspension is necessary and/or whether some other disciplinary action is appropriate.

(10) If the dean of student services, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

(a) The student against whom specific violations of law or of provisions of this chapter are alleged has committed one or more of such violations; and

(b) That summary suspension of said student is necessary for the protection of the student, other students or persons on college facilities, college property, the educational process, or to restore order to the campus; and

(c) Such violation or violations of the law or of provisions of this chapter constitute grounds for disciplinary action, then the dean of student services may, with the written approval of the president, continue to suspend such student from the college and may impose any other disciplinary action as appropriate.

(11) A student who is suspended or otherwise disciplined pursuant to the above rules shall be provided with a written copy of the dean of student services' findings of fact and conclusions, as expressly concurred in by the president, which constituted probable cause to believe that the conditions for summary suspension existed. The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by registered mail to said student's last known address within three working days following the conclusion of the summary suspension hearing. The notice of suspension shall state the duration of the suspension or nature of other disciplinary action and the conditions under which the suspension may be terminated.

(12) The dean of student services is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

(13) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the academic regulations committee. No such appeal shall be entertained, however, unless:

(a) The student has first appeared at the student hearing in accordance with subsection (9) of this section;

(b) The student has been officially notified of the outcome of the hearing;

(c) Summary suspension or other disciplinary sanction has been upheld; and

(d) The appeal conforms to the standards set forth in chapter 132W-109 WAC. The academic regulations committee shall, within five working days, conduct a formal hearing in the manner described in chapter 132W-109 WAC.

(14) Sexual misconduct proceedings. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

(15) Order of precedence. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision. This procedure

applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these hearing procedures conflict with Wenatchee Valley College's standard disciplinary procedures in this section.

(16) Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this procedure, "sexual harassment" encompasses the following conduct:

(a) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(b) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(c) Sexual assault. Sexual assault includes the following conduct:

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(iv) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(d) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(e) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(A) The length of the relationship;

(B) The type of relationship; and

(C) The frequency of interaction between the persons involved in the relationship.

(f) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

(17) Title IX jurisdiction.

(a) This procedure applies only if the alleged misconduct:

(i) Occurred in the United States;

(ii) Occurred during a college educational program or activity; and

(iii) Meets the definition of sexual harassment as that term is defined in this procedure.

(b) For purposes of this procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by Wenatchee Valley College.

(c) Proceedings under this procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this procedure does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132W-115-080.

(d) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

(18) Initiation of discipline.

(a) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(b) If the student conduct officer determines that there are sufficient grounds to proceed under these procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(i) Set forth the basis for Title IX jurisdiction;

(ii) Identify the alleged Title IX violation(s);

(iii) Set forth the facts underlying the allegation(s);

(iv) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);

(v) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(A) The advisors will be responsible for questioning all witnesses on the party's behalf;

(B) An advisor may be an attorney; and

(C) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

(c) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

(19) Prehearing procedure.

(a) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132W-115-010. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.

(b) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(c) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

(20) Rights of parties.

(a) The college's student conduct procedures, WAC 132W-115-110 and this procedure shall apply equally to all parties.

(b) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(c) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(d) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

(21) Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(a) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(b) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(c) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(i) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(ii) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(d) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(e) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(f) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client and attorney work product privileges;

(iii) Privileges applicable to members of the clergy and priests;

(iv) Privileges applicable to medical providers, mental health therapists, and counselors;

(v) Privileges applicable to sexual assault and domestic violence advocates; and

(vi) Other legal privileges identified in RCW 5.60.060.

(22) Initial order.

(a) In addition to complying with this section, the student conduct committee will be responsible for conferring and drafting an initial order that:

(i) Identifies the allegations of sexual harassment;

(ii) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(iii) Makes findings of fact supporting the determination of responsibility;

(iv) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(v) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(vi) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(vii) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(viii) Describes the process for appealing the initial order to the college president.

(b) The committee chair will serve the initial order on the parties simultaneously.

(23) Appeals.

(a) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in this section.



(b) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(c) President's office shall serve the final decision on the parties simultaneously.

**WSR 20-24-046**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed November 23, 2020, 2:43 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-847-051(4) and 246-847-190, enforcement of AIDS education and training rules. The occupational therapy practice board (board) is proposing to repeal these requirements in response to ESHB 1551 (chapter 76, Laws of 2020).

Hearing Location(s): On January 1, 2021, at 9:05 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting: Please join the meeting from your computer, tablet or smartphone, <https://global.gotomeeting.com/join/860970933>. You can also dial in using your phone, United States: +1 (571) 317-3122, Access Code: 860-970-933.

New to GoToMeeting? Get the app now and be ready when your first meeting starts.

Date of Intended Adoption: January 22, 2021.

Submit Written Comments to: Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by January 20, 2021.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, fax 360-236-2901, TTY 711, email <https://fortress.wa.gov/doh/policyreview>, by January 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The previous CR-102 for this proposed rule was filed as WSR 20-20-101. It has been withdrawn and is being replaced with this new CR-102 in order to update the hearing date and time. No changes have been made to the proposed rule language.

Effective June 11, 2020, the following laws were repealed as a result of ESHB 1551: RCW 70.24.260 Emergency medical personnel—Rules for AIDS education and training, 70.24.270 Health professionals—Rules for AIDS education and training, and 70.24.310 Health care facility employees—Rules for AIDS education and training.

As a result of these laws being repealed, the department of health (DOH) will repeal chapter 246-12 WAC, Part 8 -

AIDS prevention and information education requirements. These rules detail the definitions, acceptable training and education, and documentation requirements for health professionals and employees concerning AIDS.

WAC 246-847-051(4) and 246-847-190 under the authority of the board requires compliance with chapter 246-12 WAC, Part 8 and seven clock hours of AIDS education. The board will repeal WAC 246-847-150(4) and 246-847-190, and will no longer enforce these rules during the repeal process.

Reasons Supporting Proposal: When Washington adopted statutes [statutes] concerning AIDS, very little was known about the disease compared to today. Now, AIDS is so treatable and preventable, Governor Inslee issued a proclamation in 2014 supporting End AIDS Washington; a state-wide initiative to reduce new HIV cases by fifty percent by the end of 2020. Part of this effort includes reducing stigma, which includes updating state law. ESHB 1551 repeals statutes [statutes] concerning AIDS education and training for emergency medical personnel, health professionals, and health care facility employees to help reduce stigma towards people living with HIV by not singling out AIDS as an exceptional disease that requires specific training and education separate from other health conditions.

Statutory Authority for Adoption: RCW 18.59.130.

Statute Being Implemented: ESHB 1551.

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

Name of Proponent: DOH, occupational therapy practice board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Drafting: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4883.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules, the content of which is explicitly and specifically dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

November 23, 2020

Sunny Anderson, OTA  
Chair

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

**WAC 246-847-051 Military equivalence.** A graduate of a United States military occupational therapy assistant course that is substantially equivalent to the requirements in chapters 18.59 RCW and 246-847 WAC may apply for licensure in this state when the following additional requirements have been submitted to the department:

(1) Proof of completion of the military's residency program included in their education program in lieu of the field work required under WAC 246-847-150;

(2) Proof of successfully passing the national certification examination as specified in WAC 246-847-080; and

(3) Proof of completion of the online jurisprudence examination for occupational therapy with a passing score of one hundred percent ~~(and~~

~~(4) An attestation to the completion of seven hours of HIV/AIDS awareness training as specified in chapter 246-12 WAC, Part 8)).~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-847-190 AIDS education and training.

**WSR 20-24-054**  
**PROPOSED RULES**  
**DEPARTMENT OF COMMERCE**  
[Filed November 24, 2020, 8:14 a.m.]

Continuance of WSR 20-17-121.

Preproposal statement of inquiry was filed as WSR 20-05-091 published February 19, 2020.

Title of Rule and Other Identifying Information: Grievance requirements for long-term care ombudsman program.

Date of Intended Adoption: January 4, 2021.

Submit Written Comments to: Devin Proctor, P.O. Box 4252, email Devin.Proctor@commerce.wa.gov, fax 360-586-8440, submit comments online [contact agency for link], by December 11, 2020.

Assistance for Persons with Disabilities: Contact Devin Proctor, phone 360-725-2999, fax 360-286-8440, email Devin.Proctor@commerce.wa.gov, by December 4, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of commerce is filing this continuance to extend [the] written public comment deadline from October 17, 2020, to December 11, 2020. This will allow stakeholders more time to provide comments. The public hearing was held on October 14, 2020. We now anticipate an adoption date of January 4, 2021.

Reasons Supporting Proposal: This rule making will align state rules with federal requirements.

Statutory Authority for Adoption: Chapter 43.190 RCW.

Statute Being Implemented: The long-term care ombuds program.

Rule is necessary because of federal law, [no information supplied].

Name of Proponent: Department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Christina Gagnon, 1011 Plum Street S.E., Olympia, WA 98504, 360-725-3131.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to department rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

November 24, 2020  
Dave Pringle  
Rules Coordinator

**WSR 20-24-055**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Long-Term Support Administration)  
[Filed November 24, 2020, 8:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-15-140.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-112A-0010 What definitions apply to this chapter?; and new WAC 388-112A-1292 What are the minimum qualifications for community instructors to teach expanded specialty trainings?; and 388-112A-1294 What are the minimum qualifications for facility training program instructors to teach expanded specialty trainings?

Hearing Location(s): January 5, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than January 6, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., January 5, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by December 22, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-112A-0010 and add new WAC 388-112A-1292 and 388-112A-1294, as a result of the passage of SB 5630 in 2013. The department was required to examine whether specialty training categories should be created for adult family homes serving residents with other spe-

cial needs, such as traumatic brain injury, skilled nursing, or bariatric care.

The department, with stakeholder input and involvement, determined that additional training categories are recommended including such topics as traumatic brain injury, bariatric care, and skilled nursing. The proposed rules would establish the new trainings as optional "expanded specialty training" and set instructor requirements for both facility and community instructors. Identical language will also need to be added to chapter 388-71 WAC.

Reasons Supporting Proposal: See purpose statement above.

Statutory Authority for Adoption: RCW 74.08.090, 70.128.060.

Statute Being Implemented: RCW 74.08.090, 70.128.-060.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Chappell, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2366.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5310, phone 360-725-2495, fax 360-725-2646, TTY 1-800-833-6388, email [suliva@dshs.wa.gov](mailto:suliva@dshs.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These proposed rules impact adult family homes, assisted living facilities, enhanced services facilities, and community instructor training programs. These businesses fall under the following North American Industry Classification System (NAICS) designations:

- Residential mental health facilities - NAICS code 6232.
- Residential developmental disabilities homes - NAICS codes 62321, 623210.
- Other residential care facilities - NAICS codes 6239, 62399, 623990.
- Continuing care, assisted living facilities - NAICS code 6233, 62331, 623311, 623312.
- Technical and trade schools - NAICS code 61151.

The department of social and health services' aging and long-term support administration has analyzed the proposed rule amendments and has determined that the listed small businesses may be impacted by these changes. However, the department estimates that the costs are "minor" as that term is defined in RCW 19.85.030.

November 19, 2020  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

**WAC 388-112A-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:

(1) "**Activities of daily living**" means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) "**Adult family home training network**" means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) "**Applicant**" means:

(a) An individual who is applying for an adult family home license;

(b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or

(c) An individual who is applying for an enhanced services facility license.

(4) "**Capable caregiving training**" means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.

(5) "**Care team**" includes the resident and everyone involved in their care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.

(6) "**Challenge test**" means a competency test taken for specialty training without first taking the class for which the test is designed.

(7) "**Competency**" means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

(8) "**Competency testing**" including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.

(9) "**Core basic training**" is the portion of the seventy-hour long-term care worker basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(10) "**Date of hire**" for determining timeframes related to training and certification, means the day an individual was first hired as a long-term care worker as determined by the department according to WAC 388-112A-0115.

(11) "**DDA**" means the developmental disabilities administration.

(12) "**Designee**" means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.

(13) "**Direct care worker**" means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).

(14) "**Direct supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.

(15) "**DSHS**" or "**department**" means the department of social and health services.

(16) "**Enhancement**" means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(17) "**Entity representative**" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(18) "**Expanded specialty training**" means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(19) "**Guardian**" means an individual as defined in chapter 11.88 RCW.

~~((19))~~ (20) "**Home**" means adult family homes, enhanced services facilities, and assisted living facilities.

~~((20))~~ (21) "**Home care aide certified**" or "**home care aide**" means a person who obtained and maintains a home care aide certification through the department of health.

~~((21))~~ (22) "**Indirect supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

~~((22))~~ (23) "**Learning objectives**" means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language

and a framework for curriculum designers, the curriculum approval process, and testing.

~~((23))~~ (24) "**Long-term care worker**" means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

~~((24))~~ (25) "**Personal care services**" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

~~((25))~~ (26) "**Provider**" means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

~~((26))~~ (27) "**Renewal period**" means the certification renewal period as defined in WAC 246.12.010.

~~((27))~~ (28) "**Resident**" means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

~~((28))~~ (29) "**Resident manager**" means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

~~((29))~~ (30) "**Routine interaction**" means regular contact with residents.

~~((30))~~ (31) "**Seventy-hour long-term care worker basic training**" means the seventy-hours of required training that a new long-term care worker must complete within one hundred and twenty days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

~~((31))~~ (32) "**Special needs**" means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or devel-

opmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

~~((32))~~ (33) "Specialty training" means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

~~((33))~~ (34) "Training entity" means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

#### NEW SECTION

**WAC 388-112A-1292 What are the minimum qualifications for community instructors to teach expanded specialty trainings?** (1) The minimum qualifications for community instructors to teach an expanded specialty training, in addition to the general qualifications in WAC 388-112A-1420 (1) and (2), include:

(a) The instructor must be experienced in caregiving practices related to the expanded specialty topic and capable of demonstrating competency in the entire course content;

(b) Education:

(i) Bachelor's degree, registered nurse, paramedic, emergency medical technician (EMT), mental health specialist, or a specialist with nationally recognized credentials in the expanded specialty topic with at least eighty hours of education in seminars, conferences, continuing education, or accredited college classes, in subjects directly related to expanded specialty topics; and

(ii) Successful completion of the expanded specialty training class before the instructor trains others;

(c) Work experience: Two years full-time equivalent direct work or volunteer experience with people in the specialty topic population; and

(d) Teaching experience:

(i) Two hundred hours experience teaching;

(ii) Successful completion of an adult education class that meets the requirements of WAC 388-112A-1297;

(iii) Successful completion of the DSHS instructor qualification/demonstration process; and

(iv) The instructor has been approved and contracted by the department as a community instructor;

(e) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(2) Five years of full-time equivalent direct work experience with people in the specialty topic population may substitute for either:

(a) The credential or degree described in subsection (1)(b)(i) of this section; or

(b) The eighty hours in seminars, conferences, continuing education described in subsection (1)(b)(i).

#### NEW SECTION

**WAC 388-112A-1294 What are the minimum qualifications for facility training program instructors to teach expanded specialty trainings?** (1) The minimum qualifications for facility instructors to teach an expanded specialty training is to meet the requirements in WAC 388-112A-1240. The facility instructor must submit an application attesting to those qualifications and submit copies of certificates of completion for each expanded specialty training curriculum they would like to teach and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

(a) Facility instructors must be approved prior to teaching the class.

(b) A qualified instructor under this section may teach an expanded specialty training to long-term care workers employed at other home(s) licensed by the same licensee.

(2) If your status is an approved instructor for an expanded specialty training, you may instruct expanded specialty training curriculum after submitting to the department a copy of a certificate of completion for that curriculum and a copy of a certificate of completion of an adult education class that meets the requirements of WAC 388-112A-1297.

#### **WSR 20-24-056**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 24, 2020, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-102.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food?

Hearing Location(s): On January 5, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than January 6, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., January 5, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by December 22, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Federal Supplemental Nutrition Assistance Program regulations (7 C.F.R. § 273.9) require the department to use federally prescribed income eligibility standards, which are revised effective October 1 of each year, and make annual adjustments to standard utility allowances.

Reasons Supporting Proposal: Alignment with federal regulations based on current federal regulations.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Rule is necessary because of federal law, 7 C.F.R. § 273.9.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Angela Aikins, P.O. Box 45470, Olympia, WA 98504-5470, 360-725-4784.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS clients.

November 23, 2020  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-04-021, filed 1/27/20, effective 2/27/20)

**WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?**

(1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
3 or less	\$167

Eligible AU members	Standard deduction
4	<del>(\$178)</del> <u>\$181</u>
5	<del>(\$209)</del> <u>\$212</u>
6 or more	<del>(\$240)</del> <u>\$243</u>

(b) Twenty percent of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 20-04-021, filed 1/27/20, effective 2/27/20)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of one hundred (~~fifty-two~~) fifty-seven dollars. If the homeless AU has shelter costs in excess of one hundred (~~fifty-two~~) fifty-seven dollars, the AU has the option to claim either:

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2)(a) through (2)(d) from

your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of five hundred (~~sixty-nine~~) eighty-six dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over five hundred (~~sixty-nine~~) eighty-six dollars.

**AMENDATORY SECTION** (Amending WSR 20-04-021, filed 1/27/20, effective 2/27/20)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASH-CAP benefits?** (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than twenty dollars in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of four hundred (~~thirty-seven~~) forty-nine dollars.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration

status, you get a SUA of four hundred (~~thirty-seven~~) forty-nine dollars.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of three hundred (~~forty-three~~) fifty-two dollars.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of (~~fifty-eight~~) fifty-nine dollars.

(3) "Utility costs" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

**AMENDATORY SECTION** (Amending WSR 20-04-021, filed 1/27/20, effective 2/27/20)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?** (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section. The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE (~~10/1/2019~~) 10/1/2020

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	( <del>\$1,354</del> ) <u>\$1,383</u>	( <del>\$1,041</del> ) <u>\$1,064</u>	( <del>\$194</del> ) <u>\$204</u>	( <del>\$1,718</del> ) <u>\$1,755</u>
2	( <del>1,832</del> ) <u>1,868</u>	( <del>1,410</del> ) <u>1,437</u>	( <del>355</del> ) <u>374</u>	( <del>2,326</del> ) <u>2,371</u>
3	( <del>2,311</del> ) <u>2,353</u>	( <del>1,778</del> ) <u>1,810</u>	( <del>509</del> ) <u>535</u>	( <del>2,933</del> ) <u>2,987</u>
4	( <del>2,790</del> ) <u>2,839</u>	( <del>2,146</del> ) <u>2,184</u>	( <del>646</del> ) <u>680</u>	( <del>3,541</del> ) <u>3,603</u>
5	( <del>3,269</del> ) <u>3,324</u>	( <del>2,515</del> ) <u>2,557</u>	( <del>768</del> ) <u>807</u>	( <del>4,149</del> ) <u>4,219</u>
6	( <del>3,748</del> ) <u>3,809</u>	( <del>2,883</del> ) <u>2,930</u>	( <del>921</del> ) <u>969</u>	( <del>4,757</del> ) <u>4,835</u>
7	( <del>4,227</del> ) <u>4,295</u>	( <del>3,251</del> ) <u>3,304</u>	( <del>1,018</del> ) <u>1,071</u>	( <del>5,364</del> ) <u>5,451</u>
8	( <del>4,705</del> ) <u>4,780</u>	( <del>3,620</del> ) <u>3,677</u>	( <del>1,164</del> ) <u>1,224</u>	( <del>5,972</del> ) <u>6,067</u>

EFFECTIVE ((10/1/2019)) 10/1/2020

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
9	((5,184)) <u>5,266</u>	((3,989)) <u>4,051</u>	((1,310)) <u>1,377</u>	((6,580)) <u>6,683</u>
10	((5,663)) <u>5,752</u>	((4,358)) <u>4,425</u>	((1,456)) <u>1,530</u>	((7,188)) <u>7,299</u>
Each Additional Member	((+479)) <u>+486</u>	((+369)) <u>+374</u>	((+146)) <u>+153</u>	((+608)) <u>+616</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is sixty years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.

system regarding the filing deadlines and requirements of the F-1 report; providing clarity in the process and standards for requesting a modification of reporting requirements.

Reasons Supporting Proposal: Recent statutory changes regarding the deadlines for filing F-1 reports; implementation of the new F-1 reporting system; and clarifying issues raised in reporting modification requests.

Statutory Authority for Adoption: RCW 42.17A.110, [42.17A.]120, and [42.17A.]710.

Statute Being Implemented: RCW 42.17A.120, [42.17A.]700, and [42.17A.]710.

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

Name of Proponent: Public disclosure commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Sean Flynn, 711 Capitol Way South, Suite 206, Olympia, WA, 360-753-1111; and Enforcement: Barbara Sandahl, 711 Capitol Way South, Suite 206, Olympia, WA, 360-753-1111.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

November 24, 2020  
Sean Flynn  
General Counsel

**WSR 20-24-059**

**PROPOSED RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed November 24, 2020, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-065.

Title of Rule and Other Identifying Information: Amending chapter 390-24 WAC and the filing requirements for the statement of financial affairs (F-1); and chapter 390-28 WAC regarding the process and standards for requesting reporting modifications.

Hearing Location(s): On January 28, 2021, at 9:45 a.m., at 711 Capitol Way South, Suite 206, Olympia, WA 98504. Due to COVID-19 protocol the hearing will be conducted remotely and streamed live at <https://www.youtube.com/user/WASTPDC/live>. To provide public comment via conference line during this time please call 1-360-522-2372.

Date of Intended Adoption: January 28, 2021.

Submit Written Comments to: Sean Flynn, P.O. Box 40908, email [pd@pd.wa.gov](mailto:pd@pd.wa.gov).

Assistance for Persons with Disabilities: Contact Jana Greer, phone 360-753-1111, email [pd@pd.wa.gov](mailto:pd@pd.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Addressing recent statutory changes and implementation of the new reporting

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-24-025 Time for filing statement of financial affairs.** (1) Any person holding elected public office, except as exempted by the terms of RCW 42.17A.700, and any appointed official and professional staff member listed or referenced in RCW 42.17A.700, and any appointed official required to comply with the reporting requirements of RCW 42.17A.700 by any other statute are required to file the F-1



for each partial or full calendar year that such person has served.

(a) For any elected official or officer continuing service from the prior year, the reporting period covers the entire preceding calendar year.

(b) For any officer or official who leaves public office prior to January 1st, the ~~((F-1 must))~~ reporting period covers only the portion of the previous year that such person was in office.

~~((b))~~ (c) For any officer or official appointed to office between January through November, or any person who becomes a candidate within the same time period, the ~~((F-1 filed at the time of appointment must))~~ reporting period covers the immediately preceding twelve-month period from the time of appointment or candidacy (or "from the time the F-1 was filed"). However, if the appointee or candidate files between January 1st and April 15th and also has a prior obligation to file as an officer or official under (a) of this subsection, then the reporting period covers the period from January 1st of the preceding year through the time of appointment or candidacy in the current year. For any officer or official appointed to office in December, the ~~((F-1 filed at the time of appointment must))~~ reporting period covers the preceding twelve-month period ending December 31st of the same year.

(2) Any person required to file an F-1 must electronically file the F-1 with the commission under the relevant periods as follows:

(a) For any officer or official continuing service from the prior year, between January 1st and April 15th of each year immediately following the year, or portion of the year served;

(b) ~~((As alternative to (a) of this subsection,))~~ For any officer or official who leaves office before January 1st of the following year, either:

(i) Within sixty days of leaving public office~~((, for any officer or official who leaves office before January 1st of the following year));~~ or

(ii) Between January 1st and April 15th of the year immediately following the portion of the year served; or

(c) For any person appointed to a vacancy in office, or becoming a candidate, as follows:

(i) Within two weeks of appointment ~~((for any person appointed to a vacancy in office))~~ for appointment of candidacy beginning during the months of January through November~~((;))~~; or

(ii) Between January 1st and January 15th for ~~((any person appointed to a vacancy))~~ appointment or candidacy beginning in December.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-24-100 Definition—Direct financial interest.** (1) For the purpose of RCW 42.17A.710 (1)(b), the phrase "direct financial interest" means and includes any direct ownership interest in a bank or savings account, in the cash surrender value of an insurance policy, in stocks, bonds, other securities, evidences of indebtedness, judgments, accounts receivable, and other monetary claims in liquidated amounts.

The term "direct financial interest" as used in that subsection, shall not be deemed to include:

~~((1))~~ (a) Any direct financial interest which is required to be reported by such elected official or candidate under any other provision of chapter 42.17A RCW; and

~~((2))~~ (b) An account receivable by a business entity in the ordinary course of such entity's business.

(2) A direct financial interest in stocks, bonds, or other securities held in an account managed by a commercial broker, where a third party solely (or independently) has decision-making authority of the investment, may be reported under the name and value of the account, rather than the individual properties of the portfolio.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-24-110 Definition—Debt.** (1) For the purpose of RCW 42.17A.710 (1)(c), the term "debt" means and includes a personal obligation or liability to pay or return something of value.

(2) The term "debt" as used in RCW 42.17A.710 (1)(c) shall not be deemed to include:

(a) An account payable of a business entity in the ordinary course of such entity's business; or

(b) A contractual promise as guarantor of a debt.

AMENDATORY SECTION (Amending WSR 15-01-067, filed 12/11/14, effective 1/11/15)

**WAC 390-24-150 Definition—Officer.** (1) For the purposes of RCW 42.17A.710 (1)(g) ~~((and WAC 390-24-010))~~, the term "officer" or "office held" means and includes:

(a) President, vice president, secretary, treasurer, or some derivation thereof;

(b) One who holds a corporate office; or

(c) An individual who holds a position described as an officer in a corporation's bylaws or who is appointed by the board of directors in accordance with the bylaws, or an individual who acts in such capacity without the title or appointment.

(2) An individual who has been given the title of "officer" to denote a managerial job classification is not an officer for the purposes of RCW 42.17A.710 (1)(g) ~~((and WAC 390-24-010))~~.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-24-201 Report of compensation by limited partnerships, limited liability partnerships, limited liability companies, and similar entities.** For the purposes of filing financial disclosures required by RCW 42.17A.710:

(1) The terms partnership, general partnership, limited partnership, limited liability partnership, and limited liability company as defined in Title 25 RCW will apply.

(2) ~~((Persons who have a partnership or membership in limited partnerships, limited liability partnerships, limited liability companies, and similar entities including but not limited to professional limited liability companies, shall file a personal financial affairs form (PDC F-1) as required in~~

RCW 42.17A.710, and shall also provide the information described in subsection (3) of this section:

(3)) A person filing a personal financial affairs statement shall report the name of any limited partnership, limited liability partnership, limited liability company, professional limited liability company, and similar entity in which ~~((a partnership or membership is held by))~~ the person or member of the person's immediate family ~~((, and any))~~ holds:

(a) Any office, directorship, or any general partnership interest, including the title held; and

(b) Any ownership interest of ten percent or more.

(3) In addition to the requirements under subsection (2) of this section, the person shall also report the following:

(a) Regarding a governmental unit in which the filer seeks or holds any office or position, if the entity has received compensation during the reporting period from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and

(b) The name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in the amount equal to or greater than the amount specified in WAC 390-24-010 and 390-24-020 (the F-1 reporting forms) during the reporting period and the consideration given or performed in exchange for the compensation.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-24-211 Reporting on public or private office held for the statement of financial affairs (F-1).** (1) An elected official or executive state officer is not required to report the office, directorship, or position held in a public or private office for service on a governmental board, commission, association, or functional equivalent, when such service is part of the elected official's or executive state officer's official duties.

(2) Such "official duties" may include service in an elected position of a board, commission, or association of which general membership in such organization is part of the official's or officer's official duties.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-24-020 Amending the statement of financial affairs.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-28-020 Definition—Applicant.** The term applicant for the purposes of chapter 390-28 WAC means any ~~((individual required to file a statement of financial affairs))~~ person who seeks a modification of the filing requirements pursuant to RCW 42.17A.120 and these rules.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-28-040 Hearing to modify reporting—Pre-hearing procedure and requirements.** (1) An applicant must electronically submit with the commission a request for a hearing for suspension or modification of reporting requirements ~~((The request)), unless the executive director makes an exception for an applicant who lacks the technological ability to file reports electronically. An applicant requesting a modification regarding a report filed annually including, but not limited to, the statement of financial affairs, should ((be submitted by the tenth day of the month preceding the month in which))~~ submit the application at least forty-five days before the report is due so that action on the request can be completed before the filing deadline.

(2) The request must contain (a) the required report completed to the extent possible, (b) a statement of reasons why the reporting of required information would cause a manifestly unreasonable hardship, with as much detail as possible, and (c) any relevant evidence regarding the request. (A general statement, such as "violates right of privacy" will not be deemed as sufficient compliance with this requirement.) The applicant is encouraged to also include a proposed modification to the required reporting which, in the applicant's opinion, will relieve the perceived hardship.

(3) The submission of a request for modification does not suspend the reporting requirement of any portion of chapter 42.17A RCW. The reporting obligation remains in effect unless the commission grants the request pursuant to a hearing.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-28-080 Hearing to modify reporting—Evidence, record, adverse decisions.** (1) All evidence presented at hearings held pursuant to chapter 390-28 WAC and RCW 42.17A.120 are considered to be a public record. However, if a modification of reporting requirements is requested by a filer because of a concern for personal safety that is caused by the potential disclosure of information required to be reported, upon request by the filer, the information submitted for that modification request regarding that safety concern will not be made public prior to, or at the hearing on the request for modification. In accordance with RCW 42.17A.-120, any information provided or prepared by the applicant for the modification hearing will remain exempt from public disclosure under chapters 42.17A and 42.56 RCW to the extent it is determined at the hearing that disclosure of such information would reasonably present a personal safety risk to the applicant or a member of their family. If no written order is entered based on findings pursuant to this section, then the exempted information will become available for public disclosure.

(2) Except as otherwise provided in subsection (1) of this section, there is a presumption that all hearings and evidence presented in hearing records are open to the public. Requests for closure of hearings or portions of hearings or hearing records generally will be denied. However, pursuant to RCW 34.05.449(5) and 42.17A.120, the commission or presiding

officer may close the hearing or a portion of the hearing or hearing record for a limited purpose to protect compelling interests and where closure is specifically justified if it finds that it is necessary to allow the applicant to:

(a) Provide sufficient evidence to assure that proper findings are made regarding the name of an entity the disclosure of which would likely adversely affect the competitive position of the applicant as provided in RCW 42.17A.120; or

(b) Provide other information or relevant legal authorities for which it finds a compelling interest has otherwise been shown by the applicant to close the hearing.

(3)(a) Before concluding that closure of a hearing or portion of a hearing or hearing record is warranted, the commission or presiding officer must find by clear and convincing evidence that:

(i) The applicant has satisfied a basis for seeking closure under subsection (2)(a) or (b) of this section;

(ii) An open hearing or record to report the information would present a manifestly unreasonable hardship, or personal safety risk, to the applicant;

(iii) Anyone present when the closure request is made has been given an opportunity to object to the closure;

(iv) The proposed method for closing the hearing or hearing record is the least restrictive means available for protecting the threatened interests, after considering alternatives;

(v) The commission or presiding officer has had the opportunity to weigh the competing interests of the applicant seeking closure and the public's interests;

(vi) Closing the hearing or portion of the hearing or hearing record will not frustrate the purposes of chapter 42.17A RCW; and

(vii) The proposed protective order is not broader in its application or duration than necessary to serve its purpose.

(b) All evidence presented at any portion of a closed session identifying the matters for which the applicant requests modification under these rules will be considered confidential by the commission or presiding officer pursuant to a protective order which will be entered by the commission or presiding officer unless otherwise ordered by a court of competent jurisdiction. In the event that an administrative law judge, acting as the presiding officer, determines that testimony in private may be necessary, the judge will immediately adjourn the hearing and refer the matter to the commission.

(4) Any decision or order rendered by the commission or presiding officer must be in writing or stated in the record, however any dispositive order accompanied by findings of fact and conclusions of law must be in writing. The full commission may review any order rendered by a presiding officer, pursuant to WAC 390-37-144.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

**WAC 390-28-100 Reporting modifications—Possible qualifications—Standards—Statement of financial affairs.** (1) Under RCW 42.17A.120, the commission or presiding officer may modify reporting requirements, including the statement of financial affairs, if literal application of the requirement would work a manifestly unreasonable hardship

and the suspension or modification would not frustrate the purpose of the law. One or more of the following may be considered by the commission or presiding officer as possible qualifications for a reporting modification with respect to the statement of financial affairs, when such standard is met:

(a) **Banks, savings accounts, insurance policies - Financial interests.** An applicant may be exempted from reporting any financial interest, otherwise required to be reported by RCW 42.17A.710 (1)(b) if:

(i) The financial institution or other entity in which the applicant held an interest does not engage in business in the state of Washington, or is not regulated in whole or in part by the office sought or held by the applicant;

(ii) Such reporting would present a manifestly unreasonable hardship to the applicant; and

(iii) The interest would present no actual or potential conflict with the proper performance of the duties of the office sought or held.

(b) **Income and ownership interests.** An applicant may be exempted from reporting the information otherwise required by RCW 42.17A.710 (1)(f) and (g), if:

(i) ~~((Public disclosure would violate any legally recognized confidential relationship that serves a legitimate business interest;~~

~~((ii)))~~ (ii) The information does not relate to a business entity which would be subject to the regulatory authority of the office sought or held by the applicant in whole or in part;

~~((iii)))~~ (ii) Such reporting would present a manifestly unreasonable hardship to the applicant including, but not limited to:

(A) Violating a legally recognized confidential relationship that serves a legitimate business interest, and otherwise was not formed to prevent required disclosure, although such relationship may be subject to administrative subpoena or court order to require disclosure; or

(B) Adversely affecting the competitive position of an entity in which the applicant had an interest of ten percent or more as described in RCW 42.17A.120; and

~~((iv)))~~ (iii) The interest in question would present no actual or potential conflict with the performance of the duties of the office sought or held.

(c) **Immediate family members' interests.** An applicant may be exempted from reporting the information otherwise required by RCW 42.17A.710 for members of the applicant's immediate family, if:

(i) Such information relates to a financial interest held by such member under a bona fide separate property agreement, or other bona fide separate status; and, such financial interest is not a present or prospective source of income to the applicant or to any other person who is dependent upon the applicant for support in whole or in part; or

(ii) Reporting the name of an entity in which the immediate family holds an interest of ten percent or more would be likely to adversely affect the competitive position of the entity, under RCW 42.17A.120.

(d) **Personal residence - Real property.** Regarding reporting the information otherwise required by RCW 42.17A.710 (1)(h) through (k):

~~(i) ((Under WAC 390-24-200, the filer must list the street address of each parcel, the assessor's parcel number,~~

~~the abbreviated legal description appearing on property tax statements, or the complete legal description. Each property description must be followed by the name of the county in which the property is located.~~

~~((ii))~~) No modification will be necessary if the filer describes the real property using one of the alternatives in WAC 390-24-200, plus the name of the county. Judges, prosecutors, or sheriffs may describe a personal residence in the alternative manner provided under RCW 42.17A.710(2), and WAC 390-24-200 without a modification.

~~((iii))~~ (ii) A modification will be required if the filer seeks some other means to describe reportable real property including the personal residence of the filer. The commission may consider and grant such a modification to amend the description of a residential address to the extent necessary to protect the applicant or an immediate family member who has received a threat, has obtained a no contact order, or has presented a similar personal safety concern.

(e) **Other.** An applicant may be exempted from reporting information otherwise required under RCW 42.17A.710 which would constitute a manifestly unreasonable hardship in a particular case, when the circumstances presented would not indicate any actual or potential conflict with the proper performance of the duties of the office sought or held. Examples of other common requests will be considered as follows:

(i) **Lawyers and law firms (when applicant is an incumbent or candidate and acts alone or as part of a governing body, board, or commission).** An applicant may be allowed to satisfy the reporting requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing reportable clients from whom compensation has been paid in excess of the reporting threshold as follows:

(A) The names of the business clients for whom the applicant has done legal work;

(B) Other clients of the law firm whose interests are significantly affected by the applicant's actions as an elected or appointed official or whose actions will be affected by the applicant's action should the applicant be elected whose identities become known to the applicant through any means;

(C) The names of the clients of the law firm who are listed in Martindale Hubbell, the firm's resume, website, or similar promotional materials; and

(D) Governmental clients that have done business with the law firm.

An applicant may also be required to disclose all business customers from whom compensation in excess of the reporting threshold has been received whose identities are publicized or referenced in documents open for public inspection at the courts, in administrative hearings, at proceedings conducted by public agencies, or are a matter of public knowledge in other similar public forums. Alternatively, the commission may require an applicant to report only those publicly identifiable customers of which the applicant is aware.

(ii) **Judges and former law firms.** An applicant may be allowed to satisfy the reporting requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing any required information of which the applicant is aware, ~~(when)~~ provided the applicant certifies that the applicant is

no longer able to access or has been denied access to the former law firm's client information.

The commission may apply (e)(i) of this subsection when the applicant is a nonincumbent judicial candidate who practiced law during the reporting period and who seeks a modification regarding reportable business clients of the law firm.

(ii) **Motor vehicle dealers.** An applicant may satisfy the reporting requirements of RCW 42.17A.710 (1)(g) and WAC 390-24-020 by disclosing:

(A) All purchases and leases of vehicles, and purchases of parts and services from the dealership, by the agency or jurisdiction in which the applicant seeks or holds office;

(B) Other business and governmental entities that purchased or leased ten or more vehicles from the dealership;

(C) Business customers who paid in excess of twenty thousand dollars for the purchase of parts and/or service from the dealership; and

(D) Any other governmental entity that paid the dealership in excess of the disclosure threshold established under RCW 42.17A.710 (1)(g)(ii) for the purchase of parts and/or service.

(iv) **Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.**

When an applicant is required to report the activities of an entity solely because the applicant's spouse or registered domestic partner held an office, directorship, general partnership or ownership interest in the entity and the applicant does not have direct knowledge of the information that must be reported, the applicant may be allowed to satisfy the disclosure requirements of RCW 42.17A.710 (1)(g)(ii) ~~((and WAC 390-24-020))~~ by disclosing reportable customers from whom compensation in excess of the disclosure threshold established under RCW 42.17A.710 (1)(g)(ii) has been received as follows:

(A) All payments made by the agency or jurisdiction in which the applicant seeks or holds office to the entity;

(B) The business and other governmental customers or clients of the applicant's spouse/domestic partner ~~((and of the entity))~~ of which the applicant is aware; and

(C) Any other business and other governmental customers or clients of the entity whose identities are known to the applicant and whose interests are significantly affected by the agency or jurisdiction in which the applicant seeks or holds office. The commission may apply (e)(i) through (iii) of this subsection when the applicant's spouse/domestic partner is a lawyer, judge, or motor vehicle dealer.

(2) "Bona fide separate property agreement" means an agreement or court order describing separate property in a valid:

(a) Prenuptial agreement;

(b) Separate property contract under chapter 26.09 RCW;

(c) Separate property court decree under chapter 26.09 RCW;

(d) Domestic partnership agreement under chapter 26.60 RCW;

(e) Domestic partnership agreement as part of a notice of termination under chapter 26.60 RCW; or

(f) Postnuptial agreement.

(3) "Other bona fide separate status" means a valid written agreement or court decree recognizing the separate status of the parties under state law, including their individual property that is separate under state law.

**WSR 20-24-072**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed November 24, 2020, 2:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-17-124.

Title of Rule and Other Identifying Information: The department is proposing adoption of WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic.

Hearing Location(s): On January 5, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than January 6, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., January 5, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by December 22, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed adoption of WAC 388-437-0005 will allow the department to adjust food assistance benefit issuances as provided under the Families First Coronavirus Response Act (H.R. 6201 Section 2302).

These adjustments to food benefit issuances have been in effect since March 31, 2020, under emergency rule adoptions filed as WSR 20-08-107, 20-10-048, and 20-18-029.

Reasons Supporting Proposal: The proposed rule is necessary to administer provisions of the Families First Coronavirus Response Act (H.R. 6201 Section 2302) related to the Supplemental Nutrition Assistance Program (SNAP), which support preservation of public health, safety, and general welfare through access to food assistance during the COVID-19 pandemic.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120.

Rule is necessary because of federal law, H.R. 6201 Section 2302.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ivette Dones-Figueroa, P.O. Box 45470, Olympia, WA 98504, phone 360-725-4651.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt as allowed under RCW 34.05.328 (5)(b)(iii) which states in part, "This section does not apply to ... rules adopting or incorporating by reference without material change [to] federal statutes [statutes] or regulations, Washington state statutes [statutes]...", and RCW 34.05.328 (5)(b)(vii), rules of DSHS relating only to client medical or financial eligibility.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: H.R. 6201 Section 2302. If the state does not adopt the rule it will not be able to leverage federal dollars to provide its eligible citizens with additional SNAP benefits, as provided in federal law, during the economic downturn caused by the COVID-19 pandemic.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 34.05.328(5)(b)(vii).

Explanation of exemptions: The proposed rule does not impact small businesses. It only impacts DSHS clients.

November 24, 2020  
Katherine I. Vasquez  
Rules Coordinator

NEW SECTION

**WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic.** Starting March 2020, assistance units (AUs) eligible for either federal or state-funded food assistance, or both, will receive emergency allotments that bring the AU up to the maximum benefit for their household size.

(1) The amount is the maximum food assistance benefit allotment for your AU size under WAC 388-478-0060(1) less the amount received under WAC 388-450-0162 (4)(b).

(2) Emergency allotments will continue each month until:

(a) The secretary for health and human services rescinds the public health emergency declaration that was issued on January 27, 2020, under section 319 of the Public Health Service Act;

(b) The state-issued emergency or disaster declaration expires; or

(c) The food and nutrition service directs otherwise.

(3) Emergency allotments for state-funded food assistance will continue each month, contingent on the availability of state funds.

**WSR 20-24-115**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Board of Boiler Rules)  
 [Filed December 1, 2020, 1:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-110.

Title of Rule and Other Identifying Information: Boiler rules and fee increases, chapter 296-104 WAC, Board of boiler rules—Substantive. Specifically WAC 296-104-010 Administration—What are the definitions of terms used in this chapter?, 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?, and 296-104-701 What are the civil penalties?

Hearing Location(s): On January 6, 2021, at 10:00 a.m., virtual and telephonic hearing only. Please join by either using Skype meeting at <https://meet.lync.com/walni/brjj235/K7178NVR>; or calling 1-866-715-6499. When prompted for the participant code, enter 8179639712# (pound sign must be entered). Check for more phone numbers. The virtual and telephonic hearing begins at 10:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: January 19, 2021.

Submit Written Comments to: Alicia Curry, Department of Labor and Industries (L&I), P.O. Box 44400, Olympia, WA 98504-4400, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), fax 360-902-5292, by December 29, 2020.

Assistance for Persons with Disabilities: Contacting Alicia Curry, phone 360-902-6244, fax 360-902-5292, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), by December 21, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose amendments to the boiler rules and fees. The board of boiler rules reviews the rules on a regular basis to ensure the rules are consistent with national safety standards for boilers and unfired pressure vessels, and industry practice.

The proposed rules will:

- Increase fees by the fiscal growth factor of 5.91 percent for fiscal year 2021, to support operating expenses for inspections;
- Modify the civil penalties for repairs and alterations to improve public safety by:
  - Making repair organizations of boilers and pressure vessels liable for civil penalties for violations of the boiler laws and rules;
  - Making a welded repair or alteration to a boiler or pressure vessel without meeting the procedure and filing requirements a violation; and
  - Clarifying when a violation of the procedure and filing requirements for welded repairs or alterations is a second or additional offense.
- Add a new definition for "repair organization" to clarify its meaning; and
- Correct a reference in the definition of "historical boilers and unfired pressure vessels" to align with SB 6240

(chapter 259, Laws of 2018) that passed the legislature in 2018.

Reasons Supporting Proposal: This rule making is needed to ensure that Washington's rules are clear and consistent to improve public safety, and that inspection fees will support the program's operating expenses. According to RCW 70.79.330 and 70.79.350, a fee schedule for inspections is to be set by the board of boiler rules and the fees are to be used to administer the boiler program.

Statutory Authority for Adoption: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

Statute Being Implemented: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Mike Carlson, Program Manager, Tumwater, Washington, 360-902-4983; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Alicia Curry, L&I, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed changes do not add any additional costs as all entities, including repair organizations, are required to comply with the boiler rules and regulations. Therefore, there is no additional cost in doing business. The only potential cost would be a penalty if the entity does not comply with the boiler regulations and the department issues a violation. It is anticipated any such cost (penalty) would be minor because the penalty schedule generally sets penalties at a lower level than a "minor cost" as defined in RCW 19.85.020. The probable benefits of the rule changes are greater than the probable costs in that it will encourage compliance and there is no additional cost if the entity complies with the law.

December 1, 2020

Terry Chapin  
Chair

AMENDATORY SECTION (Amending WSR 19-15-120, filed 7/23/19, effective 9/1/19)

**WAC 296-104-010 Administration—What are the definitions of terms used in this chapter? "Accident"** shall mean a failure of the boiler or unfired pressure vessel resulting in personal injury or property loss or an event which renders a boiler or unfired pressure vessel unsafe to return to operation.

**"Agriculture purposes"** shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural

state, but shall not be construed to include the processing or sale of crops or livestock.

**"Attendant"** shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

**"Automatic operation of a boiler"** shall mean automatic unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

**"Board of boiler rules"** or **"board"** shall mean the board created by law and empowered under RCW 70.79.010.

**"Boiler and unfired pressure vessel installation/reinstallation permit,"** shall mean a permit approved by the chief inspector before starting installation or reinstallation of any boiler and unfired pressure vessel within the jurisdiction of Washington.

**"Boilers and/or unfired pressure vessels"** - Below are definitions for types of boilers and unfired pressure vessels used in these regulations:

- **"Boiler/unfired pressure vessel status"** shall mean:
  - \* Active - Boilers or pressure vessels that are currently in service.
  - \* Inactive - Boilers or pressure vessels still located at the facility but are physically disconnected from the energy input and system.
  - \* Out-of-service - Boilers or pressure vessels that are no longer at the facility.
  - \* Scrapped - Boilers or pressure vessels that have been condemned as defined below.
- **"Condemned boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified for further use by legal requirements. The following procedure shall be utilized:
  - (a) The inspector will issue and follow the department's "red tag" procedure.
  - (b) The object will be immediately removed from service.
  - (c) The existing national board and state number shall be obliterated by the inspector.
  - (d) The ASME nameplate and/or stamping shall be physically removed by the owner/user and verified by the inspector.
  - (e) If required by the inspector, a portion of the pressure vessel shall be physically removed by the owner/user. This action will render the object incapable of holding pressure.
  - (f) The inspector shall document this procedure on the boiler/pressure vessel inspection report and change the object status to "scrapped."
- **"Corrosion"** shall mean the destruction or deterioration of a material, that results from a reaction with its environment.
- **"Expansion tank"** shall mean a tank used to absorb excess water pressure. Expansion tanks installed in closed water heating systems and hot water supply systems shall meet the requirements of ASME Section IV, HG-709.
- **"Historical boilers and unfired pressure vessel"** shall mean nonstandard boilers and pressure vessels including steam tractors, traction engines, hobby steam boilers, portable steam boilers, and other such boilers or pressure vessels that are preserved, restored, and maintained only for demonstration, viewing, or educational purposes. They do not include miniature hobby boilers as described in RCW ((70.79.070)) 70.79.080.
- **"Hot water heater"** shall mean a closed vessel designed to supply hot water for external use to the system.
  - \* All vessels must be listed by a nationally recognized testing agency.
  - \* Shall be protected with an approved temperature and pressure safety relief valve with the appropriate pressure and relieving capacity ratings.
  - \* The hot water heater shall not exceed any of the following limits:
    - \* Pressure of 160 psi (1100 kpa);
    - \* Temperature of 210 degrees F (99°C).
    - \* 120 gallons in capacity.
    - \* 200,000 Btu/hr (58.6 kW).
  - Additional requirements:
    - \* Hot water heaters exceeding 120 gallons (454 liters) must be ASME code stamped;
    - \* Hot water heaters exceeding 200,000 Btu/hr (58.6 kW) input must be ASME code stamped.
- **"Indirect water heater"** shall mean a closed vessel appliance used to heat water for use external to itself, which includes a heat exchanger used to transfer heat to water from an external source. The requirements and limits described above shall apply.
- **"Installer"** shall mean any entity or individual who physically or mechanically installs a boiler, pressure vessel or water heater that meets the in-service inspection requirements of this chapter. The installer is defined as a registered contractor, owner, user or designee.
- **"Low pressure boiler"** shall mean a steam boiler operating at a pressure not exceeding 15 psig or a boiler in which water is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy. Low pressure boilers open to atmosphere and vacuum boilers are excluded.

- **"Nonstandard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.
- **"Pool heaters"** shall mean a gas, oil, or electric appliance that is used to heat water contained in swimming pools, spas, and hot tubs.
  - (a) Pool heaters with energy input equivalent to 399,999 Btu/hr (117.2 kW) or less shall be manufactured and certified to ANSI Z21.56, UL1261, CSA 4.7 or equivalent manufacturing standards, as approved by the chief inspector, and are excluded from the limit and control devices requirements of WAC 296-104-300 through 296-104-303.
  - (b) Pool heaters with energy input of 400,000 Btu/hr and above shall be stamped with an ASME Section IV Code symbol, and the requirements of WAC 296-104-300 through 296-104-303 shall apply.
  - (c) Pool heaters open to the atmosphere are excluded.
    - **"Power boiler"** shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.
    - **"Reinstalled boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.
    - **"Rental boiler"** shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.
    - **"Second hand boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.
    - **"Standard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.
    - **"Unfired pressure vessel"** shall mean a closed vessel under pressure excluding:
      - \* Fired process tubular heaters;
      - \* Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
      - \* Piping whose primary function is to transport fluids from one location to another;
      - \* Those vessels defined as low pressure heating boilers or power boilers.
- **"Unfired steam boiler"** shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.
  - **"Certificate of competency"** shall mean a certificate issued by the Washington state board of boiler rules to a person who has passed the tests as set forth in WAC 296-104-050.
  - **"Certificate of inspection"** shall mean a certificate issued by the chief boiler inspector to the owner/user of a boiler or unfired pressure vessel upon inspection by an inspector. The boiler or unfired pressure vessel must comply with rules, regulations, and appropriate fee payment shall be made directly to the chief boiler inspector.
  - **"Code, API-510"** shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.
  - **"Code, ASME"** shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with addenda thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.
  - **"Code, NBIC"** shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.
  - **"Commission"** shall mean an annual commission card issued to a person in the employ of Washington state, an insurance company or a company owner/user inspection agency holding a Washington state certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.
  - **"Department"** as used herein shall mean the department of labor and industries of the state of Washington.
  - **"Director"** shall mean the director of the department of labor and industries.
  - **"Domestic and/or residential purposes"** shall mean serving a private residence or an apartment house of less than six families.
  - **"Existing installations"** shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.
  - **"Inspection certificate"** see "certificate of inspection."
  - **"Inspection, external"** shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.
  - **"Inspection, internal"** shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open



or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels less than 36" inside diameter shall constitute an internal inspection.

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

- "Chief inspector" shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.
- "Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.
- "Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"Jacketed steam kettle" shall mean a pressure vessel with inner and outer walls that is subject to steam pressure and is used to boil or heat liquids or to cook food. Jacketed steam kettles with a total volume greater than or equal to one and one-half cubic feet (11.25 gallons) shall be ASME code stamped.

(a) "Unfired jacketed steam kettle" is one where the steam within the jacket's walls is generated external to itself, such as from a boiler or other steam source.

(b) "Direct fired jacketed steam kettle" is a jacketed steam kettle having its own source of energy, such as gas or electricity for generating steam within the jacket's walls.

"Nationwide engineering standard" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"Operating permit" see "certificate of inspection."

"Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"Owner/user inspection agency" shall mean an owner or user of boilers and/or pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"Place of public assembly" or "assembly hall" shall mean a building or portion of a building used for the gathering together of fifty or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing homes, and assisted living facilities that provide housing and basic services for seven or more residents.

"Repair organization" shall mean an organization in possession of a valid "Certificate of Authorization" from the National Board of Boiler and Pressure Vessel Inspectors, to use the "R" symbol stamp for repair and/or alteration to pressure retaining items within their scope of authority.

"Special design" shall mean a design using nationally or internationally recognized engineering standards other than the codes adopted in WAC 296-104-200.

AMENDATORY SECTION (Amending WSR 20-06-058, filed 3/3/20, effective 4/3/20)

**WAC 296-104-700 What are the inspection fees— Examination fees—Certificate fees—Expenses?** The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

The boiler and pressure vessel installation/reinstallation permit fee of (~~(\$59.00)~~) **\$62.40** shall be paid by the installer, as defined in WAC 296-104-010.

Certificate of inspection fees: For objects inspected, the certificate of inspection fee per object is (~~(\$25.40)~~) **\$26.90**.

Hot water heaters per RCW 70.79.090, inspection fee: (~~(\$7.70)~~) **\$8.10**.

The department shall assess a \$7.00 fee, per object, for processing of jurisdictional inspection reports to any authorized in-service inspection agency or inspector who does not file the report directly into the department's electronic inspection report system.

Heating boilers:	Internal	External
Cast iron—All sizes	<del>(\$42.90)</del>	<del>(\$34.30)</del>
	<u>\$45.40</u>	<u>\$36.30</u>
All other boilers less than 500 sq. ft.	<del>(\$42.90)</del>	<del>(\$34.30)</del>
	<u>\$45.40</u>	<u>\$36.30</u>
500 sq. ft. to 2500 sq. ft.	<del>(\$85.80)</del>	<del>(\$42.90)</del>
	<u>\$90.80</u>	<u>\$45.40</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>(\$34.30)</del>	<del>(\$16.80)</del>
	<u>\$36.30</u>	<u>\$17.70</u>
Power boilers:	Internal	External
Less than 100 sq. ft.	<del>(\$42.90)</del>	<del>(\$34.30)</del>
	<u>\$45.40</u>	<u>\$36.30</u>
100 sq. ft. to less than 500 sq. ft.	<del>(\$52.00)</del>	<del>(\$34.30)</del>
	<u>\$55.00</u>	<u>\$36.30</u>
500 sq. ft. to 2500 sq. ft.	<del>(\$85.80)</del>	<del>(\$42.90)</del>
	<u>\$90.80</u>	<u>\$45.40</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>(\$34.30)</del>	<del>(\$16.80)</del>
	<u>\$36.30</u>	<u>\$17.70</u>
Pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.	Internal	External
Less than 15 sq. ft.	<del>(\$34.30)</del>	<del>(\$25.40)</del>
	<u>\$36.30</u>	<u>\$26.90</u>
15 sq. ft. to less than 50 sq. ft.	<del>(\$50.90)</del>	<del>(\$25.40)</del>
	<u>\$53.90</u>	<u>\$26.90</u>
50 sq. ft. to 100 sq. ft.	<del>(\$59.40)</del>	<del>(\$34.30)</del>
	<u>\$62.90</u>	<u>\$36.30</u>
For each additional 100 sq. ft. or any portion thereof	<del>(\$59.30)</del>	<del>(\$16.80)</del>
	<u>\$62.80</u>	<u>\$17.70</u>

Nonnuclear shop inspections, field construction inspections, and special inspection services:

- For each hour or part of an hour up to 8 hours ~~(((\$52.00))~~ \$55.00
- For each hour or part of an hour in excess of 8 hours ~~(((\$77.60))~~ \$82.10

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

- For each hour or part of an hour up to 8 hours ~~(((\$77.60))~~ \$82.10
- For each hour or part of an hour in excess of 8 hours ~~(((\$121.50))~~ \$128.60

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:

- For each hour or part of an hour up to 8 hours ~~(((\$52.00))~~ \$55.00
- For each hour or part of an hour in excess of 8 hours ~~(((\$77.60))~~ \$82.10

When insurance company is authorized inspection agency:

- For each hour or part of an hour up to 8 hours ~~(((\$77.60))~~ \$82.10
- For each hour or part of an hour in excess of 8 hours ~~(((\$121.50))~~ \$128.60

Examination fee: A fee of ~~(((\$96.10))~~ \$101.70 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: A fee of ~~(((\$51.90))~~ \$54.90 for initial work card. A fee of ~~(((\$32.20))~~ \$34.10 for annual renewal.

If a special inspector changes companies: A work card fee of ~~(((\$51.90))~~ \$54.90.

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Requests for Washington state specials and extensions of inspection frequency: For each vessel to be considered by the board, a fee of ~~(((\$483.60))~~ \$512.10 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

AMENDATORY SECTION (Amending WSR 18-01-113, filed 12/19/17, effective 1/31/18)

**WAC 296-104-701 What are the civil penalties? (1)**

An installer, owner, user, ~~((or))~~ operator, or repair organization of a boiler or pressure vessel that violates a provision of chapter 70.79 RCW, or of the rules adopted under that chapter, is liable for a civil penalty based on the following schedule.

Operating under pressure a boiler or pressure vessel which the department has condemned, has issued a red tag or has suspended the inspection certificate:

- First offense . . . . . \$150.00
- Second offense . . . . . \$300.00
- Each additional offense . . . . . \$500.00

Each day of such unlawful operation shall be deemed a separate offense.

Operating under pressure a boiler or pressure vessel without a valid inspection certificate:

- First offense . . . . . \$50.00
- Second offense . . . . . \$100.00
- Each additional offense . . . . . \$200.00

Each day of such unlawful operation shall be deemed a separate offense.

Installation of a boiler or pressure vessel without meeting prior filing requirements of WAC 296-104-020:

- First offense . . . . . \$100.00
- Second offense . . . . . \$200.00
- Each additional offense . . . . . \$500.00

Performing a welded repair or alteration to a boiler or unfired pressure vessel, ~~((involving welding to a pressure retaining part,))~~ without meeting the filing and procedural requirements of WAC ~~((296-104-502))~~ 296-104-503:

- First offense . . . . . \$150.00
- Second offense . . . . . \$300.00
- Each additional offense . . . . . \$500.00

~~((Performing an alteration to a boiler or pressure vessel without meeting requirements of WAC 296-104-502:~~

- ~~First offense . . . . . \$150.00~~
- ~~Second offense . . . . . \$300.00~~
- ~~Each additional offense . . . . . \$500.00))~~

A violation will be a second or additional offense only if it occurs within one calendar year from the first violation.

Performing resetting, repair or restamping of safety valves, safety relief valves, or rupture discs, without meeting requirements of WAC 296-104-520:

First offense . . . . .	\$150.00
Second offense . . . . .	\$300.00
Each additional offense . . . . .	\$500.00
Failure of owner to notify chief inspector in case of accident which serves to render a boiler or unfired pressure vessel inoperative, as required by WAC 296-104-025:	
Each offense . . . . .	\$100.00
Failure to comply with a noncompliance report requirement:	
Within 90 days . . . . .	\$100.00
Within 91-180 days . . . . .	\$250.00
Within 181-270 days . . . . .	\$400.00
Within 271-360 days . . . . .	\$500.00

(2) The inspection agency responsible for the in-service inspector of a boiler or unfired pressure vessel that violates a provision of chapter 296-104 WAC, or the rules adopted under that chapter, is liable for a civil penalty based on the following schedule.

Failure to file a report of inspection per WAC 296-104-040:

Each offense . . . . .	\$50.00
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Failure to apply a state serial number per WAC 296-104-140:

Each offense . . . . .	\$50.00
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Failure to attach a "Red TAG" per WAC 296-104-110:

Each offense . . . . .	\$50.00
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Each object (boiler or unfired pressure vessel) is considered a separate offense.

(3) The department shall by certified mail notify a person of its determination that the person has violated this section.

(4) Any person aggrieved by an order or act under the boiler and unfired pressure vessels law or under the rules and regulations may appeal to the board of boiler rules. This appeal shall be filed within twenty days after service of the notice of the penalty to the assessed party by filing a written notice of appeal with the chief boiler inspector per RCW 70.79.361.

(5) Each day that a violation occurs will be a separate offense. A violation will be a second or additional offense only if it occurs within one year from the first violation.

Preproposal statement of inquiry was filed as WSR 20-18-097.

Title of Rule and Other Identifying Information: WAC 182-550-3800 Rebasing.

Hearing Location(s): On January 5, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To attend the virtual public hearing, you must register at the following link: <https://attendee.gotowebinar.com/register/4755918165672449039>, Webinar ID: 186-501-491. After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than January 6, 2021.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by January 5, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), by December 18, 2021 [2020].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is being amended to increase psychiatric per diem rates for community hospitals that serve patients in long-term inpatient psychiatric care.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; ESSB 6168, section 215 (24)(b), chapter 357, Laws of 2020.

Statute Being Implemented: RCW 41.05.021, 41.05.160; ESSB 6168, section 215 (24)(b), chapter 357, Laws of 2020.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Abigail Cole, P.O. Box 45510, Olympia, WA 98504-5510, 360-725-1835.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

**WSR 20-24-116**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
 [Filed December 1, 2020, 1:52 p.m.]

Original Notice.

December 1, 2020  
 Wendy Barcus

## Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 18-12-043, filed 5/30/18, effective 7/1/18)

**WAC 182-550-3800 Rebasing.** The medicaid agency redesigns (rebases) the medicaid inpatient payment system as needed. The base inpatient conversion factor and per diem rates are only updated during a detailed rebasing process, or as directed by the state legislature. Inpatient payment system factors such as the ratio of costs-to-charges (RCC), weighted costs-to-charges (WCC), and administrative day rate are rebased on an annual basis. As part of the rebasing, the agency does all of the following:

(1) Gathers data. The agency uses the following data resources considered to be the most complete and available at the time:

(a) One year of fee-for-service (FFS) paid claim data from the agency's medicaid management information system (MMIS). The agency excludes:

(i) Claims related to state programs and paid at the Title XIX reduced rates from the claim data; and

(ii) Critical access hospital claims paid per WAC 182-550-2598; and

(b) The hospital's most current medicare cost report data from the health care cost report information system (HCRIS) maintained by the Centers for Medicare and Medicaid Services (CMS). If the hospital's medicare cost report from HCRIS is not available, the agency uses the medicare cost report provided by the hospital.

(c) FFS and managed care encounter data.

(2) Estimates costs. The agency uses one of two methods to estimate costs. The agency may perform an aggregate cost determination by multiplying the ratio of costs-to-charges (RCC) by the total billed charges, or the agency may use the following detailed costing method:

(a) The agency identifies routine and ancillary cost for operating capital, and direct medical education cost components using different worksheets from the hospital's medicare cost report;

(b) The agency estimates costs for each claim in the dataset as follows:

(i) Accommodation services. The agency multiplies the average hospital cost per day reported in the medicare cost report data for each type of accommodation service (e.g., adult and pediatric, intensive care unit, psychiatric, nursery) by the number of days reported at the claim line level by type of service; and

(ii) Ancillary services. The agency multiplies the RCC reported for each ancillary type of services (e.g., operating room, recovery room, radiology, laboratory, pharmacy, or clinic) by the allowed charges reported at the claim line level by type of service; and

(c) The agency uses the following standard cost components for accommodation and ancillary services for estimating costs of claims:

(i) Routine cost components:

(A) Routine care;

(B) Intensive care;

(C) Intensive care-psychiatric;

(D) Coronary care;

(E) Nursery;

(F) Neonatal ICU;

(G) Alcohol/substance abuse;

(H) Psychiatric;

(I) Oncology; and

(J) Rehabilitation.

(ii) Ancillary cost components:

(A) Operating room;

(B) Recovery room;

(C) Delivery/labor room;

(D) Anesthesiology;

(E) Radio, diagnostic;

(F) Radio, therapeutic;

(G) Radioisotope;

(H) Laboratory;

(I) Blood administration;

(J) Intravenous therapy;

(K) Respiratory therapy;

(L) Physical therapy;

(M) Occupational therapy;

(N) Speech pathology;

(O) Electrocardiography;

(P) Electroencephalography;

(Q) Medical supplies;

(R) Drugs;

(S) Renal dialysis/home dialysis;

(T) Ancillary oncology;

(U) Cardiology;

(V) Ambulatory surgery;

(W) CT scan/MRI;

(X) Clinic;

(Y) Emergency;

(Z) Ultrasound;

(AA) NICU transportation;

(BB) GI laboratory;

(CC) Miscellaneous; and

(DD) Observation beds.

(3) Specifies resource use with relative weights. The agency uses national relative weights designed by 3M™ Corporation as part of its all-patient refined-diagnostic related group (APR-DRG) payment system. The agency periodically reviews and determines the most appropriate APR-DRG grouper version to use.

(4) Calculates base payment factors. The agency calculates the average, or base, DRG conversion factor and per diem rates. The base is calculated as the maximum amount that can be used, along with all other payment factors and adjustments described in this chapter. The agency models the rebased system to be budget neutral on a prospective basis, including global adjustments to the budget target determined by the agency. The agency ensures that base DRG conversion factors and per diem rates are sufficient to support economy, efficiency, and access to services for medicaid recipients. The agency will publish base rate factors on its website.

(5) To maintain budget neutrality, the agency makes global adjustments as needed.

(a) Claims paid under the DRG, rehab per diem, and detox per diem payment methods were reduced to support an

estimated three million five hundred thousand dollar increase in psychiatric payments to acute hospitals.

(b) Claims for acute hospitals paid under the psychiatric per diem method were increased by a factor to inflate estimated system payments by three million five hundred thousand dollars.

(c) Effective for dates of admission on and after October 1, 2017, the agency increased psychiatric per diem rates as directed by the legislature. The increase applies to any hospital with two hundred or more psychiatric bed days.

(i) The agency prioritized the increase for hospitals not currently paid based on provider-specific costs using a similar methodology to set rates for existing inpatient facilities utilizing cost report information for hospital fiscal years ending in 2016.

(ii) The distribution of funds for each fiscal year is as follows:

(A) Free-standing psychiatric hospitals receive 68.15 percent of the statewide average cost per day.

(B) All other hospitals receive the greater of 78.41 percent of their provider-specific cost, or their current medicaid psychiatric per diem rate.

(iii) The agency set the increased rates to assure that the distribution of funds does not exceed the amounts provided by the legislature.

(iv) The agency conducts annual reviews for updated cost information to determine whether new and existing providers meet the two hundred or more bed criteria.

(v) The agency will apply the same cost percentage criteria for future rebasing of the psychiatric per diem rates.

(6) Effective July 1, 2020, through June 30, 2021, the agency sets psychiatric per diem rates specific to long-term civil commitments separately from other psychiatric per diem rates.

(a) In order to qualify for a provider-specific long-term civil commitment psychiatric per diem, the provider must be contracted with the agency to provide long-term civil commitment beds.

(b) The agency sets the provider-specific rate at the time of contracting.

(c) The agency sets the rate as follows:

(i) For a hospital that has a medicare cost report on file with the agency for the most recent filing year, the rate is set using hospital specific costs or nine hundred forty dollars, whichever is greater.

(ii) For a hospital that does not have a medicare cost report on file with the agency, the rate is set using the average of all in-state long-term psychiatric per diem rates based on provider type or the hospital's current short-term psychiatric per diem rates, whichever is greater.

(d) The agency sets the rates so as to not exceed the amounts appropriated by the legislature.

(7) Determines provider specific adjustments. The following adjustments are applied to the base factor or rate established in subsection (4) of this section:

(a) Wage index adjustments reflect labor costs in the cost-based statistical area (CBSA) where a hospital is located.

(i) The agency determines the labor portion by multiplying the base factor or rate by the labor factor established by medicare; then

(ii) The amount in (a)(i) of this subsection is multiplied by the most recent wage index information published by CMS at the time the rates are set; then

(iii) The agency adds the nonlabor portion of the base rate to the amount in (a)(ii) of this subsection to produce a hospital-specific wage adjusted factor.

(b) Indirect medical education factors are applied to the hospital-specific base factor or rate. The agency uses the indirect medical education factor established by medicare on the most currently available medicare cost report that exists at the time the rates are set; and

(c) Direct medical education amounts are applied to the hospital-specific base factor or rate. The agency determines a percentage of direct medical education costs to overall costs using the most currently available medicare cost report that exists at the time the rates are set.

~~((7))~~ (8) The final, hospital-specific rate is calculated using the base rate established in subsection (4) of this section along with any applicable adjustments in subsections ~~((5))~~ (6) and ~~((6))~~ (7) of this section.

## WSR 20-24-119

### PROPOSED RULES

#### STATE BOARD OF HEALTH

[Filed December 2, 2020, 8:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-24-016.

Title of Rule and Other Identifying Information: Chapter 246-680 WAC, Prenatal tests—Congenital and heritable disorders, the state board of health (SBOH) is proposing rules to align the prenatal screening and diagnostic tests that are considered medically necessary, and align with current national standards of care and current best practices. The screening and diagnostic tests in this rule are required to be included by certain insurers when authorizing requests or claims for prenatal screening or diagnosis without the requirement of a case-by-case determination.

Hearing Location(s): On January 13, 2021, at 11:30 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the SBOH will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical space, will be held instead. Board member, presenters, and staff will all participate remotely. The public may login using a computer or device, or call-in using a phone to listen to the meeting through the GoToWebinar application. The public may submit verbal comments during the specified rules hearing segment. To access the meeting online and register: <https://attendee.gotowebinar.com/register/5800879722876316428>. You can also dial-in and listen/observe only using your phone: Call: +1 (415) 655-0060, Access Code: 750-060-889.

Date of Intended Adoption: January 13, 2021.

Submit Written Comments to: Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, email <https://fortress.wa.gov/doh/policyreview>, by January 6, 2021.

Assistance for Persons with Disabilities: Contact Samantha Pskowski, phone 360-789-2358, TTY 711, email [samantha.pskowski@sboh.wa.gov](mailto:samantha.pskowski@sboh.wa.gov), by January 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the board's existing rules setting forth prenatal screenings and diagnostic tests to be covered by certain payers without a case by case determination, to align with current clinical standards and best practices. The board's rule was most recently updated in 2003, and since such time, new screenings and diagnostics have become available and standards of practice have been revised. This proposal would increase access to certain prenatal screening and diagnostic testing for pregnant individuals.

Reasons Supporting Proposal: There have been many advances in prenatal screening over the years. These newer procedures offer better detection rates for birth defects or genetic conditions, as well as lower false positive rates. The purpose of the proposed rule is to continue to ensure equity for accessing prenatal screening and diagnostic services for women that choose them and to bring the rule into alignment with national standards of care and current best practices.

In 1988, the Washington state legislature passed legislation that (1) required healthcare providers treating pregnant women to inform them about the availability of prenatal screening and testing options (RCW 70.54.220); (2) required multiple payers to cover such services (RCW 48.21.244, 48.44.344 and 48.46.375); and (3) placed limitations on certain payers to ensure they did not cancel, reduce, or alter coverage provided solely based on results of a prenatal test (RCW 48.42.090). The board has the authority to establish standards in rule for screening and diagnostic procedures during pregnancy when those services are determined to be medically necessary. The regulations were written to eliminate the coercive and unethical practices of some payers who offered to cover the costs of prenatal screening and diagnostic procedures only if patients signed an agreement that they would terminate the pregnancy if an abnormality was found.

All pregnancies have a three to five percent risk for a birth defect and may be at an additional risk for genetic disorders. Prenatal tests are available to provide information about some of these risks and can help improve health outcomes. Prenatal screening and diagnostic testing can have a significant impact on pregnancies at risk for a genetic condition or birth defect by: (a) Enabling early diagnosis or preventative approaches to reduce the amount of resources needed for postnatal diagnosis of symptomatic children; (b) providing an opportunity to initiate appropriate health care services and interventions as soon as possible to improve the health of children and their families; and (c) informing couples about health risks to current and future pregnancies to empower them to make informed pregnancy related health decisions.

Statutory Authority for Adoption: RCW 43.20.050, 48.21.244, 48.44.344, 48.46.375, and 70.54.220.

Statute Being Implemented: RCW 70.54.220, 43.20.050, 48.44.344, 48.21.244, and 48.46.375.

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

Name of Proponent: SBOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Samantha Pskowski, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-789-2358.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-789-2358, TTY 711, email [samantha.pskowski@sboh.wa.gov](mailto:samantha.pskowski@sboh.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The cost threshold for the industry of direct health and medical insurance carriers is \$216,158.22. It has been determined that there are no small businesses in the direct health and medical insurance carriers industry and therefore this proposal does not require a small business economic impact statement, however it has been determined through the following that the proposed rule does exceed the average cost threshold for this industry.

To calculate the total cost of the rule, first an estimated population of those who will utilize the expanded prenatal screening and diagnostic testing must be determined. To estimate this population, first the total population covered under health coverage subject to this rule was estimated using available state and national data. In 2018, fifty two percent of Washingtonians were covered by an employer-sponsored plan. A 2011 report estimated that fifty six percent of Washingtonians covered under employer plans were in self-funded plans, not subject to this rule ([https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Documents/EBRI\\_Notes\\_11\\_Nov-12.Slf-Insrd1.pdf](https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Documents/EBRI_Notes_11_Nov-12.Slf-Insrd1.pdf)).

Using the estimated population of Washington state in 2018 (7,524,000) this would include approximately 1,721,491 individuals in employer sponsored plans applicable to this rule, with an additional 451,440 individuals in nongroup plans subject to the rules. Using a per capita rate of 1,376 pregnancies per 100,000 residents (103,557 pregnancies/7,524,000 population \* 100,000), it can be estimated there would be 29,900 pregnancies annually in the population subject to this rule; (2,172,931 total population/100,000) \* 1,376.

We do not have a way of knowing how many women will utilize each prenatal screening or diagnostic test. To estimate the number of tests for the estimated population above, we assume one for the number of births in 2018 with prenatal care in the first or second trimester was used as the base population. Using a 2014 study showing the percent of women who opt-in to prenatal screening when receiving care standards, the base population was multiplied by 12.3% (Kuppermann M, Pena S, Bishop JT, et al. Effect of Enhanced Information, Values Clarification, and Removal of Financial Barriers on Use of Prenatal Genetic Testing: A Randomized Clinical Trial. JAMA. 2014;312(12):1210-1217. doi:10.1001/jama.2014.11479). This resulted in an estimated 12,106

individuals receiving prenatal screenings and diagnostic testing (98,428 \* 0.123). Because we are unable to determine how many individuals would receive each individual test, this entire population was assumed to receive each test.

The cost of expanding access to certain prenatal screenings and diagnostic testing has been determined to be approximately \$41,704,842. We do not have a way of knowing how many of the individual tests will be funded by an individual insurer, so we estimate an even distribution across the sixty-eight entities. Therefore, we calculated an average cost per entity to be \$613,306.50 (total cost to industry/total entities).

December 1, 2020  
Michelle A. Davis  
Executive Director

AMENDATORY SECTION (Amending WSR 03-11-031, filed 5/15/03, effective 6/15/03)

**WAC 246-680-010 Definitions.** ~~((For the purpose of this chapter, the following definitions apply:~~

~~(1) "Department" means the Washington state department of health.~~

~~(2) "Health care providers" means persons licensed or certified by the state of Washington under Title 18 RCW to provide prenatal care or to practice medicine and qualified genetic counselors.~~

~~(3) "Prenatal carrier testing" means a procedure to remove blood or other tissue from one or both parents in order to perform laboratory analysis to establish chromosome constitution or genetic carrier status of the parents.~~

~~(4)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:~~

~~(1) "Amniocentesis" means a procedure to remove a small amount of amniotic fluid from the uterus of a pregnant woman in order to perform one or more of the following laboratory tests:~~

~~(a) Measure the level of alpha-fetoprotein;~~

~~(b) Measure the level of acetylcholinesterase;~~

~~(c) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(d) Biochemical studies on fetal cells or amniotic fluid;~~

~~(e) Deoxyribonucleic acid (DNA) studies on fetal cells for single gene disorders or fetal genotyping for isoimmunization studies; and~~

~~(f) Infectious disease studies.~~

~~(2) "Carrier screening" means a procedure to remove blood or other tissue from one or both parents in order to perform laboratory analysis to establish chromosome constitution or recessive or X-linked genetic carrier status of the parents.~~

~~(3) "Chorionic villus sampling" means a procedure to remove a small number of cells from the developing placenta, in order to perform one or more of the following laboratory tests:~~

~~(a) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(b) Biochemical studies on placental cells; and~~

~~(c) DNA studies on placental cells for single gene disorders.~~

~~(4) "Maternal hepatitis B surface antigen (HBsAg) screening" means a procedure involving obtaining blood from a pregnant woman to test for maternal hepatitis B infection.~~

~~(5) "Maternal serum marker screening" means a procedure involving obtaining blood from a pregnant woman in order to measure through laboratory tests the level of certain products that are associated with increased risks to the fetus or pregnancy such as alpha-fetoprotein, unconjugated estriol, human gonadotropin, inhibin, or PAPP-A.~~

~~(6) "Percutaneous umbilical blood sampling" means a procedure to obtain blood from the fetus, in order to perform one or more of the following laboratory tests:~~

~~(a) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH);~~

~~(b) Viral titer studies;~~

~~(c) Fetal blood typing for isoimmunization studies;~~

~~(d) Prenatal diagnostic tests for hematological disorders;~~

~~(e) DNA studies on fetal cells for single gene disorders;~~  
~~and~~

~~(f) Biochemical studies on fetal blood.~~

~~(7) "Postprocedure genetic counseling" means individual counseling that may be part of another procedure or service involving a health care provider and a pregnant woman with or without other family members, to discuss the results of the prenatal tests done, any further testing or procedures available or referrals for further consultation or counseling.~~

~~(8) "Prenatal cell free DNA screening," sometimes called noninvasive prenatal screening, means drawing blood from the mother to perform laboratory analysis on the cell free DNA circulating in the maternal blood stream.~~

~~(9) "Prenatal test" means any test to ((predict)) screen for or diagnose congenital or heritable disorders ((that may harm or endanger the health, safety, or welfare of members of the public if improperly utilized and includes preprocedure and postprocedure genetic counseling, laboratory tests, and procedures as follows:~~

~~(a) Maternal serum marker screening is a procedure involving obtaining blood from a pregnant woman during the fifteenth to twenty-second week of gestation, in order to measure through laboratory tests the level of certain analytes that are associated with increased risks to the fetus or pregnancy such as alpha-fetoprotein, unconjugated estriol, human gonadotropin, inhibin, and/or PAPP-A.~~

~~(b) Maternal hepatitis B surface antigen (HBsAg) screening is a procedure involving obtaining blood from a pregnant woman during the first trimester of pregnancy to test for maternal hepatitis B infection. HBsAg screening should be repeated during the last trimester of pregnancy if a woman is at high risk for hepatitis B infection.~~

~~(c) Group B strep screening per vaginorectal culture at 35-37 weeks gestation is used to screen pregnant women for Group B strep colonization. The swab culture specimen must be grown in selective broth media.~~

~~(d) Amniocentesis is a procedure performed after fourteen weeks of gestation to remove a small amount of amniotic~~

fluid from the uterus of a pregnant woman, in order to perform one or more of the following laboratory tests:

- (i) Measure the level of alpha-fetoprotein;
- (ii) Measure the level of acetylcholinesterase;
- (iii) Cytogenetic studies on fetal cells including fluorescent in-situ hybridization (FISH) if indicated;
- (iv) Biochemical studies on fetal cells or amniotic fluid;
- (v) Deoxyribonucleic Acid (DNA) studies on fetal cells including fetal genotyping for isoimmunization studies; and
- (vi) Infectious disease studies.

(e) Chorionic villus sampling is a procedure performed from ten to twelve weeks of gestation to remove a small amount of cells from the developing placenta, in order to perform one or more of the following laboratory tests:

- (i) Cytogenetic studies on fetal cells including fluorescent in-situ hybridization (FISH) if indicated;
- (ii) Biochemical studies on fetal cells; and
- (iii) DNA studies on fetal cells.

(f) Percutaneous umbilical cord blood sampling is a procedure performed typically after fifteen weeks of gestation to obtain blood from the fetus, in order to perform one or more of the following laboratory tests:

- (i) Cytogenetic studies including fluorescent in-situ hybridization (FISH) if indicated;
- (ii) Viral titer studies;
- (iii) Fetal blood typing for isoimmunization studies;
- (iv) Prenatal diagnostic tests for hematological disorders;

(v) DNA studies on fetal cells;

(vi) Biochemical studies on fetal blood.

(g) of a fetus.

(10) "Prenatal ultrasonography ((is))" means a procedure ((performed at any time during pregnancy)) resulting in visualization of the uterus, the placenta, the fetus, and internal structures through use of sound waves.

((H)) (11) "Preprocedure genetic counseling" means individual counseling((which)) that may be part of another procedure or service, involving a health care provider ((or a qualified genetic counselor under the direction of a physician)) and a pregnant woman with or without other family members, to assess and identify increased risks for congenital abnormalities or pregnancy complications, offer specific carrier screening or diagnostic tests, discuss the purposes, risks, accuracy, and limitations of a prenatal testing procedure, aid in decision making and to assist in obtaining the desired testing or procedure.

((i)) "Postprocedure genetic counseling" means, when test results are available, individual counseling, which may be part of another procedure or service, involving a health care provider or a qualified genetic counselor under the direction of a physician and a pregnant woman with or without other family members, to discuss the results of the prenatal tests done, any further testing or procedures available and/or referrals for further consultation or counseling.

(j) "Qualified genetic counselor" means an individual eligible for certification or certified as defined by the American Board of Medical Genetics, Inc., or the American Board of Genetic Counseling.)

AMENDATORY SECTION (Amending WSR 03-11-031, filed 5/15/03, effective 6/15/03)

**WAC 246-680-020 Board of health standards for screening and diagnostic tests during pregnancy.** (1) For the purpose of RCW 48.21.244, 48.44.344, and 48.46.375, the following are standards of medical necessity for insurers, health care service contractors, and health maintenance organizations to use when authorizing requests or claims for prenatal screening ((and/or)) or diagnosis without the requirement of a case-by-case determination and including preprocedure and postprocedure genetic counseling:

(a) Maternal serum marker screening for all pregnant women at the beginning of prenatal care if initiated before the ((twentieth)) twenty-second completed week of gestation.

(b) Maternal hepatitis B surface antigen (HBsAg) screening for all pregnant women during the first trimester of pregnancy and the last trimester of pregnancy if the woman is at high risk for hepatitis B infection.

(c) ((Information about Group B strep should be provided to all pregnant women, including the risk to the newborn, if the woman is identified through screening as potentially colonized with Group B strep.)) Group B strep screening ((is done)) through prenatal vaginorectal cultures((, although specific clinical indicators may preclude screening)) at thirty-five to thirty-seven weeks of gestation. Pregnant women who are currently colonized with Group B strep, or who have unknown Group B strep status should receive intrapartum treatment in accordance with the current standard of practice in order to reduce risk to the newborn.

(d) Prenatal ultrasonography:

(i) During the first trimester to establish viability, gestational age, and determine if singleton or multiple births; and

(ii) During second trimester for fetal morphology.

(e) Additional prenatal ultrasonography can be done at any time during a pregnancy if one or more of the following criteria are met:

(i) A woman is undergoing amniocentesis, chorionic villus sampling, ((or)) percutaneous umbilical ((cord)) blood sampling, or fetal tissue biopsy;

(ii) The results of a maternal serum marker screening or prenatal cell free DNA test indicate an increased risk to the fetus or pregnancy;

(iii) ((A woman or the biological father of the fetus has a personal or family history of a congenital abnormality detectable by prenatal ultrasound;

(iv)) There is an increased risk of a congenital abnormality ((is present)) due to:

(A) An environmental exposure ((including maternal exposure to alcohol; or

(v));

(B) A medical evaluation indicates the possibility of polyhydramnios ((or)), oligohydramnios, or poor or accelerated fetal growth; or

(C) A personal or family history of a congenital abnormality that is potentially detectable by prenatal ultrasound.

((e)) (f) Amniocentesis ((if one or more of the following criteria are met:

(i) A woman is thirty-five years of age or older at the time of delivery;



~~(ii) A woman or the biologic father of the fetus has a previous child or fetus with a chromosomal abnormality or other prenatally diagnosable disorder;~~

~~(iii) A woman or the biologic father of the fetus has a family history that includes birth defects or developmental delays;~~

~~(iv) A woman or the biologic father of the fetus is a carrier of a chromosomal rearrangement;~~

~~(v) A woman and/or the biologic father of the fetus are carriers of, or affected with, a prenatally diagnosable inherited disorder;~~

~~(vi) The results of a maternal serum marker screening test indicate an increased risk to the pregnancy or fetus;~~

~~(vii) A woman has a documented history of three or more miscarriages of unknown cause when circumstances prevent parental chromosomal testing;~~

~~(viii) There is an ultrasound diagnosis of fetal anomaly;~~

~~(ix) A medical evaluation indicates an increased risk of fetal infection;~~

~~(x) Fetal blood studies are indicated for isoimmunization studies or therapy.~~

~~(f)) after fourteen weeks of gestation.~~

~~(g) Chorionic villus sampling ((with preprocedure and postprocedure genetic counseling if one or more of the following criteria are met:~~

~~(i) A woman is thirty-five years of age or older at the time of delivery;~~

~~(ii) A woman or the biologic father of the fetus has a previous child or fetus with a chromosomal abnormality or other prenatally diagnosable inherited disorder;~~

~~(iii) A woman or the biologic father of the fetus is a carrier of a chromosomal rearrangement;~~

~~(iv) A woman or the biologic father of the fetus is a carrier of, or affected with, a prenatally diagnosable inherited disorder;~~

~~(v) A woman has a documented history of three or more miscarriages of unknown cause when circumstances prevent parental chromosomal testing; or~~

~~(vi) Fetal genotyping is indicated to determine risks for isoimmunization:~~

~~(g)) between ten and fourteen weeks of gestation.~~

~~(h) Fetal diagnostic testing including:~~

~~(i) Cytogenetic studies on fetal cells including chromosome analysis, cytogenomic microarray analysis (CMA), and fluorescent in-situ hybridization (FISH) ((if a medical evaluation indicates a rapid or specific submicroscopic chromosomal diagnosis is required to predict the prognosis for the fetus)) for any woman undergoing amniocentesis or chorionic villus sampling; and~~

~~(ii) DNA testing, cytogenomic microarray analysis, biochemical testing, or testing for infectious diseases if medically indicated because of an abnormal ultrasound finding, intrauterine fetal demise, or known family history.~~

~~(i) Prenatal cell free DNA testing performed after nine weeks of gestation for the detection of aneuploidy including trisomy 21, 18, 13, or the sex chromosomes.~~

~~(j) Carrier screening at any time during the pregnancy for:~~

~~(i) Recessive or X-linked conditions if indicated by a positive family history; and~~

(ii) Any of the following conditions irrespective of family history:

(A) Alpha-thalassemia (HBA1/HBA2);

(B) Beta-thalassemia;

(C) Bloom syndrome;

(D) Canavan disease;

(E) Cystic fibrosis;

(F) Familial dysautonomia (IKBKAP);

(G) Fanconi anemia type C (FANCC);

(H) Gaucher disease (GBA);

(I) Mucopolysaccharidosis IV (MCPOLN1); or

(J) Niemann-Pick disease (SMPD1);

(K) Sickle cell disease;

(L) Spinal muscular atrophy (SMN1);

(M) Tay-Sachs disease (HEXA).

(k) Molecular genetic or cytogenetic testing of parents to allow for definitive fetal testing, or parental testing to better inform results when fetal testing results yield uncertain significance.

(2) The ((board recommends the)) following ((additional)) procedures ((for use by insurers, health service contractors, and health maintenance organizations in)) are used on a case-by-case basis for determining medical necessity ((on a case-by-case basis)) for insurers, health service contractors, and health maintenance organizations to use when authorizing requests for claims for prenatal screening and diagnosis:

(a) Percutaneous umbilical cord blood sampling ((with preprocedure and postprocedure genetic counseling)) after fifteen weeks of gestation if one or more of the following criteria are met:

(i) A medical evaluation indicates rapid or specific submicroscopic chromosomal diagnosis or DNA diagnosis is required to predict prognosis for the fetus;

(ii) A medical evaluation indicates the possibility of a prenatally diagnosable fetal infection;

(iii) Fetal blood studies are medically indicated for isoimmunization studies or therapy;

(iv) Fetal blood is the only means to provide biochemical genetic diagnosis;

(v) Prenatal diagnosis of a hematological disorder is medically indicated.

(b) Prenatal tissue biopsy if the nature of the disorder in question indicates that fetal liver, skin, or other tissue biopsy is the only means to provide biochemical genetic diagnosis to protect the health of the mother or predict the prognosis of the fetus.

## WSR 20-24-121

### PROPOSED RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Filed December 2, 2020, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-12-052.

Title of Rule and Other Identifying Information: 2021 HPA mineral prospecting rule making; amending WAC 220-660-030, 220-660-050, 220-660-300, and 220-660-305 of chapter 220-660 WAC, Hydraulic code rules.

Hearing Location(s): On January 29-30, 2021, at 8:00 a.m. This meeting will be conducted as a webinar. Detailed information about fish and wildlife commission meetings can be found at <https://wdfw.wa.gov/about/commission/meetings>.

Date of Intended Adoption: February 12, 2021.

Submit Written Comments to: Theresa Nation, P.O. Box 43200, Olympia, WA 98504-3200, email [HPARules@dfw.wa.gov](mailto:HPARules@dfw.wa.gov), fax 360-902-2946, website <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>, by January 30, 2021.

Assistance for Persons with Disabilities: Contact Washington department of fish and wildlife (WDFW) ADA manager, Attn. Theresa Nation, phone 360-902-2349, fax 360-902-2946, TTY 360-902-2207, email [adaprogram@dfw.wa.gov](mailto:adaprogram@dfw.wa.gov), by January 30, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WDFW proposes to amend WAC 220-660-030 Definitions, 220-660-050 Procedures, 220-660-300 Mineral prospecting, and 220-660-305 Suction dredging. WDFW's purpose for this rule making is to implement elements of ESHB 1261, passed by the legislature in 2020. Rule changes will:

- Add a definition for "gravity siphon aquatic mining" and "motorized or gravity siphon equipment";
- Specify that a standard hydraulic project approval (HPA) permit is required to conduct mineral prospecting involving motorized or gravity siphon equipment and require proof of compliance with the federal Clean Water Act for this activity as part of a complete application for a standard HPA;
- Specify the department may reject an incomplete application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur where they are prohibited under RCW 90.48.615;
- Remove authorization for motorized and gravity siphon mining activities from the Gold and Fish Pamphlet rules;
- Eliminate the annual reporting requirement for suction dredging HPAs; and
- Other minor changes are to clarify or avoid conflict with statute.

Hydraulic code rules in chapter 220-660 WAC, implementing chapter 77.55 RCW, are significant legislative rules under RCW 34.05.328.

Reasons Supporting Proposal: WDFW is proposing rules implementing ESHB 1261 (chapter 10, Laws of 2020), now codified at RCW 77.55.011, 77.55.021, and 90.48.615.

Rule	Proposed Change	Reason
220-660-030 Definitions	Adds "motorized or gravity siphon equipment" and "gravity siphon aquatic mining" definitions and amends "crevicing," "fish guard," and "hand-held mineral prospecting tools" definitions.	Definition changes are needed for clarity and to ensure consistency with RCW 77.55.021 (2)(e) and proposed changes to WAC 220-660-300 and 220-660-305.
220-660-050 Procedures	Specifies proof of compliance with the federal Clean Water Act must be included in a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment.	Implements RCW 77.55.021 (2)(e).
220-660-050 Procedures	Specifies the department may reject a standard application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur in an area in which Washington department of ecology is prohibited under RCW 90.48.615 from issuing a permit under the federal Clean Water Act.	Ensures applicants who are unable to complete their application have a timely application decision; improves agency internal processes.
220-660-300 Mineral prospecting	Removes authorization for mineral prospecting activities that involve motorized or gravity siphon equipment from the Gold and Fish Pamphlet.	Implements RCW 77.55.021 (2)(e).
220-660-305 Suction dredging	Changes the name of this section to "Mineral prospecting involving motorized or gravity siphon equipment"; incorporates motorized equipment previously authorized in the Gold and Fish Pamphlet.	Implements RCW 77.55.021 (2)(e).
220-660-305 Suction dredging	Requires a standard HPA for mineral prospecting activities that involve motorized or gravity siphon equipment.	Implements RCW 77.55.021 (2)(e).
220-660-305 Suction dredging	Removes the suction dredge activity reporting requirement.	Reduce the regulatory burden on small businesses.

Statutory Authority for Adoption: RCW 77.04.012, 77.12.047, 77.55.021, and 77.55.091; ESHB 1261 (chapter 10, Laws of 2020).

Statute Being Implemented: Chapter 77.55 RCW, Construction projects in state waters.

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

Name of Proponent: WDFW, habitat program, protection division, governmental.

Name of Agency Personnel Responsible for Drafting: Pat Chapman, 1111 Washington Street S.E., Olympia, WA

98501, 564-999-1531; Implementation: Theresa Nation, 1111 Washington Street S.E., Olympia, WA 98501, 360-688-4745; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Theresa Nation, P.O. Box 43200, Olympia, WA 98504-3200, phone 360-688-4745, fax 360-902-2946, TTY 360-902-2207, email HPARules@dfw.wa.gov, website <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: Some aspects of the rule proposal [that] correct or clarify language without changing its effect are exempt. Other aspects relate to internal government operations or are dictated by statute.

The proposed rule does impose more-than-minor costs on businesses.

#### Small Business Economic Impact Statement (SBEIS)

#### SECTION 1: Describe Rule and Compliance Requirements:

**1.1 Background:** The state legislature gave WDFW the responsibility to preserve, protect, and perpetuate all fish and shellfish resources of the state. To help achieve this mandate, the legislature passed a state law in 1943 called *Protection of Fish Life*. Now titled *Construction projects in state waters* and codified as chapter 77.55 RCW, the entire text of the statute can be found at <http://app.leg.wa.gov/RCW/default.aspx?cite=77.55>. Under the authority of chapter 77.55 RCW, WDFW issues a construction permit called an HPA. The sole purpose of the HPA is to protect fish life from construction and other work that affects the flow or bed of state waters. HPAs are site-specific, meaning that provisions are tailored to the site conditions and species that might be affected by each particular project. The HPA contains conditions that a permittee must follow in order to mitigate impacts to fish life caused by the project.

Chapter 77.135 RCW, Invasive species, provides authority for WDFW to address invasive species using an integrated management approach. Authority is conveyed for WDFW to adopt rules to require clean/drain/dry or other decontamination methods and to require inspections for aquatic conveyances entering Washington state.

WDFW promulgates rules to implement chapter 77.55 RCW under chapter 220-660 WAC, Hydraulic code rules. This WAC chapter establishes regulations for administration of the HPA program. The hydraulic code rules set forth definitions, administrative procedures for obtaining an HPA, steps for HPA appeals and civil compliance, and criteria gen-

erally used by WDFW to review and condition hydraulic projects to protect fish life.

One type of hydraulic project regulated by WDFW is placer mineral prospecting and mining using motorized and nonmotorized prospecting and mining equipment. Pursuant to RCW 77.55.091 and WAC 220-660-050(9), WDFW implements WAC 220-660-300 primarily through distribution of a "Gold and Fish Pamphlet," which is a document that describes methods of, and restrictions for, mineral prospecting and mining that are regulated through the pamphlet. A person does not need to apply for a standard HPA if they are conducting mineral prospecting activities in accordance with the Gold and Fish Pamphlet. Persons who want exceptions to provisions in the Gold and Fish Pamphlet must apply for standard HPAs.

**1.2 Compliance requirements of the proposed rule and applicability of the Regulatory Fairness Act (RFA), chapter 19.85 RCW:** ESHB 1261 was signed into law in March 2020 and made changes to chapter 77.55 RCW. In order to align with the changes to state law, WDFW developed rule proposals for several WAC sections. Below is a brief description of all the proposed changes and their status in this SBEIS. RFA exemptions are presented in Table 1.

WAC 220-660-030 Definitions: Revises three definitions for clarity and adds new definitions for "gravity siphon aquatic mining" and "motorized or gravity siphon equipment" as reflected in the new statutory definitions for those terms. Changes in this section correct or clarify language without changing the effect of that language and do not create compliance requirements. This section is not discussed further in this analysis.

WAC 220-660-050 Procedures: Requires that proof of compliance with the federal Clean Water Act must be included in a standard HPA application for mineral prospecting or mining using motorized or gravity siphon equipment. The proposal also specifies that the department may reject an incomplete application for mineral prospecting or mining using such equipment if the proposed project location or locations occur where they are prohibited under chapter 90.48 RCW.

Proof of compliance with the federal Clean Water Act is differentiated in this document from the act of compliance with the Clean Water Act. The costs of relevant prohibitions and permitting under the Clean Water Act are not incorporated into this analysis under chapter 19.85 RCW or RCW 34.05.328 because such costs are indirect and result from new legal requirements that are outside the scope of WDFW's rule-making authority under chapter 77.55 RCW. Proof of compliance with the Clean Water Act is a new HPA application requirement that is specifically dictated by statute in RCW 77.55.021 (2)(e) and is therefore not discussed in this analysis.

HPA applications for motorized or gravity siphon mineral prospecting and mining methods which are to occur in locations where an activity is prohibited under RCW 90.48.-615(2) are impossible to complete statutorily under the proof-of-compliance requirement of RCW 77.55.021 (2)(e). Department procedures for handling of these incomplete applications are internal government operations and not evaluated in this analysis.

WAC 220-660-300 Mineral prospecting: Removes authorization for motorized or gravity siphon mineral prospecting activities from the Gold and Fish Pamphlet rules. Those activities are moved to WAC 220-660-305. Changes to this section do not create new compliance requirements and so it is not discussed further in this analysis.

WAC 220-660-305 Suction dredging: Changes the name of this section to "Mineral prospecting involving motorized or gravity siphon equipment" and contains rules for prospecting using motorized or gravity siphon equipment. Specifically, it expands the existing requirements for suction dredging to include all prospecting with motorized or gravity siphon equipment. The reason for this requirement is to implement RCW 77.55.021 (2)(e). The annual reporting requirement for suction dredging is repealed. This WAC section is the subject of this SBEIS analysis.

**Table 1 RFA Exemptions to the Proposed Rule Changes**

Section	Change	RFA exempt?	Exemption citation
WAC 220-660-030 Definitions	Multiple changes to definitions, one addition, one deletion.	Y	RCW 34.05.310 (4)(d) Correct or clarify language
WAC 220-660-050 Procedures	Require proof of compliance with federal Clean Water Act in HPA applications.	Y	RCW 34.05.310 (4)(e) Dictated by statute
WAC 220-660-050 Procedures	Allow WDFW to reject incomplete applications for prohibited locations.	Y	RCW 34.05.310 (4)(b) Internal government operations

**1.3 Professional Services Required:** One goal of WDFW's HPA application system is that applicants are able to complete and submit an application without the assistance of professional services. WDFW provides free support services during normal business hours to persons having difficulty establishing an account, starting an application, completing an application, and submitting that application.

HPAs for mineral prospecting projects that move less than fifty cubic yards of material are exempt from State Environmental Policy Act (SEPA) under WAC 197-11-835(2)<sup>1</sup>. Applicants wishing to move less than fifty cubic yards can cite this exemption in order to meet the application requirement of providing proof of SEPA compliance under RCW 77.44.021 (2)(d). Applicants wishing to move fifty cubic yards or more of material must complete a SEPA checklist and submit it to the SEPA lead agency so that the lead agency can make a determination about the effects of the project on the environment. Providing a copy of the lead agency's determination as part of the HPA application is generally sufficient for purposes of complying with RCW 77.55.021 (2)(d).

1 WAC 197-11-835 "The following activities of the department of fish and wildlife are exempted:" ... "(2) Hydraulic project approvals where there is no other agency with jurisdiction [besides the department of fish and wildlife] requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials ..."

One reason many HPA applicants might need professional services is to obtain engineering advice and engineer-certified plans and specifications to file with their HPA application. Because motorized and gravity siphon prospecting are not construction activities, engineered plans and specifications are not required to complete the application. As a result, applicants are unlikely to use professional services.

Professional services relating to maintaining a computer and internet connection would be included under "Administrative Costs."

**SECTION 2: Identify Businesses - Minor Cost Threshold**

This rule-making activity regulates placer gold or mineral prospecting and mining methods in Washington that involve motorized and gravity siphon equipment, including but not limited to spiral wheels, concentrators and high-bankers, gravity siphons, suction dredges, power sluice/suction dredge combinations, high-bankers and power sluices. Any business that conducts motorized or gravity siphon placer mining would be required to comply with the proposed rules. Those businesses conducting suction dredging are already required to obtain an individualized, standard HPA under the existing rules.

WDFW took several steps to attempt to identify businesses that would need a standard HPA to conduct suction dredging. Details of the research can be found in the full SBEIS document available on the HPA rule-making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>. WDFW concluded that neither the SBEIS tools nor the research completed in steps described in the full SBEIS document, sections 2.1 through 2.4 can help us identify the minor cost thresholds.

WDFW determined that neither industry codes 2122 nor 212221, nor any other industry identified during our research provides [that provide] data are representative of the businesses required to comply with the proposed rule. WDFW does not have payroll, employment, or business revenue data for businesses of any size required to comply with the proposed rule. Therefore, the minor cost threshold for this analysis is determined to be \$100 (Table 4). Any costs imposed on a small business that are over \$100 would be considered for this analysis to be more than minor and potentially disproportionate.

**Table 4 Small Business Industry Classification and Minor Cost Thresholds**

NAICS code	212221
NAICS Business Description	Gold ore mining.
# of businesses in Washington	Unknown, data is masked (from Revenue in September 2020).
Minor Cost Threshold = the greater of <0.3% of annual revenue or income, or \$100	Average annual receipts for businesses that would be regulated under proposed WAC 220-660-305 are unknown, so we use \$100 for this analysis.
Minor Cost Threshold = 1% of annual payroll	Average annual payroll for businesses that would be regulated under proposed WAC 220-660-305 is unknown, so we use \$0.00 for this analysis.

Applicable minor cost threshold	\$100
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**Section 3 Costs of Compliance:** WDFW estimated the costs to comply with the proposed rules. We used the cost of hiring help for the HPA application process as reported in the survey. We also used responses for hours per permit and a cost per hour established by WDFW. Those two values were combined to estimate a cost per permit. We used a similar "hours x cost per hour" approach to estimate the cost of aquatic invasive species prevention.

Because there are no industry records of annual payroll to help us estimate costs per hour for the suction dredging and motorized prospecting industry, WDFW referenced mining labor data provided by the Bureau of Labor Statistics. We chose the worker type we think most closely matches the work of a suction dredger - Continuous Mining Machine Operator - which earned an average hourly wage of \$28.68 for metal ore mining in 2019. We are using this figure to estimate hourly costs per individual for the time taken to comply with the proposals.

We anticipate the cost of equipment and supplies to be minimal. WDFW's HPA applications can be completed online using a home computer with an internet connection. Computers and internet connectivity are available for free to the public at most libraries.

**3.1 Multiple permits:** Most HPAs are issued for a five-year period pursuant to WAC 220-660-050 (14)(a). Pursuant to WAC 220-660-050 (b)(ii)(A), a standard multi-site HPA can authorize work at multiple project sites if: (I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area; (II) the primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and (III) work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

Analysis of existing mineral prospecting HPAs found that three individuals held two permits each in the past five years out of one hundred seventy-two total permit holders. Two of those people had multiple sites, necessitating two permits. The third was eligible for a single multi-site permit rather than two single-site permits. Given the existing rate of 1.1% (or two of one hundred seventy-two) of permittees needing multiple permits, we have conducted our cost-to-comply analysis based on the more common condition of one permit per applicant.

### 3.2 Calculated costs to comply:

#### 3.2.1 Costs to comply with the HPA-required rule:

Each person wishing to lawfully conduct activities covered in WAC 220-660-305 in Washington state will be required to obtain an HPA. A person is not required to apply for an HPA; however, an HPA is required if a person wishes to conduct the activity. WDFW assumes that each of those HPAs would be issued for a five-year period as allowed under WAC 220-660-050 (14)(a).

If a person takes three hours (median survey response) to complete an HPA application, that costs \$86.04 in labor based on our estimated cost per hour. If professional assistance is required, then \$100 is added to the cost for a total of \$186.04. If each HPA is valid for five years, and each person needs only one HPA, then the annual cost per person to com-

plete the application process is \$186.04 divided by five, or \$37.21 per year.

Businesses reported taking one hour (median survey response) to complete an HPA application for a labor cost of \$28.68. No business reported hiring professional assistance, but if \$100 from the general survey responses is applied, then a business may spend a total of \$128.68. Over five years, the cost comes to \$25.74 per year.

In summary, we have estimated that the range of costs for an individual or small business to comply is from \$128.68 to \$186.04. Over the five-year permit period, the range is \$25.74 to \$37.21 per year.

**3.2.2 Costs to comply with the Aquatic Invasive Species Rule:** The expansion of WAC 220-660-305, from suction dredging to all motorized and gravity siphon equipment, includes the aquatic invasive species prevention rules in WAC 220-660-305(4). The subsection specifies that all motorized and gravity siphon equipment that has been used in waters outside of Washington state must be inspected for the presence of aquatic invasive species. Further, all motorized and gravity siphon equipment used in any water of the state must be decontaminated according to department specification prior to use in a different water of the state.

"Clean-Drain-Dry" decontamination steps published on the WDFW website can be undertaken by the average person using supplies commonly available: Hot water, brushes, and household cleaning liquid. WDFW conducted a survey of suction dredgers in January 2019 that included questions about decontamination of equipment. They reported that cleaning and drying out their equipment is a regular activity associated with dredging because they want to ensure that all the gold collected by the equipment is recovered. Eighty-four percent of survey respondents indicated they took decontamination steps in 2018.

The proposed rules also require persons bringing motorized and gravity siphon equipment into Washington from out-of-state to have their equipment inspected for the presence of aquatic invasive species prior to using that equipment to mineral prospect in Washington. Inspections for the presence of aquatic invasive species are available at major highway entry points into the state, so persons bringing equipment into Washington can arrange their entry so they are inspected as they cross the state line. Certificates of inspection are available on request at the time the inspection is completed. Inspections and certificates are provided at no cost.

If a person takes two hours and thirty minutes (median survey response) to comply with the proposed aquatic invasive species decontamination rule for suction dredging equipment, that costs \$71.70 in labor. Suction dredging equipment is generally larger and more complex to clean than the equipment being added under this rule making. WDFW estimates that the time required to decontaminate the simpler and smaller equipment would be somewhat less. We are using the larger value in lieu of a more specific estimate for the smaller equipment to accommodate for any uncertainty in our estimate.

**3.2.3 Summary of Costs to Comply:** The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. The total cost to comply in the first

year of a permit is the highest, and is estimated from \$200.38 to \$257.74. Total costs to comply per person per year over a five-year permit range from \$97.44 to \$108.91.

**3.3 Lost sales or revenues and lost jobs:** Data regarding industry revenue was unavailable. The results from searches using the SBEIS tools can be found in the full SBEIS document available on the HPA rule-making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>. WDFW conducted a phone interview with one business that was identified in the online survey. That business reported permitting complications that caused a one-month work delay at one site. The estimated value of that delay was \$2,000. The business interviewed indicated that they had no employees and that no jobs would be created or lost because of the proposed rules. Additional data on employment was also unavailable. The Washington employment security department employer database tool returned no results on companies that hire employees. The United States Census Bureau 2017 Economic Census contained only masked data for annual sales, revenue and payroll. The number of employees was given as two hundred fifty to four hundred ninety-nine, which is also a masked value.

Based on insufficient data, WDFW was unable to estimate the number of jobs created or lost, or changes to sales and revenue, as a result of compliance with the proposed rule.

**Section 4 More than Minor Costs:** Chapter 19.85 RCW does not specify whether the cost to consider per business is the up-front cost or the average cost per year. Based

on the costs of compliance estimated in section 3.2.3, the estimated costs for an individual or business to comply in the first year with the proposal (\$200.38 to \$257.74) surpasses the minor cost threshold of \$100 shown on Table 4. The annual cost to comply over a five-year permit (\$97.44 to \$108.91) lands right at the top of the \$100 minor cost threshold. WDFW has used the first-year cost and developed a complete SBEIS to maximize transparency during rule making and to better inform the regulated community.

**Section 5 Disproportionate Impact on Small Businesses:** Four survey respondents identified themselves as businesses required to comply with the proposed rule; no others self-identified as businesses. One survey respondent identified as a small business and reported no employees during a phone interview. WDFW is unable to distinguish the cost of compliance between small businesses and the ten percent of businesses that are the largest businesses required to comply. However, WDFW acknowledges the possibility that smaller businesses may face a higher proportionate cost than larger businesses.

**Section 6 Steps to Reduce Costs to Individual or Small Businesses:** The goals and objectives of the statutes that the proposed rule is intended to implement are discussed fully in section 4 of the Regulatory Analysis, available at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

**Table 5 Required Methods of Reducing Costs Imposed by the Rule on Small Businesses**

RCW 19.85.030(2) Requirements		WDFW Response
Subsection	Method	
(a)	Reducing, modifying, or eliminating substantive regulatory requirements	WDFW considered reducing, modifying, or eliminating substantive regulatory requirements in the proposal. The requirements are limited to those necessary to align WAC 220-660 with ESHB 1261 (chapter 10, Laws of 2020).
(b)	Simplifying, reducing, or eliminating recordkeeping and reporting requirements	The reporting requirements in WAC 220-660-305(8) will be eliminated.
(c)	Reducing the frequency of inspections	Not applicable to this proposal. The requirement must be met prior to an HPA being issued.
(d)	Delaying compliance timetables	The rule does not address the compliance timetables.
(e)	Reducing or modifying fine schedules for noncompliance	The rule does not affect fines for noncompliance.
(f)	Any other mitigation techniques, including those suggested by small businesses or small business advocates	WDFW has been and will continue working with miners to identify and implement actions to lessen impacts to miners; other techniques are discussed in Section 6.1.

**6.1 Other actions considered to lessen costs to businesses:**

- Environmental stakeholders suggested that a separate application be developed for motorized mining HPAs. This approach is deemed not necessary at this time because a simplified permit application already exists and is commonly used. There is no evidence to suggest that a separate application form would further reduce costs to businesses.

- One prospecting stakeholder suggested an equipment buyback plan for those who will no longer be able to use their equipment. WDFW is not pursuing this option because all prospectors will have the option to apply for a standard HPA that will permit them to use their equipment in allowed areas. Motorized and gravity siphon aquatic mining prohibitions in certain areas are outside the scope of WDFW's rule-making authority under chapter 77.55 RCW.

**6.2 Additional steps WDFW has taken to lessen impacts:** Several steps were taken during the preproposal period and prior to reduce costs to comply with the proposal:

- WDFW has designed the proposal such that the simplified HPA application remains an option. The simplified application is easier to complete than the Joint Aquatic Resources Permit Application (JARPA) used by other agencies.
- The proposal allows WDFW to reject applications for prohibited locations. These applications are otherwise impossible to move beyond incomplete status and would remain in a state of limbo indefinitely. The rejection process allows applicants to receive a timely decision about the status of their applications.

**Section 7 Involving Stakeholders in Rule Development:** Because requiring applications is integral to the objectives for rule making, WDFW took advantage of opportunities to communicate the objectives of rule making to those affected, and to obtain information from affected persons about how the rules would impact them. More detail on this outreach can be found in the full SBEIS document available on the HPA rule-making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

**Section 8 Number of Jobs Created or Lost:** There will likely be no jobs newly created or lost as a result of this proposal. A large portion of the regulated community is already required to obtain an individual HPA under WAC 220-660-305 for suction dredging.

**Section 9 Summarize Results of Small Business Analysis:** Costs to comply with the proposal are more than the small business minor cost threshold of \$100. The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. Total costs to comply per person per year range from \$97.44 to \$108.91. There is insufficient information to determine disproportionate impacts between small businesses and larger businesses. Mitigation steps taken are presented in Section 6.

Please refer to the full SBEIS document available on the HPA rule-making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

A copy of the statement may be obtained by contacting Theresa Nation, P.O. Box 43200, Olympia, WA 98504-3200, phone 360-688-4745, fax 360-902-2946, TTY 360-902-2207, email [HPARules@dfw.wa.gov](mailto:HPARules@dfw.wa.gov), website <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

December 2, 2020  
Benjamin Power  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 19-12-126, filed 6/5/19, effective 11/1/19)

**WAC 220-660-030 Definitions.** The following are definitions for terms used in this chapter.

- (1) "Abandoning an excavation site" means not working an excavation site for forty-eight hours or longer.
- (2) "Aggregate" means a mixture of minerals separable by mechanical or physical means.

(3) "Aquatic beneficial plant" means all native and non-native aquatic plants except those on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(4) "Aquatic invasive species" means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include certain species of waterfowl, amphibians, fish, shellfish, and nutria.

(5) "Aquatic noxious weed" means an aquatic plant on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(6) "Aquatic plant" means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.

(7) "*Aquatic Plants and Fish* pamphlet" means a document that details the rules for aquatic noxious weed and aquatic beneficial plant removal and control activities and that serves as the hydraulic project approval for certain plant removal and control activities in Washington state.

(8) "Artificial materials" means clean, inert materials used to construct diversion structures for mineral prospecting.

(9) "Associated human-made agricultural drainage facilities" means dikes, drains, pumps, drainage tiles, and drainage pipe made by humans that protect agricultural land.

(10) "Authorized agent" means someone who is authorized by the applicant to act on behalf of the applicant.

(11) "Bank" means any land surface landward of the ordinary high water line next to a body of water and constrains the water except during floods. The term "bank" also includes all land surfaces of islands within a body of water that are below the flood elevation of the surrounding body of water.

(12) "Bankfull width" means the width of the surface of the water at the point where water just begins to overflow into the active flood plain. In streams where there is no flood plain it is often the width of a stream or river at the dominant channel forming flow that reoccurs every one to two years.

(13) "Beach area" means the beds between the ordinary high water line and extreme low water.

(14) "Bed" means the land below (waterward of) the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been artificially altered.

(15) "Bed materials" means naturally occurring materials such as gravel, cobble, rock, rubble, sand, mud, and aquatic plants that form the beds of state waters. Bed materials are also found in deposits or bars above the wetted perimeter of water bodies.

(16) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

(17) "Bottom barrier or screen" means sheets of synthetic or natural fiber material used to cover and kill plants growing on the bottom of a watercourse.

(18) "Boulder" means a stream substrate particle larger than ten inches in diameter.

(19) "Bridge shadow" means the area under a bridge defined by the shadow cast by the sun. This area may not receive enough light and rain to support the plant growth needed for biotechnical bank stabilization.

(20) "Channel bed width" means the width of the bank-full channel, although bankfull may not be well defined in some channels. For those streams which are nonalluvial or do not have flood plains, the channel width must be determined using features that do not depend on a flood plain.

(21) "Chronic danger" means a condition declared by the county legislative authority in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(22) "Chronic danger HPA" means a written hydraulic project approval issued in response to a chronic danger declaration made by a county legislative authority.

(23) "Classify" means to sort aggregate by hand or through a screen, grizzly, or similar device to remove the larger material and concentrate the remaining aggregate.

(24) "Commission" means the Washington state fish and wildlife commission.

(25) "Compensatory mitigation" means the restoration, creation, enhancement, or preservation of aquatic resources to compensate for adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(26) "Concentrator" means a device used to physically or mechanically separate the valuable mineral content from aggregate.

(27) "Control" of an aquatic plant means to prevent all seed production and to prevent the dispersal of all propagative parts capable of forming new plants.

(28) "County legislative authority" means a county commission, council, or other legislative body.

(29) "Creviceing" means removing aggregate from cracks and crevices using hand-held mineral prospecting tools ((~~or~~ water pressure)).

(30) "Critical food fish or shellfish habitats" means those habitats that are essential to fish life. These habitats include habitats of special concern listed in WAC 220-660-100 and 220-660-320.

(31) "Department" means the department of fish and wildlife.

(32) "Design flood" means a stream discharge of a specific rate and probability best suited to ensure the project design creates and shapes habitat or protects property and structures to a given level of risk (e.g., the 100-year design flood).

(33) "Director" means the director of the department of fish and wildlife.

(34) "Ditch" means a wholly artificial watercourse or a natural watercourse (waters of the state) altered by humans.

(35) "Diver-operated dredging" means the use of portable suction or hydraulic dredges held by SCUBA divers to remove aquatic plants.

(36) "Dredging" means removal of bed material using other than hand-held tools. This does not include metals mining and milling operations as defined in chapter 78.56 RCW.

(37) "Dryland dredge" means a suction dredge with a nozzle capable of introducing water under pressure from the suction dredge pump to the tip of the nozzle.

(38) "Early infestation" of an aquatic noxious weed means a stage of development, life history, or area of coverage that makes one hundred percent control and eradication likely to occur.

(39) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(40) "Emergency HPA" means a verbal or written hydraulic project approval issued in response to a declaration of emergency.

(41) "Entrained" means the entrapment of fish into a watercourse diversion that has no screen, into high velocity water along the face of an improperly designed screen, or into the vegetation cut by a mechanical harvester.

(42) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

(43) "Eradication" of an aquatic noxious weed means to eliminate it within an area of infestation.

(44) "Established ford" means a crossing place in a watercourse that was in existence and used annually before 1986 or permitted by the department in or after 1986, and has identifiable approaches on the banks.

(45) "Excavation line" means a line on the dry bed at or parallel to the water's edge. The department determines the distance from the water's edge for each project site. The excavation line may change with water level fluctuations.

(46) "Excavation site" means the pit, furrow, or hole from which aggregate is removed to process and recover minerals, or into which wastewater is discharged to settle out sediments.

(47) "Excavation zone" means the area between the excavation line and the bank or the center of the gravel bar.

(48) "Expedited HPA" means a written hydraulic project approval issued in those instances where when normal permit processing would result in a significant hardship for the applicant or unacceptable damage to the environment.

(49) "Farm and agricultural land" means those lands identified in RCW 84.34.020.

(50) "Filter blanket" means one or more layers of pervious materials (organic, mineral, or synthetic) designed and installed to provide drainage, yet prevent the movement of soil particles by flowing water.

(51) "Fish conservation bank" means a habitat creation, restoration, or enhancement project intended to provide a bank of credits to compensate for unavoidable impacts to habitat that supports fish life from future development projects. Fish conservation banks are managed to optimize desired habitat for ESA-listed and at-risk fish species.

(52) "Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be



used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

(53) "Fish habitat enhancement project" means a hydraulic project that meets criteria in RCW 77.55.181 (1)(a).

(54) "Fish habitat improvement structures" or "stream channel improvements" means natural materials such as large wood, rock, or synthetic materials such as chain or rope placed in or next to bodies of water to improve existing conditions for fish life. Examples are engineered logjams, large woody material, and boulders.

(55) "Fish guard" means a device installed at or near a surface water diversion head gate, or on the intake of any device used for ~~((pumping))~~ removing water from fish-bearing waters, to prevent entrainment, injury, or death of fish life. Fish guards physically keep fish from entering the diversion or ~~((pump))~~ intake and do not rely on avoidance behavior.

(56) "Fish life" means all fish species, including food fish, shellfish, game fish, unclassified fish and shellfish species, and all stages of development of those species.

(57) "Fish passage improvement structure" means artificial structures that are used to provide passage through, over, and/or around artificial barriers. They provide a graduated change in gradient with refuge areas allowing fish to pass barriers.

(58) "Fish screen" means "fish guard."

(59) "Flood gate" means a structure to control flooding through which water flows freely in one direction but is prevented from flowing in the other direction.

(60) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that must not be fished for except as authorized by rule of the commission.

(61) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.

(62) "Frequent scour zone" means the area between the wetted perimeter and the toe of the slope. The frequent scour zone is comprised of aggregate, boulders, or bedrock. Organic soils are not present in the frequent scour zone.

(63) "Freshwater area" means those state waters and associated beds waterward of the ordinary high water line that are upstream of stream and river mouths. Freshwater areas also include all lakes, ponds, and tributary streams and surface-water-connected wetlands that provide or maintain habitat that supports life. This definition does not include irrigation ditches, canals, stormwater treatment, and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

(64) "Functional grating" means the percent open area of the grating that is not covered or blocked by any objects such as structural components, framing wood, flotation tubs, or objects placed on the surface of the grating.

(65) "Ganged equipment" means two or more pieces of mineral prospecting equipment coupled together to increase efficiency. An example is adding a second sluice to a high-banker.

(66) "General provisions" means those provisions that are in every HPA.

(67) "Gold and Fish pamphlet" means a document that details the rules for conducting small-scale and other prospecting and mining activities and that serves as the hydraulic project approval for certain mineral prospecting and mining activities in Washington state.

(68) "Gravity siphon aquatic mining" means any prospecting or mining activity that uses water drawn into a hose, pipe, or tube via the effects of gravity or siphon to excavate, concentrate, or process aggregate.

(69) "Habitat function" means the natural attributes of a given habitat that support the fish life that rely upon that habitat.

~~((69))~~ (70) "Habitat value" means an estimate of habitat quality, ecologically important functions and the relative value of the hydraulic project site within the watershed.

~~((70))~~ (71) "Hand-held equipment" means equipment held by hand and powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are chainsaws, drills, and grinders.

~~((71))~~ (72) "Hand-held mineral prospecting tools" means~~(:~~

~~(a))~~ tools used for mineral prospecting that are held by hand ~~((and)), do not have moving parts, and~~ are not powered, in whole or in part, by internal combustion, electricity, hydraulics, or pneumatics. Examples ~~((are))~~ include, but are not necessarily limited to, metal detectors, shovels, picks, trowels, hammers, and pry bars~~((, hand-operated winches, and battery-operated pumps specific to prospecting; and~~

~~(b) Vac-pacs).~~

~~((72))~~ (73) "Hand-held tools" means tools held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, hammers, pry bars, and cable winches. This definition does not apply to hand-held tools used for mineral prospecting. See "hand-held mineral prospecting tools."

~~((73))~~ (74) "Hatchery" means any water impoundment or facility used for the captive spawning, hatching, or rearing of fish life.

~~((74))~~ (75) "High-banker" means a stationary concentrator operated outside the wetted perimeter of the body of water from which the water is removed and that uses water supplied by hand or by pumping. A high-banker consists of a sluice box, hopper, and water supply. Aggregate is supplied to the high-banker by means other than suction dredging. This definition excludes rocker boxes. See Figure 1.



**Figure 1: High-banker**

~~((75))~~ (76) "High-banking" means using a high-banker to recover minerals.

~~((76))~~ (77) "Hydraulic drop" means an abrupt drop in water surface elevation.

~~((77))~~ (78) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

~~((78))~~ (79) "Hydraulic project approval" or "HPA" means:

(a) A written approval for a hydraulic project issued under this chapter and signed by the director of the department or the director's designee; or

(b) A verbal approval for an emergency hydraulic project issued under this chapter by the director of the department or the director's designee; or

(c) The following printed pamphlet approvals:

(i) A "*Gold and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific ~~(minor hydraulic project activities for)~~ small scale mineral prospecting and placer mining activities; or

(ii) An "*Aquatic Plants and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific aquatic plant removal and control activities.

~~((79))~~ (80) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

~~((80))~~ (81) "In-lieu fee (ILF) program" means a state or federal certified program authorizing a person pay a fee to a third party instead of conducting project-specific mitigation or buying credits from a mitigation or fish conservation bank.

~~((81))~~ (82) "In-water blasting" means the use of explosives on, under, or in waters of the state, or in any location

adjacent to the waters of the state, where blasting could impact fish life or habitat that supports fish life.

~~((82))~~ (83) "Job site" means the area of ground including and immediately adjacent to the area where work is conducted under an HPA. For mineral prospecting and placer mining projects, the job site includes the excavation site.

~~((83))~~ (84) "Joint aquatic resources permit application" or "JARPA" means a form provided by the department and other agencies that a person may submit to request a written HPA for a hydraulic project.

~~((84))~~ (85) "Lake" means any natural standing fresh waters or artificially impounded natural fresh waters of the state, except impoundments of the Columbia and Snake rivers.

~~((85))~~ (86) "Large woody material" means trees or tree parts larger than four inches in diameter and longer than six feet, or rootwads, wholly or partially waterward of the ordinary high water line.

~~((86))~~ (87) "Macroalgae" means any of the nonvascular aquatic plant species (the red, green, or brown seaweeds) that can be seen without using a microscope. They may be attached to the substrate or other macroalgae by a holdfast, or found drifting individually or in mats.

~~((87))~~ (88) "Maintenance" means repairing, remodeling, or making minor alterations to a facility or project to keep the facility or project in properly functioning and safe condition.

~~((88))~~ (89) "Major modification" means any change to a hydraulic project approval that is not a minor modification.

~~((89))~~ (90) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include overnight or live-aboard boating accommodations.

~~((90))~~ (91) "Marine terminal" means a public or private commercial wharf located in navigable waters of the state and used, or intended to be used, as a port or facility for storing, handling, transferring, or transporting goods to and from vessels.

~~((91))~~ (92) "Mean annual flood" means the average of all the annual peak floods of record.

~~((92))~~ (93) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years, as determined by National Oceanic and Atmospheric Administration (NOAA). It is measured from mean lower low water, which is a reference datum used to delineate waters of the state in saltwater areas.

~~((93))~~ (94) "Mean lower low water" or "MLLW" means the 0.0 feet tidal elevation, as determined by NOAA. It is determined by averaging each day's lowest tide at a particular location over a period of nineteen years. MLLW is a reference datum used to delineate waters of the state in saltwater areas. NOAA provides detailed information on their "Tides, Currents, and Predictions" website.

~~((94))~~ (95) "Mechanical harvesting and cutting" means partially removing or controlling aquatic plants by using aquatic mechanical harvesters, which cut and collect aquatic plants, and mechanical cutters, which only cut aquatic plants.

~~((95))~~ (96) "Mineral prospect" or "mineral prospecting" means to excavate, process, or classify aggregate using

hand-held mineral prospecting tools and mineral prospecting equipment.

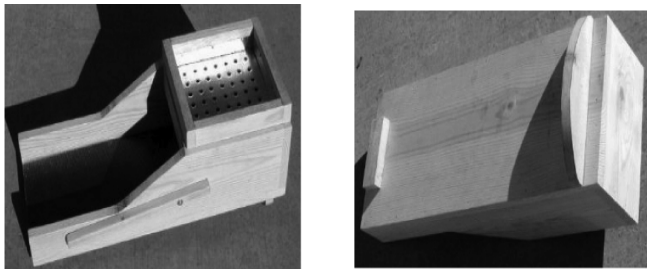
~~((96))~~ (97) "Mineral prospecting equipment" means any natural or manufactured device, implement, or animal (other than the human body) used in any aspect of prospecting for or recovering minerals.

~~((97))~~ (98) "Mini high-banker" means a high-banker with a riffle area of three square feet or less. See Figure 2.



**Figure 2: Mini high-banker**

~~((98))~~ (99) "Mini rocker box" means a rocker box with a riffle area of three square feet or less. See Figure 3.



**Figure 3: Mini rocker box (top view and bottom view)**

~~((99))~~ (100) "Mining" means the production activity that follows mineral prospecting.

~~((100))~~ (101) "Minor modification" means a small change in work timing or plans and specifications of a hydraulic project.

~~((101))~~ (102) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

~~((102))~~ (103) "Mitigation bank" means a site where wetlands or other aquatic resources are restored, created,

enhanced, or preserved. The bank exists expressly to provide compensatory mitigation before unavoidable impacts to wetlands or other aquatic resources occur.

~~((103))~~ (104) "Mitigation sequence" means the successive steps that the department and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed:

(a) Avoid the impact altogether by not taking a certain action or parts of an action.

(b) Minimize unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking steps to reduce impacts.

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reduce or eliminate the impact over time.

(e) Compensate for remaining unmitigated impacts by replacing, enhancing, or providing substitute resources or environments.

(f) Monitor the impact and take appropriate corrective measures to reach the identified goal.

~~((104))~~ (105) "Motorized or gravity siphon equipment" means any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(106) "Multiple site permit" means a hydraulic project approval issued to a person under RCW 77.55.021 for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.

~~((105))~~ (107) "Natural conditions" means environmental situations that occur or are found in nature. This does not include artificial or manufactured conditions.

~~((106))~~ (108) "Nearshore" means shallow waters where sunlight reaching the bed is sufficient to support the growth of submerged aquatic vegetation.

~~((107))~~ (109) "Nearshore zone" means the three critical "edge" habitats as follows: The edge between upland and aquatic environments, the edge between the shallow productive zone and deep water, and the edge between fresh and marine waters.

~~((108))~~ (110) "No net loss" means:

(a) Sequentially for avoiding impacts, minimizing unavoidable impacts, and compensating for remaining adverse impacts to fish life.

(b) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for net loss of habitat functions necessary to sustain fish life.

(c) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for loss of area by habitat type.

(d) Mitigation required to achieve no net loss should benefit the fish life being impacted.

~~((109))~~ (111) "Ordinary high water line" or "OHWL" means the mark on the shores of all water 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 ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland.

Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining salt-water is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.

((110)) (112) "Pan" means an open metal or plastic dish operated by hand to separate gold or other minerals from aggregate by washing the aggregate. See Figure 4.



Figure 4: Pan

((111)) (113) "Panning" means the use of a pan to wash aggregate.

((112)) (114) "Permanent ford" means a ford approved by the department that is in place for more than one operating season.

((113)) (115) "Person" means an applicant, authorized agent, permittee, or contractor. The term person includes an individual, a public or private entity, or organization.

((114)) (116) "Placer" means a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

((115)) (117) "Pool" means a portion of the stream with reduced current velocity, often with water deeper than the surrounding areas.

((116)) (118) "Power sluice" means "high-banker."

((117)) (119) "Power sluice/suction dredge combination" means a machine that can be used as a power sluice, or with minor modifications, as a suction dredge. See Figure 5.



Figure 5: Power sluice/suction dredge combination

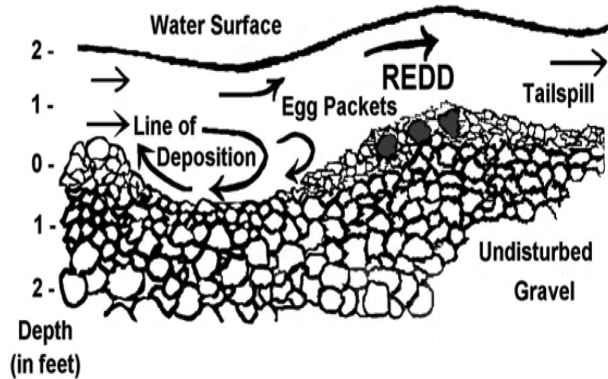
((118)) (120) "Process aggregate" or "processing aggregate" means the physical or mechanical separation of the valuable mineral content within aggregate.

((119)) (121) "Protection of fish life" means avoiding, minimizing unavoidable impacts, and compensating for remaining impacts to fish life and the habitat that supports fish life through mitigation sequencing.

((120)) (122) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum virgatum* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(b).

((121)) (123) "Qualified professional" means a scientist, engineer, or technologist specializing in a relevant applied science or technology including fisheries or wildlife biology, engineering, geomorphology, geology, hydrology, or hydrogeology. This person may be certified with an appropriate professional organization, and acting under that association's code of ethics and subject to disciplinary action by that association. A qualified professional can also be someone who, through demonstrated education, experience, accreditation, and knowledge relevant to the particular matter, may be reasonably relied on to provide advice within that person's area of expertise. This definition does not supersede other state laws that govern the qualifications of professionals that perform hydraulic projects.

((122)) (124) "Redd" means a nest made in gravel, consisting of a depression dug by a fish for egg deposition, and associated gravel mounds. See Figure 6.



**Figure 6: Cross-section of a typical redd**

((123)) (125) "Rehabilitation" means major work required to restore the integrity of a structurally deficient or functionally obsolete structure. This can include partial replacement of a structure.

((124)) (126) "Replacement" means the complete removal of an existing structure and construction of a substitute structure in the same general location.

((125)) (127) "Riffle" means:

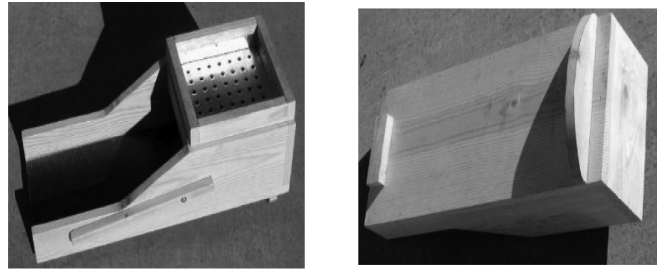
(a) The bottom of a concentrator containing a series of interstices or grooves to catch and retain a mineral such as gold; or

(b) A short, relatively shallow and coarse-bedded length of stream over which the stream flows at higher velocity and higher turbulence than it normally does in comparison to a pool.

((126)) (128) "River" means "watercourse."

((127)) (129) "Riparian zones" means the land adjacent to streams, rivers, ponds, lakes, and those wetlands whose soils and vegetation are influenced by ponded or channelized water. They are the transition areas between aquatic and upland habitats often with elements of both ecosystems.

((128)) (130) "Rocker box" means a nonmotorized concentrator consisting of a hopper attached to a cradle and a sluice box operated with a rocking motion. See Figure 7.



**Figure 7: Rocker box**

((129)) (131) "Rotovation" means the use of aquatic rotovators, machines that have underwater rototiller-like blades, to uproot aquatic plants as a means of control.

((130)) (132) "Roughened channel" means to construct a channel of a graded mix of sediment with enough roughness and hydraulic diversity to achieve fish passage. Roughened channels are designed to resist erosion and are often built at a steeper gradient than the prevailing channel.

((131)) (133) "Saltwater area" means those state waters and associated beds waterward of the ordinary high water line in Puget Sound, the Strait of Juan de Fuca and the open coast. Saltwater areas include estuaries and other surface-water-connected wetlands that provide or maintain habitat that support fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

((132)) (134) "Scientific measurement devices" means devices that measure and/or record environmental data, such as staff gauges, tide gauges, water recording devices, water quality testing and improvement devices, and similar instruments.

((133)) (135) "Seagrass" means native *Zostera* species, *Ruppia maritima*, and *Phyllospadix* species.

((134)) (136) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that must not be taken except as authorized by rule of the commission. The term shellfish includes all stages of development and the bodily parts of shellfish species.

((135)) (137) "Sluice" means a trough equipped with riffles across its bottom used to recover gold and other minerals with the use of flowing water. See Figure 8.



**Figure 8: Sluice**

~~((136))~~ (138) "Spartina" means *Spartina alterniflora*, *Spartina anglica*, *Spartina x townsendii*, and *Spartina patens* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(a).

~~((137))~~ (139) "Special provisions" means those requirements that are part of a HPA, are site- or project-specific, and supplement or amend the technical provisions.

~~((138))~~ (140) "Spiral wheel" means a hand-operated or battery-powered rotating pan used to recover gold and minerals with the use of water. See Figure 9.



**Figure 9: Spiral wheel**

~~((139))~~ (141) "Stable slope" means a slope without measurable evidence of slumping, sloughing, or other movement. Stable slopes will not show evidence of landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically present on stable slopes.

~~((140))~~ (142) "Suction dredge" means any motorized or nonmotorized device that removes aggregate from the bed, banks, or uplands by means of vacuum created by water

flowing through a tube or hose. Bulb snifters are not considered suction dredges. See Figure 10.



**Figure 10: Suction dredge**

~~((141))~~ (143) "Suction dredging" means using a suction dredge to recover gold and other minerals.

~~((142))~~ (144) "Tailings" means the waste material that remains after processing aggregate to remove valuable mineral content.

~~((143))~~ (145) "Temporary ford" means a ford that is in place for no more than one operating season or less.

~~((144))~~ (146) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

~~((145))~~ (147) "Toe of the bank" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged waterward of the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure where it meets the stream bed or marine beach or bed.

~~((146))~~ (148) "Toe of the slope" means the base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.

~~((147))~~ (149) "Unimpeded fish passage" means the free movement of all fish species at any mobile life stage around or through a human-made or natural structure.

~~((148))~~ (150) "Unstable slope" means a slope with visible or measurable evidence of slumping, sloughing, or other movement. Evidence of unstable slopes includes landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically not present on unstable slopes.

~~((149))~~ "Vac pae" means a motorized, portable vacuum that you use for prospecting. See Figure 11.



**Figure 11: Vae-pae**

~~((150))~~ (151) "Water crossing structures" means structures that span over, through, or under a watercourse. Examples are bridges, culverts, conduits, and fords.

~~((151))~~ (152) "Water right" means a certificate of water right, a vested water right or a claim to a valid vested water right, or a water permit, under Title 90 RCW.

~~((152))~~ (153) "Water body" means "waters of the state."

~~((153))~~ (154) "Watercourse," "river" or "stream" means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state. Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

~~((154))~~ (155) "Waters of the state" or "state waters" means all salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.

~~((155))~~ (156) "Weed rolling" means the use of a mechanical roller designed to control aquatic plant growth.

~~((156))~~ (157) "Wetland(s)" is as defined in RCW 90.58.030.

~~((157))~~ (158) "Wetted perimeter" means the areas of a watercourse covered with water. The wetted perimeter varies with flow, discharge, and tides.

~~((158))~~ (159) "Woody vegetation" means perennial trees and shrubs having stiff stems and bark. Woody vegetation does not include grasses, forbs, or annual plants.

~~((159))~~ (160) "Written notice" or "written notification" means a communication through U.S. mail or email.

**AMENDATORY SECTION** (Amending WSR 20-11-019, filed 5/12/20, effective 6/12/20)

**WAC 220-660-050 Procedures—Hydraulic project approvals. (1) Description:**

(a) There are six categories of HPAs: Standard, emergency, imminent danger, chronic danger, expedited, and pamphlet. These categories are discussed in more detail throughout this section. Most HPAs issued by the department are standard HPAs. Guidance for applying for an HPA is provided on the department's website.

(b) HPAs do not exempt a person from obtaining other necessary permits and following the rules and regulations of local, federal, and other Washington state agencies.

(2) **Fish life concerns:** Construction and other work activities in or near water bodies can kill or injure fish life directly and can damage or destroy habitat that supports fish life. Damaged or destroyed habitat can continue to cause lost fish life production for as long as the habitat remains altered. HPAs help ensure construction and other work is done in a manner that protects fish life.

**(3) Standard HPA:**

(a) The department issues a standard HPA when a hydraulic project does not qualify for an emergency, imminent danger, chronic danger, expedited or pamphlet HPA. An individual standard HPA is limited to a single project site. Some special types of standard HPAs may cover multiple project sites.

**(b) Special types of standard HPAs:**

**(i) Fish habitat enhancement project (FHEP) HPA.**

(A) Projects must satisfy the requirements in RCW 77.55.181(1) to be processed as a fish habitat enhancement project.

(B) Projects that are compensatory mitigation for a development or other impacting project are not eligible. This includes proposals for mitigation banks or in-lieu fee mitigation proposals. The sole purpose of the project must be for fish habitat enhancement.

(C) The department may reject an FHEP proposed under RCW 77.55.181 if the local government raises concerns during the comment period that impacts from the project cannot be mitigated by conditioning the HPA. The department will reject an FHEP if the department determines that the size and the scale of the project raises public health or safety concerns. If the department rejects a project for streamlined processing, the department must provide written notice to the applicant and local government within forty-five days of receiving the application.

(D) An applicant whose fish habitat enhancement project is rejected may submit a new complete written application with project modifications or additional information required for streamlined processing. An applicant may request that the department consider the project under standard HPA process-

ing procedures by submitting a new complete written application for standard processing.

(ii) Multisite HPA.

(A) A standard HPA may authorize work at multiple project sites if:

(I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area;

(II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and

(III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

(B) The department may make an exception for projects the department has scoped prior to application submittal or when no prepermit issuance site visits are needed.

(iii) General HPA.

(A) The department may issue general HPAs to government agencies, organizations, or companies to perform the same work in multiple water bodies across a large geographic area.

(B) To qualify for a general HPA, projects must protect fish life:

(I) Technical provisions in the HPA must fully mitigate impacts to fish life;

(II) The projects must be relatively simple so that the HPA provisions are the same across all sites, and can therefore be permitted without site-specific provisions; and

(III) The projects must have little or no variability over time in site conditions or work performed.

(C) The general HPA will include a requirement that notice be given to the department when activities utilizing heavy equipment begin. The department may waive this requirement if the permittee and department meet annually to review scheduled activities for the upcoming year.

(D) The department and the applicant may negotiate the scope and scale of the project types covered. The department and the applicant must agree on the fish protection provisions required before the application is submitted.

(E) The department may reject applications for a general HPA if:

(I) The proposed project does not meet the eligibility requirements described in subsection (3)(b)(iii)(B) of this section; or

(II) The department and the applicant cannot agree on the fish protection provisions.

(F) The department must provide written notice of rejection of a general HPA application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures.

(iv) "Model" HPA.

(A) The department will establish a "model" HPA application and permitting process for qualifying hydraulic projects. To qualify, an individual project must comply with the technical provisions established in the application. Hydraulic projects that qualify for the model process must:

(I) Fully mitigate impacts to fish life in the technical provisions of the HPA;

(II) Be a low complexity project that minimizes misinterpretation of the HPA provisions allowing the HPA to be permitted without site-specific provisions; and

(III) Meet all of the eligibility requirements described in the model application.

(B) If needed to confirm project eligibility, the department may conduct a site visit before approving or rejecting a model application.

(C) The department may reject applications for model HPAs if:

(I) The plans and specifications for the project are insufficient to show that fish life will be protected; or

(II) The applicant or authorized agent does not fill out the application completely or correctly.

(D) The department must provide written notice of rejection of an application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures under this section, or may submit a new model application if the department rejected the application because the person did not fill out the original application correctly.

**(4) Emergency HPA:**

(a) Declaring an emergency.

(i) Authority to declare an emergency, or continue an existing declaration of emergency, is conveyed to the governor, the department, or to a county legislative authority by statute. An emergency declaration may be made when there is an immediate threat to life, the public, property, or of environmental degradation;

(ii) The county legislative authority must notify the department, in writing, if it declares an emergency;

(iii) Emergency declarations made by the department must be documented in writing;

(iv) When an emergency is declared, the department must immediately grant verbal approval upon request for work to protect life or property threatened by waters of the state because of the emergency, including repairing or replacing a stream crossing, removing obstructions, or protecting stream banks. The department may also grant written approval if the applicant agrees.

(b) If the department issues a verbal HPA, the department must follow up with a written HPA documenting the exact provisions of the verbal HPA within thirty days of issuing the verbal HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for emergency HPAs.

(d) The department may require a person to submit an as-built drawing within thirty days after the hydraulic project authorized in the emergency HPA is completed.

(e) Within ninety days after a hydraulic project authorized in an emergency HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

**(5) Imminent danger HPA:**

(a) Authority to declare imminent danger is conveyed to the department or county legislative authority by statute. The county legislative authority must notify the department in writing if it determines that an imminent danger exists.



(b) Imminent danger declarations made by the department must be documented in writing.

(c) When imminent danger exists, the department must issue an expedited HPA upon request for work to remove obstructions, repair existing structures, restore banks, and to protect fish life or property.

(d) When imminent danger exists, and before starting work, a person must submit a complete written application to the department to obtain an imminent danger HPA. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for imminent danger HPAs.

(e) Imminent danger HPAs must be issued by the department within fifteen calendar days after receiving a complete written application. Work under an imminent danger HPA must be completed within sixty calendar days of the date the HPA is issued.

(f) Within ninety days after a hydraulic project authorized in an imminent danger HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

**(6) Chronic danger HPA:**

(a) The department must issue a chronic danger HPA upon request for work required to abate the chronic danger. This work may include removing obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish life, or protecting property.

(b) Authority to declare when a chronic danger exists is conveyed to a county legislative authority by statute. A chronic danger is a condition in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(c) The county legislative authority must notify the department in writing when it determines a chronic danger exists.

(d) When chronic danger is declared, and before starting work, a person must submit a complete written application to the department to obtain a chronic danger HPA. Unless the project also satisfies the requirements for fish habitat enhancement projects identified in RCW 77.55.181 (1)(a)(ii), compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is required. Projects that meet the requirements in RCW 77.55.181 (1)(a)(ii), will be processed under RCW 77.55.181(3), and the provisions of chapter 43.21C RCW will not be required.

**(7) Expedited HPA:**

(a) The department may issue an expedited HPA when normal processing would result in significant hardship for the applicant or unacceptable environmental damage would occur.

(b) Before starting work, a person must submit a complete written application to the department to obtain an HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for expedited HPAs. The department must issue expedited HPAs within fifteen calendar days after receipt of a complete written application. Work under an expedited HPA must be com-

pleted within sixty calendar days of the date the HPA is issued.

(d) Within ninety days after a hydraulic project authorized in an expedited HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

**(8) Pamphlet HPA:**

(a) There are two pamphlet HPAs, *Gold and Fish and Aquatic Plants and Fish*, that cover the most common types of small scale mineral prospecting and removing or controlling aquatic plants, respectively. A person must follow the provisions in the pamphlet. If a person cannot follow the provisions, or disagrees with any provision, the permittee must apply for a standard HPA before starting the hydraulic project.

(b) A person must review a pamphlet HPA before conducting the authorized hydraulic project.

(c) When a pamphlet HPA is used, the permittee must have the pamphlet HPA on the job site when conducting work and the pamphlet must be immediately available for inspection by the department upon request.

(d) All persons conducting the project must follow all provisions of the pamphlet HPA.

(e) The department may grant exceptions to a pamphlet HPA only if a person applies for a standard individual HPA for the project.

(f) Pamphlet HPAs do not exempt a person from obtaining other appropriate permits and following the rules and regulations of local, federal, and other Washington state agencies.

**(9) How to get an HPA:**

(a) How to get a pamphlet HPA: A person can download and save or print a pamphlet HPA from the department's website. A person may also request a pamphlet HPA from the department either verbally or in writing.

(b) How to get an emergency HPA: Upon an emergency declaration, and before starting emergency work, a person must obtain a verbal or written HPA from the department. A complete written application is not required. However, a person must provide adequate information describing the proposed action. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act), is not required for emergency HPAs. A person may request a verbal or written emergency HPA from the biologist who issues HPAs for the geographic area where the emergency is located Monday through Friday from 8:00 a.m. to 5:00 p.m. If the biologist cannot be contacted or it is after business hours, a person must contact the emergency hotline at 360-902-2537 to request an emergency HPA.

(c) How to get a standard, expedited, or chronic danger HPA:

(i) A person must submit a complete written application to the department to obtain an HPA unless the project qualifies for one of the following:

- (A) A pamphlet HPA, subsection (3) of this section; or
- (B) An emergency HPA, subsection (5) of this section.

(ii) When applying for an HPA, a person must submit one of the following application forms to the department:

(A) The electronic online application developed by the department;

(B) The current version of the JARPA;

(C) The current version of the JARPA including the most recent version of the application for streamlined processing of fish habitat enhancement projects when applying for streamlined processing under RCW 77.55.181. These may be submitted to the department as attachments to the online application form;

(D) The most recent version of the model HPA application or other department-approved alternative applications available from the department's public website; or

(E) The current version of the JARPA if applying for approval of a watershed restoration project under RCW 77.55.171. This may be submitted to the department as an attachment to the online application form.

(iii) A complete application package for an HPA must contain:

(A) A completed application form signed and dated by the applicant, landowner(s) or landowner representative(s) of any project site or off-site mitigation location, and the authorized agent, if any. Completing and submitting the application forms through the department's online permitting system is the same as providing signature and date, if all documents required during the online application process are submitted to the department. The property owner, if different than the applicant, or easement holder must consent to the department staff entering the property where the project is located to inspect the project site or any work;

(B) Plans for the overall project;

(C) Complete plans and specifications for all aspects of the proposed construction or work waterward of the mean higher high water line in salt water, or waterward of the ordinary high water line in fresh water;

(D) A description of the measures that will be implemented for the protection of fish life, including any reports assessing impacts from the hydraulic project to fish life and their habitat, and plans to mitigate those impacts to ensure the project results in no net loss;

(E) For a standard or chronic danger HPA application, a copy of the written notice from the lead agency demonstrating compliance with any applicable requirements of the State Environmental Policy Act under chapter 43.21C RCW, unless otherwise provided for in chapter 77.55 RCW; or the project qualifies for a specific categorical exemption under chapter 197-11 WAC;

(F) Written approval by one of the entities specified in RCW 77.55.181 if the applicant is proposing a fish enhancement project;

(G) For an expedited HPA application, an explanation of why normal processing would result in significant hardship for the applicant or unacceptable environmental damage.

(H) For a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment, a copy of a permit issued under the federal Clean Water Act by Washington department of ecology that authorizes the use of that equipment at the location proposed, or written notice from Washington department of ecology declaring that a federal Clean Water Act permit is not required.

(I) When applying for a standard written HPA for mineral prospecting work within the wetted perimeter outside of the allowable work times authorized in WAC 220-660-300

and 220-660-305, a person must identify the upstream and downstream extent of each project location within a stream. The location of each site can be no greater than the length contained within a registered mining claim, if the project occurs on a claim, or one thousand three hundred linear feet of stream, if the project does not occur on a claim.

(iv) HPA application submission:

(A) A person must submit the complete application package by:

(I) Using the department's online permitting system;

(II) Sending the package via mail to:

Department of Fish and Wildlife

P.O. Box 43234

Olympia, WA 98504-3234;

(III) Sending the package via email to: HPAapplications@dfw.wa.gov;

(IV) Sending the package via fax to: 360-902-2946;

(V) Uploading the package to a file transfer protocol site acceptable to the department; or

(VI) Hand delivering the package to the department at 1111 Washington Street S.E., Olympia, WA 98504, Habitat Program, Fifth Floor. The department will not accept applications submitted elsewhere or by other than the applicant or authorized agent.

(B) Dimensions of printed documents submitted with the application package may not be larger than eleven inches by seventeen inches. Pages of documents submitted may not be bound except by paper clips or other temporary fastening.

(C) A person must submit applications and supporting documents with a combined total of thirty or more pages as digital files rather than printed documents. All digital files must be in formats compatible with Microsoft Word, Microsoft Excel, or Microsoft Access programs, or in PDF, TIFF, JPEG, or GIF formats.

(D) Applications submitted to the habitat program during normal business hours (8:00 a.m. to 5:00 p.m. Pacific Standard Time) are deemed received on the date the habitat program receives the application. The department may declare applications received by the habitat program after normal business hours as received on the next business day.

**(10) Incomplete applications:**

(a) Within ten days of receipt of the application, the department must determine whether an application meets the requirements of this section. If the department determines the application does not meet the requirements, the department will provide written or emailed notification of an incomplete application to the applicant or authorized agent. This written or emailed notification must include a description of information needed to make the application complete. The department may return the incomplete application to the applicant or authorized agent or hold the application on file until it receives the missing information. The department will not begin to process the application until it receives all information needed to complete the application.

(b) The applicant or authorized agent must submit additional information in response to a written notification of incomplete application through the department's online permitting system or to the department's habitat program, Olympia headquarters office. The department will not accept addi-

tional information submitted elsewhere or by other than the applicant or authorized agent.

(c) The department may close any application that has been incomplete for more than twelve months. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

(d) The department may reject a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations are in an area in which Washington department of ecology is prohibited under RCW 90.48.615 from issuing a permit under the federal Clean Water Act.

**(11) Application review period:**

(a) Once the department determines an application is complete, the department will provide to tribes and local, state, and federal permitting or authorizing agencies a seven-calendar-day review and comment period. The department will not issue the HPA before the end of the review period to allow all interested tribes and agencies to provide comments to the department. The department may consider all written comments received when issuing or provisioning the HPA. The review period is concurrent with the department's overall review period. Emergency, imminent danger, expedited, and modified HPAs are exempt from the review period requirement.

(b) Except for emergency, imminent danger, and expedited HPAs, the department will grant or deny approval within forty-five calendar days of the receipt of a complete written application. The department will grant approval of imminent danger and expedited HPAs within fifteen days of the receipt of a complete written application. The department will grant approval of emergency HPAs immediately upon request if an emergency declaration has been made.

(c) If the department declares an imminent danger, applicant hardship, or immediate threat regarding an application for expedited or emergency HPA, the department must place written documentation of that declaration and justification for it in the application record within three days of issuing the written HPA.

**(12) Suspending the review period:**

(a) An applicant or authorized agent may request a delay in processing a standard HPA. The applicant or authorized agent must submit a written request for the delay through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept delay requests submitted elsewhere or by a person other than the applicant or authorized agent.

(b) If the department suspends the review period, the department must immediately notify the applicant in writing of the reasons for the delay. The department may suspend the review period (with or without the applicant's concurrence) if:

(i) The site is physically inaccessible for inspection or not in a condition to be evaluated (i.e., snow cover, frozen);

(ii) The applicant or authorized agent remains unavailable or unable to arrange for a field evaluation of the proposed project within ten working days of the department's receipt of the application;

(iii) The applicant or authorized agent submits a written request for a delay;

(iv) The department is issuing an HPA for a stormwater discharge and is complying with the requirements of RCW 77.55.161 (3)(b); or

(v) The department is reviewing the application as part of a multiagency permit streamlining effort, and all participating permitting and authorizing agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(c) The department may close any application if the application has been delayed for processing more than twelve months for any of the reasons identified in subsection (12)(a) or (b) of this section. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

**(13) Issuing or denying a hydraulic project approval:**

(a) Protection of fish life is the only grounds upon which the department may deny or provision an HPA, as provided in RCW 77.55.021. The department may not unreasonably withhold or condition approval of an HPA. The HPA provisions must reasonably relate to the project and must ensure that the project provides proper protection for fish life. The department may not impose provisions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) The department may not deny an emergency, imminent danger, chronic danger, or an expedited HPA, as provided in RCW 77.55.021. However, these projects must comply with the provisions in this chapter that are included in an HPA. The department will deny any other type of HPA or request to change an existing HPA when the project will not protect fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. If the department denies approval, the department must provide the applicant with a written statement of the specific reasons why and how the proposed project would adversely affect fish life, as provided in RCW 77.55.021.

(c) The department may place specific time limitations on project activities in an HPA to protect fish life.

(d) The department may require a person to notify the department before hydraulic project construction or other hydraulic project work starts, upon project completion, or at other times that the department deems necessary while the HPA is in effect. The department may also require a person to provide periodic written reports to assess HPA compliance.

(e) The HPA must contain provisions that allow for minor modifications to the work timing, plans, and specifica-

tions of the project without requiring the reissuance of the HPA, as long as the modifications do not adversely affect fish life or the habitat that supports fish life. The permittee should contact the habitat program's Olympia headquarters office through email or the department's online permit application system to request a minor modification.

(f) A person may propose or conduct a hydraulic project under an environmental excellence program agreement authorized under chapter 43.21K RCW. These projects must be applied for and permitted under the requirements of chapter 43.21K RCW.

**(14) Hydraulic project approval expiration time periods:**

(a) Except for emergency, imminent danger, expedited, and pamphlet HPAs, the department may grant standard HPAs that are valid for up to five years. The permittee must demonstrate substantial progress on construction of the portion of the project authorized in the HPA within two years of the date of issuance.

(b) Imminent danger and expedited HPAs are valid for up to sixty days, and emergency HPAs are valid for the expected duration of the emergency hydraulic project.

(c) Pamphlet HPAs remain in effect indefinitely until modified or rescinded by the department.

(d) The following types of agricultural hydraulic project HPAs remain in effect without the need for periodic renewal; however, a person must notify the department before starting work each year:

(i) Seasonal work that diverts water for irrigation or stock watering; and

(ii) Stream bank stabilization projects to protect farm and agricultural land if the applicant can show that the problem causing the erosion occurs annually or more frequently. Evidence of erosion may include history of permit application, approval, or photographs. Periodic floodwaters alone do not constitute a problem that requires an HPA.

**(15) Requesting a time extension, renewal, modification, or transfer of a hydraulic project approval:**

(a) The permittee may request a time extension, renewal, modification, or transfer of an active HPA. Before the HPA expires, the permittee or authorized agent must submit a written request through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept requests for delay, renewal, modification, or transfer of an HPA submitted elsewhere or by a person other than the permittee or authorized agent. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the permit number or application identification number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA if requesting a time extension, renewal, or modification, the reason for the requested change, the date of the request, and the requestor's signature. Requests for transfer of an HPA to a new permittee or authorized agent must additionally include a signed, written statement that the new permittee or authorized agent agrees to the conditions of the HPA, that they agree to allow the department access to the project location to inspect the project site, mitigation site, or any work related to the project, and that they will not conduct

any project activities until the department has issued approval.

(b) Requests for time extensions, renewals, or modifications of HPAs are deemed received on the date received by the department. The department may declare applications submitted to habitat program after normal business hours as received on the next business day.

(c) Within forty-five days of the requested change, the department must approve or deny the request for a time extension, renewal, modification, or transfer of an approved HPA.

(d) Unless the new permittee or authorized agent requests a time extension, renewal, or modification of an approved HPA, the department may change only the name and contact information of the permittee or authorized agent and must not alter any provisions of the HPA except the project or location start dates when granting a transfer.

(e) A permittee may request a modification or renewal of an emergency HPA until the emergency declaration expires or is rescinded. Requests for changes to emergency HPAs may be verbal, but must contain all of the information in (a) of this subsection.

(f) The department must not modify or renew an HPA beyond the applicable five-year or sixty-day periods. A person must submit a new complete application for a project needing further authorization beyond these time periods.

(g) The department will issue a letter documenting an approved minor modification(s) and a written HPA documenting an approved major modification(s) or transfer.

**(16) Modifications of a hydraulic project approval initiated by the department:**

(a) After consulting with the permittee, the department may modify an HPA because of changed conditions. The modification becomes effective immediately upon issuance of a new HPA.

(b) For hydraulic projects that divert water for agricultural irrigation or stock watering, or when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the department must show that changed conditions warrant the modification in order to protect fish life.

**(17) Revoking an HPA.**

(a) The department may revoke an HPA under the following conditions:

(i) At the written request of the permittee or authorized agent;

(ii) As the result of an informal or formal appeal decision;

(iii) As the result of a court ruling finding that the department issued the HPA in error;

(iv) Following change of a determination of nonsignificance or mitigated determination of nonsignificance to a determination of significance by a lead agency under chapter 43.21C RCW that applies to the hydraulic project approved by the HPA;

(v) The applicant did not correctly identify compliance with the requirements of chapter 43.21C RCW in the HPA application and the department was unaware of the error until after the HPA was issued;

(vi) Changed physical or biological conditions at the site of the hydraulic project have occurred before project initiation such that fish life cannot be protected if the project proceeds under the requirements of the existing HPA;

(vii) The permittee has not demonstrated substantial progress on construction of the hydraulic project within two years of the date of issuance as required in RCW 77.55.021 (9)(a). Substantial progress means initiation of work at any of the project locations identified in the HPA;

(viii) Duplicate HPAs have been issued for the same hydraulic project.

(b) The department must provide the permittee or authorized agent with written notification before revoking the HPA.

(c) The department must notify the permittee or authorized agent in writing immediately upon revoking the HPA.

**(18) Requesting a preapplication determination:**

(a) A person may request information or a technical assistance site visit from the department prior to submitting an HPA application or at any other time. The department will provide the requested information either verbally or in writing.

(b) If a person is unsure about whether proposed construction or other work landward of (above) the ordinary high water line requires an HPA, they may request a preapplication determination from the department under RCW 77.55.-400. The department must evaluate the proposed project and determine if it is a hydraulic project and, if so, whether an HPA from the department is required to ensure proper protection of fish life.

(c) The preapplication determination request must be submitted through the department's online permitting system and must contain:

(i) A description of the proposed project, which must include the location of the ordinary high water line;

(ii) A map showing the location of the project site, which must include the location of the ordinary high water line; and

(iii) Preliminary plans and specifications of the proposed project, if available, which include the location of the ordinary high water line.

(d) The department must provide tribes and local governments a seven calendar day review and comment period. The department must consider all applicable written comments that it receives before it issues a determination as described in this subsection.

(e) The department must issue a written determination, including its rationale for the decision, within twenty-one calendar days of receiving the request.

(f) Chapter 43.21C RCW (state environmental policy) does not apply to preapplication determinations issued under this subsection.

(g) The department's preapplication determination decision may be appealed as provided in WAC 220-660-460 (Informal appeal of administrative action) or WAC 220-660-470 (Formal appeal of administrative action).

**(19) Notice of intent to disapprove HPA applications:**

(a) The department may disapprove HPA applications submitted by a project proponent who has failed to comply with a stop work order or notice to comply issued under WAC 220-660-480, or who has failed to pay civil penalties

issued under WAC 220-660-480. The term "project proponent" has the same definition as in RCW 77.55.410.

(b) The department may disapprove HPA applications submitted by such project proponents for up to one year after the date on which the department issues a notice of intent to disapprove HPA applications, or until such project proponent pays all outstanding civil penalties and complies with all notices to comply and stop work orders issued under WAC 220-660-480, whichever is longer (disapproval period).

(c) The department must provide written notice of its intent to disapprove HPA applications to the project proponent and to any authorized agent or landowner identified in the application, in person or via United States mail, to the mailing address(es) listed on the project proponent's HPA application.

(d) The disapproval period begins on the date the department's notice of intent to disapprove HPA applications becomes final. The notice of intent to disapprove HPA applications becomes final thirty calendar days after the department issues it, or upon exhaustion of all applicable administrative and/or judicial remedies.

(e) Any project proponent issued a notice of intent to disapprove HPA applications may, within thirty days of the date of the notice, initiate a formal appeal of the notice as provided in WAC 220-660-470 (Formal appeal of administrative actions).

(f) The department will provide notice and waiver of fines, civil penalties, and administrative sanctions consistent with RCW 34.05.110 and WAC 220-660-480(12).

**AMENDATORY SECTION** (Amending WSR 19-12-126, filed 6/5/19, effective 11/1/19)

**WAC 220-660-300 Mineral prospecting. (1) Description:** Mineral prospecting projects excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment. When prospectors locate valuable minerals through prospecting, they may attempt to recover larger quantities of the minerals using a variety of equipment, including suction dredges, high bankers, and heavy equipment. The rules in this section apply to ~~((using))~~ the use of pans; nonmotorized sluice boxes; nonmotorized concentrators; minirocker boxes; and hand-held mineral prospecting tools ~~((and a variety of small mineral prospecting equipment))~~. This section does not apply to metals mining and milling operations as defined in chapter 78.56 RCW. Motorized mineral prospecting methods including, but not limited to, suction dredging ~~((is))~~, are not authorized in this section. See WAC 220-660-305 for ~~((suction dredging))~~ rules for motorized and gravity siphon methods.

**(2) Fish life concerns:** Mineral prospecting and mining activities can harm fish life and habitat that supports fish life.

(a) Direct impacts from mineral prospecting and mining activities can include:

(i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed; and

(ii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.

(b) Indirect impacts can include changes in food resources and human disturbances.

(c) The department minimizes impacts of mineral prospecting by restricting the type of mining equipment allowed, limiting excavation zones within streams, and setting allowable timing windows.

(3) **General requirements:**

(a) A copy of the current *Gold and Fish* pamphlet is available from the department, and it contains the rules that a person must follow when using the pamphlet as the HPA for the mineral prospecting project.

(b) Alternatively, a person may request exceptions to the *Gold and Fish* pamphlet by applying for a standard written HPA as described in WAC 220-660-050. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(c) Nothing in chapter 220-660 WAC relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

(4) **Mineral prospecting in freshwater without timing restrictions:**

(a) A person may mineral prospect year-round in all fresh waters of the state, except lakes. A person must follow the rules listed below, but does not need to have the *Gold and Fish* pamphlet on the job site when working in fresh waters of the state.

(b) When mineral prospecting without timing restrictions, a person may use only hand-held mineral prospecting tools and the following nonmotorized mineral prospecting equipment:

(i) Pans(☺

(ii) Spiral wheels); and

((iii)) (ii) Sluices, nonmotorized concentrators, mini rocker boxes, and nonmotorized mini high-bankers, with rifle areas totaling three square feet or less, including ganged equipment.

(iii) No other types of mineral prospecting tools or equipment are authorized under this subsection.

(c) A person may not use vehicle-mounted winches. A person may use one nonmotorized hand-operated winch to move boulders or large woody material that is not embedded or located within the wetted perimeter. A person may use additional cables, chains, or ropes to stabilize boulders, or large woody material that is not embedded.

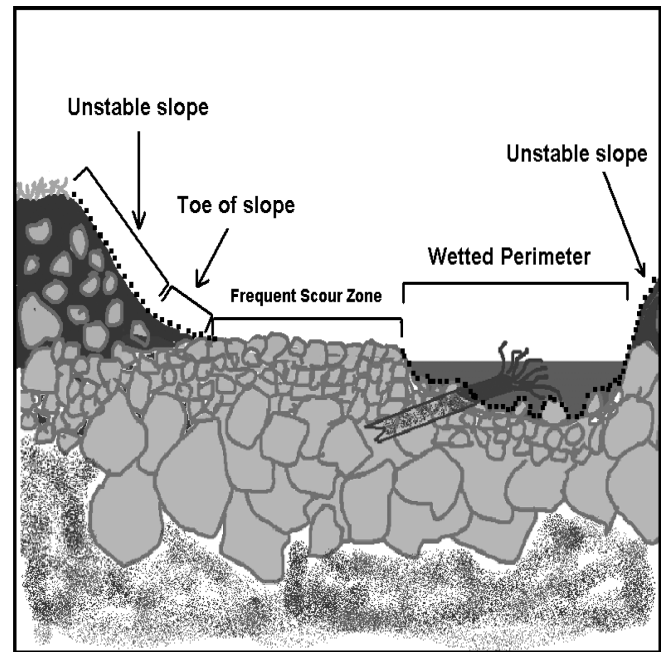
(d) A person may work within the wetted perimeter only from one-half hour before official sunrise to one-half hour after official sunset.

(e) A person may not disturb fish life or redds within the bed. If a person observes or encounters fish life or redds within the bed, or actively spawning fish when collecting or processing aggregate, a person must relocate their operation. A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

(f) Aggregate excavation, collection, and removal:

(i) A person may excavate only by hand or with hand-held mineral prospecting tools.

(ii) A person may not excavate, collect, or remove aggregate from within the wetted perimeter. See Figures 1 and 2.



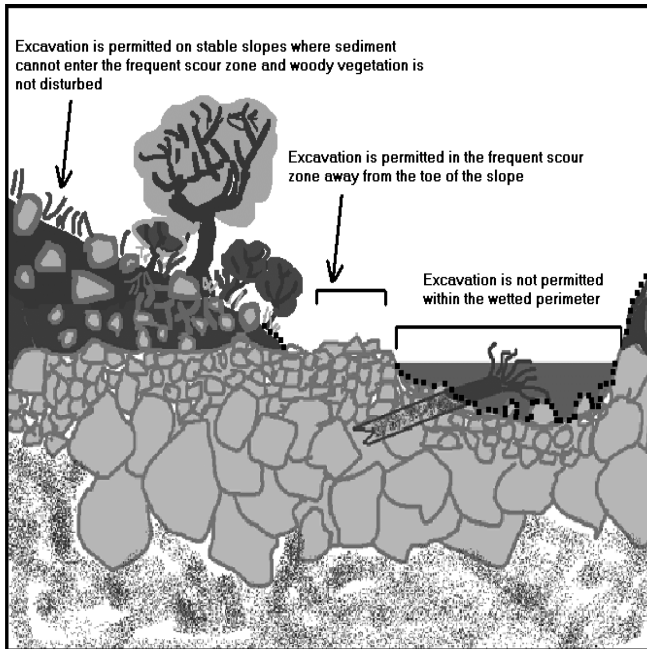
**Figure 1: Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

(iii) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

(iv) When collecting or excavating aggregate, a person may not stand within, or allow aggregate to enter, the wetted perimeter.

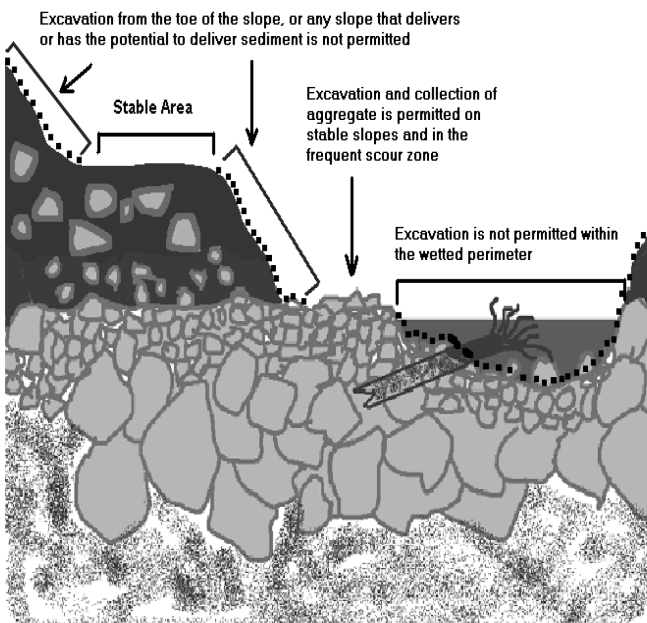
(v) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site. If a person moves boulders, a person must return them, as well as possible, to their original location.

(vi) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material. See Figure 2.

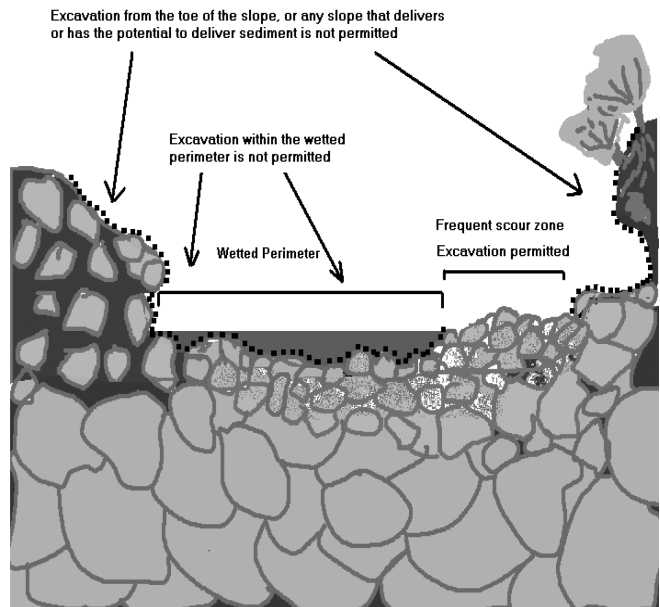


**Figure 2: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

- (vii) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.
- (viii) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver sediment to the wetted perimeter or frequent scour zone. See Figures 3 and 4.



**Figure 3: Limits on excavating, collecting, and removing aggregate on stream banks.**



**Figure 4: Excavating, collecting and removing aggregate within the wetted perimeter is not permitted.**

(g) Processing aggregate:

- (i) A person may stand within the wetted perimeter when processing aggregate with pans((=spiral wheels,)) and sluices.
- (ii) A person may not stand on or process directly on redds, or disturb incubating fish life. A person may not allow tailings or visible sediment plumes (visibly muddy water) to enter redds or areas where fish life are located within the bed.
- (iii) A person may not level or disturb tailing piles that remain within the wetted perimeter after processing aggregate.
- (iv) If a person collected or excavated aggregate outside of the frequent scour zone, a person must classify it at the collection or excavation site before processing.
- (v) When using a sluice, a person may process only classified aggregate within the wetted perimeter.
- (vi) The maximum width of a sluice, measured at its widest point, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.
- (vii) A person may process with a sluice only in areas within the wetted perimeter that are composed mainly of boulders and bedrock. A person must separate sluice locations by at least fifty feet. A person may not place structures within the wetted perimeter to check or divert the water flow.
- (viii) A person may operate nonmotorized mini high-bankers or other concentrators only outside the wetted perimeter. Water may be supplied to the mini high-banker or concentrator only from natural stream flow or from hand-held

buckets or containers and may not be supplied through a gravity siphon. A person may not allow visible sediment or muddy water to enter the wetted perimeter. A second excavation site may be used as a settling pond.

~~(ix) ((As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.~~

~~(x))~~ A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

~~((xi))~~ (x) A person may not disturb existing fish habitat improvement structures or stream channel improvements.

~~((xii) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.~~

~~(xiii))~~ (xi) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately cease operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(5) Mineral prospecting in fresh waters with timing restrictions:**

(a) A person may mineral prospect in fresh waters of the state only during the times ~~((and with the mineral prospecting equipment limitations))~~ identified in subsection (7) of this section. A person must have the *Gold and Fish* pamphlet on the job site and comply with the provisions listed below.

(b) When mineral prospecting with timing restrictions, a person may use only nonmotorized hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans; and

~~(ii) ((Spiral wheels;~~

~~(iii))~~ Sluices, nonmotorized concentrators, rocker boxes, and nonmotorized high-bankers, with riffle areas totaling ten square feet or less, including ganged equipment~~((;~~

~~(iv) Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including~~

~~ganged equipment; and pump intake hoses with inside diameters of four inches or less; and~~

~~(v) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less)). Water may be supplied to the high-banker or concentrator only from natural stream flow or from hand-held buckets or containers and may not be supplied through a gravity siphon;~~

(iii) No other types of mineral prospecting tools or equipment are authorized under this subsection.

(c) The widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

~~(d) ((The suction intake nozzle and hose of power sluice/suction dredge combinations may not be attached to the equipment or stored on the job site.~~

~~(e))~~ A person may not use vehicle-mounted winches. A person may use ~~((one motorized winch and))~~ one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~((f))~~ (e) Equipment separation:

(i) A person may use hand-held mineral prospecting tools; pans~~((; spiral wheels));~~ or sluices, mini rocker boxes, or nonmotorized mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), ~~((power sluice/suction dredge combination;))~~ or nonmotorized high-banker, ~~((or power sluice within the wetted perimeter;))~~ a person's equipment must be at least two hundred feet from all others also operating ~~((this type of equipment or a suction dredge))~~ mineral prospecting equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ~~((actually operating))~~ being used within that two hundred foot radius.

(iii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), ~~((power sluice/suction dredge combination, high-banker, or power sluice))~~ or nonmotorized high-banker outside of the wetted perimeter that discharges tailings or wastewater to the wetted perimeter, a person's equipment must be at least two hundred feet from all others also operating ~~((this type of equipment or a suction dredge))~~ mineral prospecting equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ~~((actually operating))~~ being used within that two hundred-foot radius.

~~((g) As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round open-~~



ings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(h) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

((f)) (f) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

((g)) (g) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

((h)) (h) A person must not disturb existing fish habitat improvement structures or stream channel improvements.

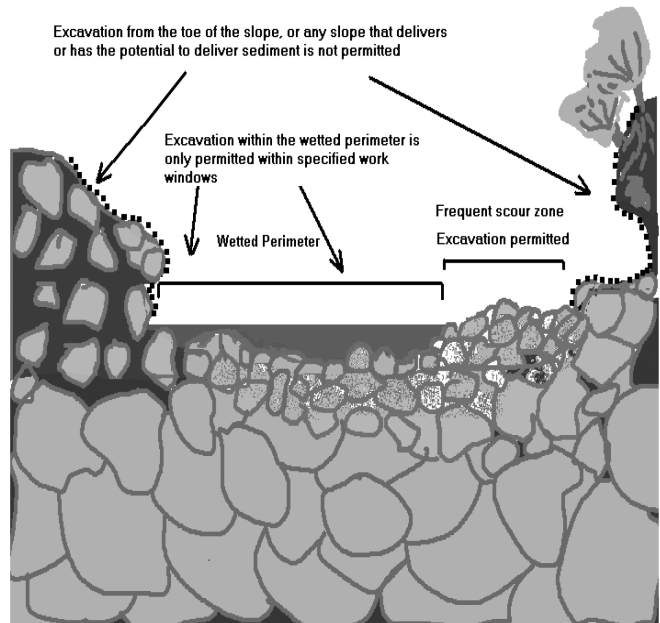
((i)) (i) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

((j)) (j) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

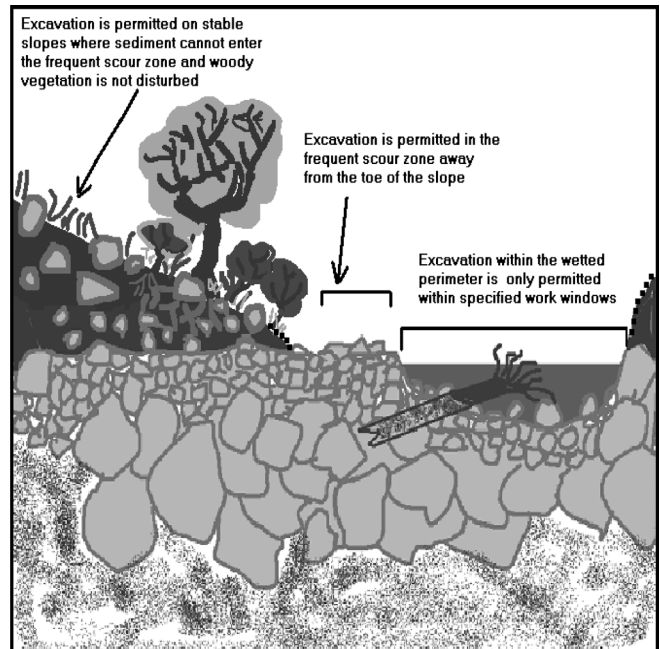
((k)) (k) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

((l)) (l) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

((m)) (m) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 5 and 6.



**Figure 5: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.**



**Figure 6: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting with timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

~~((f))~~ (n) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

~~((f))~~ (o) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

~~((s))~~ (p) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; ~~((spiral wheels;))~~ mini rocker boxes; nonmotorized mini high-bankers; or sluices or other nonmotorized concentrators with riffle areas three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses ~~((power sluice/suction dredge combinations;))~~ nonmotorized high-bankers~~((; or power sluices;))~~ with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas larger than three, but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, a person may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

~~((f))~~ (q) A person may process aggregate collected from upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; ~~((spiral wheels;))~~ or sluices, nonmotorized concentrators, mini rocker boxes, and nonmotorized mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment. A person must classify the aggregate at the excavation site before processing with this equipment within the wetted perimeter or frequent scour zone.

(ii) Only at an upland location landward of the frequent scour zone if a person uses ~~((power sluice/suction dredge combinations;))~~ nonmotorized high-bankers~~((; or power sluices;))~~ or rocker boxes. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(iii) Within the wetted perimeter or frequent scour zone if a person uses a sluice with a riffle area greater than three square feet. A person must classify the aggregate at the excavation site prior to processing with a sluice with a riffle area exceeding three square feet.

~~((u))~~ A person may use pressurized water only for eroding or for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

(v) A person may conduct eroding in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for eroding may not have an inside diameter larger than three-quarters of an inch. If a person erodes landward of the frequent scour zone, no sediment or waste-

~~water may be discharged into the wetted perimeter or the frequent scour zone.~~

~~((w))~~ (r) A person must avoid areas containing live fresh-water mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

~~((x))~~ (s) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

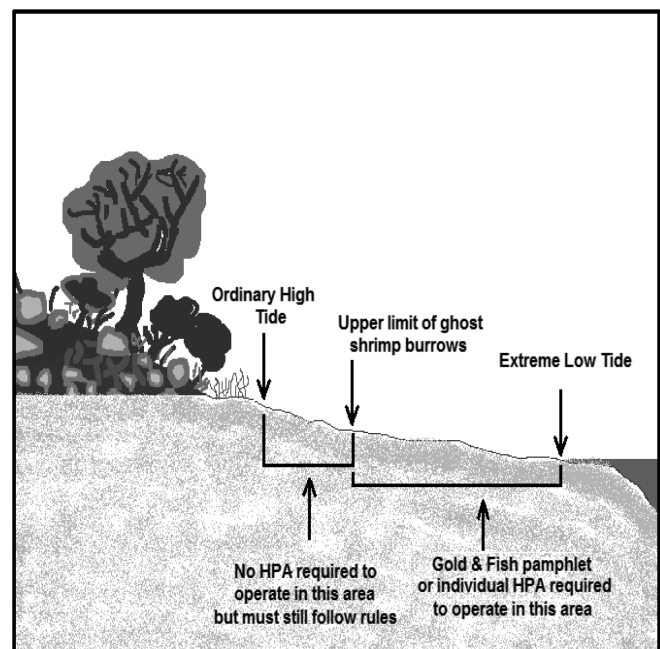
~~((y))~~ (t) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(6) Mineral prospecting on ocean beaches:**

(a) A person may mineral prospect year-round on ocean beaches of the state. A person must follow the rules listed below, and must have the *Gold and Fish* pamphlet on the job site when working on ocean beaches of the state, except as noted in this subsection.

(b) A person may mineral prospect only between the line of ordinary high tide and the line of extreme low tide on beaches within the Seashore Conservation Area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(c) No written or pamphlet HPA is required to mineral prospect south of the Copalis River, if a person operates landward of the upper limit of ghost shrimp burrowing in the beach; waterward of the ordinary high tide line; and a person does not use fresh water from fish-bearing streams during operations. See Figure 7.



**Figure 7. Beach area where no written or pamphlet HPA is required.**

(d) A person may use only nonmotorized hand-held mineral prospecting tools and the following nonmotorized mineral prospecting equipment:

- (i) Pans; and
- (ii) ~~((Spiral wheels;~~

~~((iii))) Sluices, nonmotorized concentrators, rocker boxes, and nonmotorized high-bankers with riffle areas totaling ten square feet or less, including ganged equipment((;~~

~~(iv) Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including ganged equipment; and~~

~~(v) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.~~

~~(e) The suction dredge intake nozzle and hose of power sluice/suction dredge combinations may not be attached to the equipment or stored on the job site)).~~

~~((f)) (e) When operated in fish-bearing freshwater streams, the widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.~~

~~(f) Water may be supplied to a high-banker or concentrator only from natural stream flow or from hand-held buckets or containers and may not be supplied through a gravity siphon.~~

(g) A person may not use vehicle-mounted winches. A person may use ~~((one motorized winch and))~~ one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~(h) ((Under RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.~~

~~(i) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.~~

~~((j))~~ A person may work only from one-half hour before official sunrise to one-half hour after official sunset. If a person uses mineral prospecting equipment in a fish-bearing

freshwater stream and the equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

~~((k))~~ (i) A person may not undermine, cut, disturb, or move embedded large woody material or woody debris jams.

~~((H))~~ (j) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

~~((m))~~ (k) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to another excavation site (except during use as a settling pond) or leaving an excavation site.

~~((n))~~ (l) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing freshwater stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

~~((o))~~ (m) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

~~((p))~~ A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

~~((q))~~ (n) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

~~((r))~~ (o) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(7) Authorized work times by specific state waters for mineral prospecting and placer mining projects:**

(a) A person may conduct mineral prospecting and placer mining under subsections (5) and (6) of this section only in the state waters and during the times specified in the following table of authorized work times.

(b) The general work time for a county applies to all state waters within that county unless otherwise indicated in the table.

(c) The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

(d) Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream

that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 8.

(e) Mineral prospecting and placer mining within water bodies identified in the table of authorized work times as "submit application" are not authorized under the *Gold and Fish* pamphlet. A person must obtain a standard written HPA to work in these water bodies.

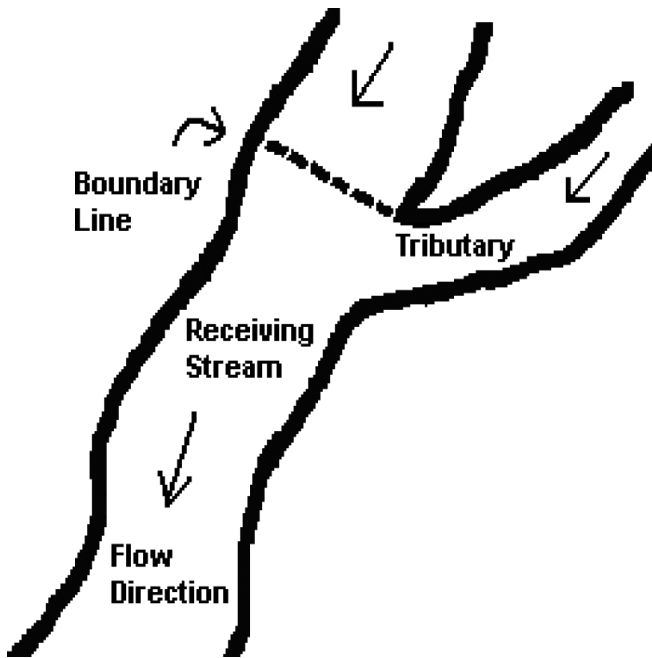


Figure 8: Where the boundary is located if a tributary listed as a boundary.

Table 1  
Authorized Work Times by Specific State Waters for Mineral Prospecting and Placer Mining Projects

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates
<b>Adams County</b>	July 1 - October 31
Crab Creek (41.0002)	July 16 - February 28
Esquatzel Creek (36.MISC)	June 1 - February 28
Palouse River (34.0003)	July 16 - February 28
<b>Asotin County</b>	July 16 - September 15
Snake River (35.0002)	See Below
Alpowa Creek (35.1440)	July 16 - December 15
Asotin Creek (35.1716)	July 16 - August 15
Couse Creek (35.2147)	July 16 - December 15
Grande Ronde River (35.2192)	July 16 - September 15
Ten Mile Creek (35.2100)	July 16 - December 15
<b>Benton County</b>	June 1 - September 30

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates
Columbia River	See Below
Glade Creek (31.0851)	August 1 - September 30
Yakima River (37.0002)	June 1 - September 15
Amon Wasteway (37.0009)	June 1 - September 30
Corral Creek (37.0002)	June 1 - September 30
Spring Creek (37.0205)	June 1 - September 30
<b>Chelan County</b>	July 16 - August 15
Columbia River	See Below
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30
Colockum Creek (40.0760)	July 1 - October 31
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31
Crum Canyon (46.0107)	July 16 - March 31
Mad River (46.0125)	July 16 - July 31
Indian Creek (46.0128)	July 16 - February 28
Lake Chelan (47.0052)	Submit Application
Railroad Creek (47.0410)	July 16 - September 30
Stehekin River (47.0508)	Submit Application
Twenty-Five Mile Creek (47.0195)	July 16 - September 30
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15
Other Lake Chelan tributaries within North Cascades National Park	Submit Application
Number 1 Canyon (45.0011)	July 1 - February 28
Number 2 Canyon (45.0012)	July 1 - February 28
Squilchuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30
Squilchuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28
Wenatchee River (45.0030) - Mouth to Hwy 2 Bridge in Leavenworth	July 15 - September 30
Wenatchee River (45.0030) - Hwy 2 Bridge in Leavenworth to Lake Wenatchee	July 15 - August 15
Beaver Creek (45.0751)	July 1 - September 30
Chiwaukum Creek (45.0700)	July 1 - July 31
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31
Deep Creek (45.0764)	July 1 - February 28
Phelps Creek (45.0875)	July 16 - August 15
Icicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31
Icicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31
Fourth of July Creek (45.0525)	July 1 - February 28
Lake Wenatchee (45.0030)	Submit Application
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application
White River (45.1116) - Mouth to White River Falls	July 1 - July 31
White River (45.1116) - Upstream of White River Falls	July 1 - February 28
Nason Creek (45.0888)	July 1 - July 31
Peshastin Creek (45.0232) - Mouth to Etienne Creek	July 16 - August 15
Peshastin Creek (45.0232) - Upstream of Etienne Creek	August 1 - February 28
Ingalls Creek (45.0273) - Mouth to Cascade Creek	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Ingalls Creek (45.0273) - Upstream of Cascade Creek	July 16 - February 28
Etienne Creek (45.0323) - Mouth to falls at stream mile 2.9	Submit Application
Etienne Creek (45.0323) - Upstream of falls at stream mile 2.9	July 16 - February 28
Ruby Creek (45.0318)	July 16 - February 28
Tronson Creek (45.0346)	August 1 - February 28
Scotty Creek (45.0376)	August 1 - February 28
Shaser Creek (45.0365)	August 1 - February 28
<b>Clallam County</b>	July 16 - September 15
Clallam River (19.0129)	August 1 - August 15
Dungeness River (18.0018)	Submit Application
Independent Creek (18.MISC)	August 1 - August 31
Elwha River (18.0272)	August 1 - August 15
Hoko River (19.0148)	August 1 - September 15
Jimmycomelately Creek (17.0285)	August 1 - August 31
Lake Ozette (20.0046)	Submit Application
Little Quilcene River (17.0076)	July 16 - August 31
Lake Ozette tributaries	July 16 - September 15
Lyre River (19.0031)	August 1 - September 15
McDonald Creek (18.0160)	August 1 - September 15
Morse Creek (18.0185)	August 1 - August 15
Ozette River (20.0046)	July 16 - September 15
Pysht River (19.0113)	August 1 - September 15
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15
Bogachiel River (20.0162)	Submit Application
Calawah River (20.0175)	August 1 - August 15
Salmon Creek (17.0245)	July 16 - August 31
Sekiu River (19.0203)	August 1 - September 15
Snow Creek (17.0219)	July 16 - August 31
Sol Duc River (20.0096)	Submit Application
Lake Pleasant (20.0313)	Submit Application
Lake Pleasant tributaries	July 16 - September 15
Sooes River (20.0015)	July 16 - September 15
<b>Clark County</b>	July 16 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Columbia River	See Below
Lacamas Creek (28.0160) - Mouth to dam	August 1 - August 31
Lacamas Creek (28.0160) - Upstream of dam	August 1 - September 30
Lewis River (27.0168)	August 1 - August 15
East Fork Lewis River (27.0173) - Mouth to Lucia Falls	August 1 - August 15
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28
Lake River (28.0020)	January 1 - December 31
Burnt Bridge Creek (28.0143)	August 1 - August 31
Salmon Creek (28.0059)	August 1 - August 31
Whipple Creek (28.0038)	August 1 - September 30
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15
Cedar Creek (27.0339)	August 1 - September 15
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15
Canyon Creek (27.0442)	July 16 - February 28
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - August 15
Washougal River (28.0159) - Mouth to headwaters	August 1 - August 31
<b>Columbia County</b>	July 16 - September 30
Touchet River (32.0097)	August 1 - August 15
Grande Ronde River tributaries (35.2192)	July 16 - August 15
North Fork Touchet/Wolf Fork (32.0761)	Submit Application
South Fork Touchet (32.0708)	Submit Application
Tucannon River (35.0009)	July 16 - August 15
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15
<b>Cowlitz County</b>	July 16 - September 30
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Mouth to Fisk Falls	August 1 - August 31
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Upstream of Fisk Falls	August 1 - August 31
Columbia River	See Below
Abernathy Creek (25.0297)	July 16 - September 15
Burke Creek (27.0148)	August 1 - August 31
Burriss Creek (27.0151)	August 1 - August 31
Bybee Creek (27.0142)	August 1 - August 31
Canyon Creek (27.0147)	August 1 - August 31
Coal Creek (25.0340)	July 16 - September 15
Clark Creek (25.0371)	August 1 - August 31
Cowlitz River (26.0002) - Mouth to barrier dam at river mile 49.5	July 16 - August 15
Coweeman River (26.0003) - Mouth to Baird Creek	August 1 - August 31
Coweeman River (26.0003) - Upstream of Baird Creek	August 1 - August 31
Cowlitz River (26.0002) - Tributaries below barrier dam to mouth	July 16 - September 30
Owl Creek (26.1441)	July 16 - September 15
Toutle River (26.0227)	July 16 - August 15
North Fork Toutle River (26.0314) - Mouth to Debris Dam	July 16 - August 15
North Fork Toutle River (26.0314) - Upstream of Debris Dam	July 16 - August 15
Green River (26.0323) - Mouth to Shultz Creek	July 16 - September 30
Green River (26.0323) - Upstream of Shultz Creek	July 16 - September 30
South Fork Toutle (26.0248) - Mouth to Bear Creek	July 16 - September 15
South Fork Toutle (26.0248) - Upstream of Bear Creek	July 16 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Tributaries to Silver Lake	July 16 - September 30
Germany Creek (25.0313)	July 16 - September 15
Kalama River (27.0002) - Mouth to Kalama Falls	August 1 - August 15
Kalama River (27.0002) - Upstream of Kalama Falls	August 1 - August 15
Lewis River (27.0168) - Mouth to East Fork Lewis River	August 1 - August 15
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15
Mill Creek (25.0284)	July 16 - September 15
Schoolhouse Creek (27.0139)	August 1 - August 31
<b>Douglas County</b>	July 1 - September 30
Columbia River	See Below
Douglas Creek Canyon (44.0146)	May 16 - January 31
Foster Creek (50.0065)	August 1 - April 15
McCarteney Creek (44.0002)	July 1 - February 28
Pine/Corbaley Canyon Creek (44.0779)	September 16 - April 15
Rock Island Creek (44.0630)	July 1 - September 30
<b>Ferry County</b>	July 1 - August 31
Columbia River	See Below
Kettle River (60.0002)	June 16 - August 31
Boulder Creek (60.0130) - Mouth to Hodgson Road Bridge	Submit Application
Boulder Creek (60.0130) - Upstream of Hodgson Road Bridge	June 16 - February 28
Deadman Creek (60.0008) - Mouth to SR395 Crossing	Submit Application
Deadman Creek (60.0008) - Upstream of SR395	June 16 - February 28
Goosmus Creek (60.0254)	June 16 - February 28
Toroda Creek (60.0410)	July 1 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
San Poil River (52.0004)	June 16 - September 30
Granite Creek (52.0099) - Mouth to Powerhouse Dam	June 16 - September 30
Granite Creek (52.0099) - Upstream of Powerhouse Dam	June 16 - February 28
West Fork San Poil River (52.0192) - Mouth to Deep Creek	June 16 - September 30
West Fork San Poil River (52.0192) - Upstream of Deep Creek	June 16 - September 30
Gold Creek (52.0197)	June 16 - February 28
<b>Franklin County</b>	June 1 - September 30
Columbia River	See Below
Snake River	See Below
Palouse River (34.0003)	July 16 - February 28
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 - October 31
<b>Garfield County</b>	July 16 - September 30
Snake River (35.0003)	See Below
Alpowa Creek (35.1440)	July 16 - December 15
Asotin Creek (35.1716)	July 16 - August 15
Deadman Creek (35.0688)	July 16 - December 15
Grande Ronde River tributaries (35.2192)	July 16 - August 15
Meadow Creek (35.0689)	July 16 - December 15
Tucannon River (35.0009) - Mouth to Panjab Creek	July 16 - August 15
Tucannon River (35.0009) - Upstream of Panjab Creek	July 16 - August 15
Pataha Creek (35.0123) - Mouth to Pataha Creek	January 1 - December 31
Pataha Creek (35.0123) - Upstream of Pataha Creek	July 16 - December 31
<b>Grant County</b>	July 1 - October 31
Columbia River	See Below
Crab Creek (41.0002)	July 16 - September 15
<b>Grays Harbor County</b>	July 16 - October 15
Chehalis River (22.0190/23.0190) - Mouth to Porter Creek	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Chehalis River (22.0190/23.0190) - Porter Creek to Fisk Falls	August 1 - August 15
Chehalis River (22.0190/23.0190) - Upstream of Fisk Falls	August 1 - August 15
Cedar Creek (23.0570)	August 1 - September 30
Cloquallum Creek (22.0501)	August 1 - September 30
Porter Creek (23.0543)	August 1 - September 30
Satsop River (22.0360)	August 1 - August 31
Wishkah River (22.0191)	August 1 - October 15
Wynoochee River (22.0260)	August 1 - September 30
Copalis River (21.0767)	August 1 - October 15
Elk River (22.1333)	July 1 - October 31
Hoquiam River (22.0137)	August 1 - October 15
Humptulips River (22.0004) - Mouth to Forks	August 1 - September 30
Humptulips River (22.0004) - Upstream of Forks	August 1 - September 30
Johns River (22.1270)	August 1 - September 30
Moclips River (21.0731)	August 1 - October 15
North River (24.0034)	August 1 - September 30
Queets River (21.0001)	August 1 - August 15
Quinalt River (21.0398)	August 1 - August 15
Raft River (21.0337)	August 1 - October 15
<b>Island County</b>	June 16 - October 15
Cavalero Creek (06.0065)	June 16 - December 15
Chapman Creek (06.0070)	June 16 - December 15
Crescent Creek (06.0002)	June 16 - December 15
Cultus Creek (06.0026)	June 16 - March 15
Deer Creek (06.0024)	June 16 - March 15
Dugualla Creek (06.0001)	June 16 - March 15
Glendale Creek (06.0025)	June 16 - December 15
Kristoferson Creek (06.0062-06.0063)	May 1 - December 15
Maxwelton Creek (06.0029)	June 16 - December 15
North Bluff Creek (06.0006)	June 16 - March 15
Old Clinton Creek (06.0023)	June 16 - March 15
<b>Jefferson County</b>	July 16 - October 31
Big Quilcene River (17.0012) - Mouth to falls	July 16 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Big Quilcene River (17.0012) - Falls to Forks	August 1 - February 28
Big Quilcene River (17.0012) - Upstream of Forks	August 1 - February 28
Bogachiel River (20.0162)	Submit Application
Chimacum Creek (17.0203)	July 16 - September 15
Donovan Creek (17.0115)	July 1 - October 15
Dosewallips River (16.0442)	July 16 - August 15
Duckabush River (16.0351)	July 16 - August 15
Dungeness River (18.0018)	August 1 - August 15
Elwha River (18.0272)	August 1 - August 15
Goodman Creek (20.0406)	August 1 - September 15
Hoh River (20.0422)	August 1 - August 15
Little Quilcene River (17.0076)	July 16 - August 31
Queets River (21.0001)	August 1 - August 15
Matheny Creek (21.0165)	August 1 - August 15
Sams River (21.0205)	August 1 - August 15
Quinalt River (21.0398)	August 1 - August 15
Salmon Creek (17.0245)	July 16 - August 31
Skokomish River (16.0001)	August 1 - August 31
Snow Creek (17.0219)	July 16 - August 31
Tarboo Creek (17.0129)	August 1 - September 30
Thorndyke Creek (17.0170)	August 1 - October 15
<b>King County</b>	July 16 - September 30
Cedar River (08.0299) - Mouth to Forks	August 1 - August 31
Cedar River (08.0299) - Upstream of Forks	August 1 - August 31
Issaquah Creek (08.0178)	August 1 - August 31
Sammamish River (08.0057)	August 1 - August 31
Steele Creek (08.0379)	July 16 - February 28
Green River (Duwamish River) (09.0001) - Mouth to Sawmill Creek	August 1 - August 31
Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31
Lake Washington tributaries (08.LKWA)	August 1 - August 31



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28
Patterson Creek (07.0376)	July 16 - September 30
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28
Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28
Goat Creek (07.0754)	July 16 - February 28
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28
Deep Creek (07.0562)	July 16 - February 28
Illinois Creek (07.0624)	July 16 - February 28
Lennox Creek (07.0596)	July 16 - February 28
Bear Creek (07.0606)	July 16 - February 28
Raging River (07.0384)	August 1 - September 15
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31
Index Creek (07.1264) - Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Miller River (07.1329) - Mouth to Forks	August 1 - August 15
Miller River (07.1329) - Upstream of Forks	August 1 - August 15
Coney Creek (07.1347)	July 16 - February 28
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15
East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28
Foss River (07.1562) - Mouth to Forks	July 16 - August 31
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28
West Fork Miller River (07.1335)	July 16 - February 28
Money Creek (07.1300) - Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31
Money Creek (07.1300) - Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28
Kimball Creek (07.1301)	August 1 - August 31
Tye River (07.0012) - Mouth to Alpine Falls	August 1 - August 31
Tye River (07.0012) - Upstream of Alpine Falls	July 16 - February 28
South Fork Snoqualmie River (07.0467)	July 16 - February 28
Denny Creek (07.0517)	July 16 - February 28
Tolt River (07.0291) - Mouth to Forks	August 1 - August 31
North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28
South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28
Yellow Creek (07.0337)	July 16 - February 28
White River (10.0031)	July 16 - August 15
Greenwater River (10.0122)	July 16 - August 15
<b>Kittitas County</b>	July 1 - September 30
Brushy Creek (40.0612)	July 1 - February 28
Colockum Creek (40.0760)	July 1 - October 31
Quilomene Creek (40.0613)	July 1 - October 31
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28
Tarpiscan Creek (40.0723)	July 1 - February 28
Tekiason Creek (40.0686)	July 1 - February 28
Whiskey Dick Creek (40.0591)	July 1 - February 28
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15
Pileup Creek (38.0932)	July 16 - August 31
Gold Creek (38.MISC)	July 16 - February 28
Swauk Creek (39.1157)	July 16 - September 30
Baker Creek (39.1157)	July 16 - September 30
First Creek (39.1157)	July 16 - September 30
Iron Creek (39.1157)	July 16 - September 30
Williams Creek (39.1157)	July 16 - September 30
Boulder Creek (39.1157)	July 16 - February 28
Cougar Gulch (39.1157)	July 16 - February 28
Lion Gulch (39.1157)	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Yakima River (39.0002) - Teanaway River to Easton Dam	August 1 - August 31
Yakima River (39.0002) - Upstream of Easton Dam	August 1 - August 31
Cle Elum River (39.1434) - Mouth to dam	July 16 - August 31
Cle Elum River (39.1434) - Upstream of Cle Elum Dam	Submit Application
Big Boulder Creek (39.1434MISC)	August 1 - February 28
Camp Creek (39.1434MISC)	August 1 - February 28
Fortune Creek (39.1434MISC)	August 1 - August 15
South Fork Fortune Creek (39.1434MISC)	August 1 - February 28
Howson Creek (39.1434)	July 16 - February 28
Little Salmon Le Sac Creek (39.1482)	August 1 - August 15
Paris Creek (39.1434MISC)	August 1 - February 28
Salmon Le Sac Creek (39.1520)	August 1 - February 28
Kachess River (39.1739) - Upstream of Lake Kachess	Submit Application
Kachess River (39.1739) - Below dam	July 16 - August 15
Box Canyon Creek (39.1765)	Submit Application
Mineral Creek (39.1792)	August 1 - August 15
Lake Keechelus (39.1842) tributaries	July 16 - August 15
Gold Creek (Lake Keechelus) (39.1842)	Submit Application
Manastash Creek (39.0988)	July 16 - September 30
Naneum Creek (39.0821)	July 16 - September 30
Taneum Creek (39.1081) - Mouth to I-90	July 16 - August 31
Taneum Creek (39.1157) - Upstream of I-90	July 16 - September 30
Teanaway River (39.1236)	July 16 - August 31
NF Teanaway River (39.1260)	Submit Application
Umtanum Creek (39.0553)	July 16 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Wenas Creek, Below dam (39.0032)	July 16 - October 15
Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 - February 28
Other Yakima River tributaries not listed	July 16 - August 31
<b>Kitsap County</b>	July 16 - October 15
Anderson Creek (15.0211)	August 1 - November 15
Barker Creek (15.0255)	August 1 - September 30
Big Beef Creek (15.0389)	August 1 - August 15
Big Scandia Creek (15.0280)	August 1 - September 30
Blackjack Creek (15.0203)	August 1 - September 30
Burley Creek (15.0056)	August 1 - September 30
Chico Creek (15.0229)	August 1 - October 15
Clear Creek (15.0249)	August 1 - September 30
Curley Creek (15.0185)	August 1 - September 30
Dewatto River (15.0420)	August 1 - August 15
Dogfish Creek (15.0285)	August 1 - August 15
Gorst Creek (15.0216)	August 1 - August 15
Grovers Creek (15.0299)	August 1 - August 31
Johnson Creek (15.0387)	August 1 - October 31
Ollala Creek (15.0107)	August 1 - September 30
Ross Creek (15.0209)	August 1 - November 15
Salmonberry Creek (15.0188)	August 1 - November 30
Seabeck Creek (15.0400)	August 1 - August 15
Steele Creek (15.0273)	August 1 - September 30
Tahuya River (15.0446)	August 1 - August 31
Union River (15.0503)	August 1 - August 31
<b>Klickitat County</b>	July 15 - September 30
Alder Creek (31.0459)	August 1 - September 30
Chapman Creek (31.0192)	August 1 - September 30
Glade Creek (31.0851)	August 1 - September 30
Juniper Canyon Creek (31.0378)	August 1 - September 30
Klickitat River (30.0002) - Mouth to Klickitat hatchery	Submit Application
Klickitat River (30.0002) - Upstream of Klickitat hatchery	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Little White Salmon River (29.0131) - Mouth to Cabbage Creek	July 16 - January 31
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31
Pine Creek (31.0354)	August 1 - September 30
Rock Creek (31.0014)	August 1 - September 30
Six Prong Creek (31.0465)	August 1 - September 30
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15
Wood Gulch Creek (31.0263)	August 1 - September 30
<b>Lewis County</b>	August 1 - September 30
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31
Skookumchuck River (23.0761)	August 1 - August 31
Cowlitz River (26.0002)	August 1 - August 15
Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)	August 1 - August 15
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28
Yellowjacket Creek (26.0757)	August 1 - August 15
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28
Walupt Creek (26.1010)	Submit Application
Packwood Lake tributaries	August 16 - September 15
Tilton River (26.0560) - Mouth to North Fork	August 1 - September 30
Tilton River (26.0560) - Upstream of North Fork	August 1 - September 30
Toutle River (26.0227)	August 1 - August 31
North Fork Toutle River (26.0314)	July 16 - August 15
Green River (26.0323)	July 16 - September 30
Deschutes River (13.0028)	July 16 - August 31
Little Deschutes River (13.0110)	July 16 - February 28
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30
<b>Lincoln County</b>	June 16 - February 28
Columbia River	See Below
Hawk Creek (53.0101) - Mouth to falls	June 16 - August 31
Hawk Creek (53.0101) - Upstream of falls	June 16 - February 28
Upper Crab Creek (42.0001)	June 16 - February 28
Wilson Creek (43.0020)	June 16 - February 28
<b>Mason County</b>	August 1 - October 15
Cloquallum Creek (22.0501)	August 1 - September 30
Coulter Creek (15.0002)	August 1 - August 31
Dewatto River (15.0420)	August 1 - August 31
Goldsborough Creek (14.0035)	August 1 - October 15
John Creek (16.0253)	August 1 - August 31
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31
Johns Creek (14.0049)	August 1 - August 15
Lilliwaup River (16.0230) - Mouth to falls	August 1 - August 31
Lilliwaup River (16.0230) - Upstream of falls	August 1 - February 28
Mill Creek (14.0029)	August 1 - August 15
Satsop River (22.0360)	August 1 - August 31
Schaerer Creek (16.0326)	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Sherwood Creek (14.0094)	August 1 - August 15
Skokomish River (16.0001) - Mouth to Forks	August 1 - August 31
Skokomish River (16.0001) - Upstream of Forks	August 1 - August 31
Tahuya River (15.0446)	August 1 - August 31
Twanoh Creek (14.0134)	August 1 - October 31
Union River (15.0503)	August 1 - August 31
<b>Okanogan County</b>	July 1 - August 15
Aneas Creek (49.0243) - Mouth to falls	July 16 - August 31
Aneas Creek (49.0243) - Upstream of falls	July 1 - March 31
Chewiliken Creek (49.0232) - Mouth to falls	July 16 - August 31
Chewiliken Creek (49.0232) - Upstream of falls	July 1 - March 31
Chiliwist Creek (49.0034) - Mouth to falls	July 16 - August 31
Chiliwist Creek (49.0034) - Upstream of falls	July 1 - March 31
Foster Creek (50.0065)	July 1 - February 28
Methow River (48.0007) - Columbia confluence to Twisp River	July 1 - July 31
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 - February 28
Black Canyon Creek (48.0015) - Mouth to Left Fork	Submit Application
Black Canyon Creek (48.0015) - Upstream of Left Fork	July 1 - February 28
Gold Creek (48.0104) - Mouth to Foggy Dew Creek	Submit Application
Foggy Dew Creek (48.0153) - Mouth to Foggy Dew Falls	Submit Application
Foggy Dew Creek (48.0153) - Upstream of Foggy Dew Falls	July 1 - February 28
Middle Fork Gold Creek (48.0139)	July 1 - February 28
North Fork Gold Creek (48.0104)	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Crater Creek (48.0177) - Mouth to Martin Creek	Submit Application
Crater Creek (48.0177) - Upstream of Martin Creek	July 1 - February 28
Martin Creek (48.0177)	July 1 - February 28
South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28
Rainy Creek (48.0105)	July 1 - February 28
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28
Beaver Creek (48.0307)	Submit Application
Frazer Creek (48.0309)	July 1 - February 28
Lightning Creek (48.0361)	July 1 - February 28
Middle Fork Beaver Creek (48.0307)	July 1 - February 28
South Fork Beaver Creek (48.0342)	July 1 - February 28
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application
Libby Creek (48.0203) - Upstream of Hornet Draw	July 1 - February 28
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31
Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31
Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28
Goat Creek (48.1364) - Mouth to 500 feet upstream of Montana Creek	Submit Application
Goat Creek (48.1364) - 500 feet Upstream of Montana Creek to Roundup Creek	July 1 - February 28
Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application
Lost River (48.0592)	July 16 - August 15
Twisp River (48.0374)	July 1 - July 31
Buttermilk Creek (48.0466)	Submit Application
North Creek (48.0674)	Submit Application
North Fork Twisp River (48.0691)	July 1 - February 28
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28
South Creek (48.0641) - Mouth to Louis Creek	Submit Application
South Fork Twisp River (48.0698)	July 1 - February 28
Wolf Creek (48.1300)	Submit Application
Myers Creek (60.0517)	July 1 - February 28
Bolster Creek (60.0517)	July 1 - February 28
Ethel Creek (60.0517)	July 1 - February 28
Gold Creek (60.0517)	July 1 - February 28
Mary Ann Creek (60.0517)	July 1 - February 28
North Fork Mary Ann Creek (60.0517)	July 1 - February 28
Okanogan River (49.0019) - Mouth to Zosel Dam	July 1 - August 31
Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31
Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31
Nine Mile Creek (49.0516)	July 1 - February 28
Omak Creek (49.0138) - Mouth to Mission Falls at river mile 5.4	July 1 - February 28
Omak Creek (49.0138) - Upstream of falls	July 1 - March 31
Salmon Creek (49.0079) - Mouth to diversion	July 1 - August 31
Salmon Creek (49.0079) - Upstream of diversion	July 1 - February 28
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31
Similkameen River (49.0325) - Enloe Dam to Palmer Creek	June 1 - October 31
Similkameen River (49.0325) - Upstream of Palmer Creek	July 1 - October 31
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Connors Lake	July 1 - August 31
Cecile Creek (49.0447)	July 1 - February 28
Chopaka Creek (49.0357)	July 1 - February 28
Toats Coulee Creek (49.0368)	July 1 - February 28
Cougar Creek (49.0368)	July 1 - February 28
Siwash Creek (49.0284) - Falls to headwaters	July 1 - March 31
Siwash Creek (49.0284) - Mouth to falls at river mile 1.4	July 1 - February 28
Tonasket Creek (49.0501) - Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Tonasket Creek (49.0501) - Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31
Tunk Creek (49.0211) - Mouth to falls	July 1 - February 28
Tunk Creek (49.0211) - Upstream of falls	July 1 - March 31
San Poil River (52.0004)	June 16 - September 30
West Fork San Poil (52.0192)	June 16 - September 30
Gold Creek (52.0197)	June 16 - February 28
Toroda Creek (60.0410)	July 1 - September 30
<b>Pacific County</b>	August 1 - September 30
Bear River (24.0689)	August 1 - September 30
Bone River (24.0405)	August 1 - September 30
Chehalis River (22.0190/23.0190)	August 1 - August 15
Columbia River	See Below
Chinook River (24.MISC)	August 1 - September 30
Grays River (25.0093)	July 16 - September 15
Naselle River (24.0543)	August 1 - September 15
Nemah River (24.0460)	August 1 - September 30
Niawiakum River (24.0417)	August 1 - September 30
North River (24.0034)	August 1 - September 30
Palix River (24.0426)	August 1 - September 30
Willapa River (24.0251)	August 1 - September 30
<b>Pend Oreille County</b>	July 1 - August 31
Little Spokane River (55.0003)	August 1 - March 15
West Branch Little Spokane River (55.0439)	August 1 - March 15
Harvey Creek (62.0310) - Mouth to Rocky Fork of Harvey Creek	August 1 - August 31
Harvey Creek (62.0310) - Upstream of Rocky Fork of Harvey Creek	July 16 - February 28
Pend Oreille River (62.0002)	Submit Application
Big Muddy Creek (62.0279)	August 1 - March 15
Bracket Creek (62.0815)	August 1 - March 15
Calispel Creek (62.0628)	August 1 - August 31
Exposure Creek (62.0261)	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Kent Creek (62.0819)	August 1 - March 15
Le Clerc Creek (62.0415)	August 1 - August 31
Lime Creek (62.0014)	August 1 - March 15
Lodge Creek (62.0859)	August 1 - August 31
Lost Creek (62.0322)	August 1 - March 15
Marmust Creek (62.0842)	August 1 - March 15
Pee Wee Creek (62.0007) - Mouth to falls	August 1 - August 31
Pee Wee Creek (62.0007) - Upstream of falls	August 1 - March 15
Renshaw Creek (62.0310)	August 1 - March 15
Sullivan (O'Sullivan) Creek (62.0074)	August 1 - August 31
North Fork Sullivan Creek (62.0075)	August 1 - August 31
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 - August 15
Currant Creek (61.0249)	July 16 - August 15
Meadow Creek (61.0351)	July 16 - August 15
Rocky Creek (61.0364)	July 16 - August 15
Silver Creek (61.0195)	July 16 - August 15
Smackout Creek (61.0226)	July 16 - August 15
<b>Pierce County</b>	July 16 - August 31
Chambers/Clover Creek Watershed (12.MISC)	July 16 - September 30
Flett Creek (12.0009)	July 16 - October 31
Leach Creek (12.0008)	July 16 - September 30
Nisqually River (11.0008) - Mouth to Alder Lake	July 16 - August 31
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30
Mashel River (11.0101) - Mouth to Busy Wild Creek	July 16 - September 30
Mashel River (11.0101) - Upstream of Busy Wild Creek	July 16 - September 30
Puyallup River (10.0021) - Mouth to PSE Electron Powerhouse Outfall	July 16 - August 31
Puyallup River (10.0021) - Upstream of PSE Electron Powerhouse Outfall	July 16 - August 15
Carbon River (10.0413)	July 16 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Cayada Creek (10.0525) - Mouth to falls about 800 feet upstream	July 16 - August 31
Cayada Creek (10.0525) - Upstream of the falls	January 1 - December 31
South Prairie Creek (10.0429)	July 16 - August 15
Voight Creek (10.0414) - Mouth to falls at river mile 4.0	July 16 - August 31
Voight Creek (10.0414) - Upstream of falls river mile 4.0	July 16 - February 28
White River (10.0031)	July 16 - August 15
Clearwater River (10.0080)	July 16 - August 15
Greenwater River (10.0122)	July 16 - August 15
Huckleberry Creek (10.0253)	July 16 - August 15
West Fork White River (10.0186)	July 16 - August 15
Sequalitchew Creek (12.0019)	July 16 - September 30
<b>San Juan County</b>	July 1 - August 31
Cascade Creek (02.0057), Orcas Island - Upstream of Lower Falls	July 1 - February 28
Cascade Creek (02.0057), Orcas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 - October 31
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 - October 15
False Bay Creek (02.MISC) - San Juan Island; mouth to lake	July 1 - October 31
Glenwood Springs, Orcas Island; direct tributary to Eastsound Bay	July 1 - October 15
Moran Creek (02.MISC) - Orcas Island; from Cascade Lake delta upstream 1/4 mile	July 1 - October 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Unnamed Creek (02.0041) - San Juan Island; mouth to lake	July 1 - October 15
<b>Skagit County</b>	August 1 - September 15
Granite Creek (04.2313) - Upstream of East Creek	July 16 - February 28
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28
Samish River (03.0005)	August 1 - September 15
Skagit River (03.0176/04.0176)	Submit Application
Baker River (04.0435) - Mouth to Baker Dam	Submit Application
Cascade River (04.1411)	Submit Application
Day Creek (03.1435)	July 16 - February 28
Lookout Creek (04.1447)	July 16 - February 28
Sibley Creek (04.1481)	July 16 - February 28
Day Creek (03.0299) - Mouth to Rocky Creek	Submit Application
Day Creek (03.0299) - Upstream of Rocky Creek	August 1 - February 28
Finney Creek (04.0392) - Mouth to Big Fir Creek	Submit Application
Finney Creek (04.0392) - Upstream of Big Fir Creek	July 16 - February 28
Illabot Creek (04.1346)	Submit Application
Sauk River (04.0673) - Mouth to Forks	Submit Application
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15
Suiattle River (04.0710)	Submit Application
Wiseman Creek (03.0280) - Mouth to SR20	Submit Application
Wiseman Creek (03.0280) - Upstream of SR20	July 16 - February 28
South Fork Nooksack River (01.0246) - Mouth to falls at river mile 30	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
South Fork Nooksack River (01.0246) - Falls at river mile 30 to Wanlick Creek	Submit Application
South Fork Nooksack River (01.0246) - Upstream of Wanlick Creek	Submit Application
<b>Skamania County</b>	July 15 - September 15
Columbia River	See Below
Cispus River (26.0668)	August 1 - August 15
Cispus River (26.0668) tributaries located in Skamania County	August 1 - October 31
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 - September 30
Hamilton Creek (28.0303)	August 1 - August 31
Hardy Creek (28.0303)	August 1 - August 31
Little White Salmon River (29.0131) - Mouth to Hatchery	July 16 - August 15
Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31
North Fork Lewis River (27.0168) - Merwin Dam to Lower Falls	July 16 - August 15
Canyon Creek (27.0442)	July 16 - February 28
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - February 28
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15
Wind River (29.0023)	August 1 - August 15
Woodward Creek (28.0298)	August 1 - August 31
<b>Snohomish County</b>	July 16 - September 15
Lake Washington tributaries	August 1 - August 15
Sauk River (04.0673) - Mouth to Forks	August 1 - August 15
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15
Suiattle River (04.0710)	August 1 - August 15
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31
Snohomish River (07.0012) - Upstream of Highway 9	August 1 - August 15
Pilchuck River (07.0125) - Mouth to city of Snohomish Diversion Dam	August 1 - August 31
Pilchuck River (07.0125) - City of Snohomish Diversion Dam to Boulder Creek	August 1 - September 15
Pilchuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15
Skykomish River (07.0012) - Mouth to Forks	August 1 - August 15
Deer Creek (05.0173) - Mouth to stream mile 0.5	August 1 - August 31
Deer Creek (05.0173) - Upstream of stream mile 0.5	August 1 - February 28
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Howard Creek (07.1042)	July 16 - February 28
Silver Creek (07.1053) - Mouth to Lake Gulch	August 1 - August 31
Silver Creek (07.1053) - Upstream of Lake Gulch	August 1 - February 28
Troublesome Creek (07.1085)	August 1 - February 28
West Fork Troublesome Creek (07.1092)	August 1 - August 31
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 31
Sultan River (07.0881) - Diversion Dam to anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam)	August 1 - August 31
Sultan River (07.0881) anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam) to Elk Creek	July 16 - February 28
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28
Wallace River (07.0940) - Mouth to Wallace Falls	August 1 - August 31
Wallace River (07.0940) - Upstream of Wallace Falls	August 1 - February 28
Olney Creek (07.0946) - Mouth to Olney Falls	August 1 - August 31
Olney Creek (07.0946) - Upstream of Olney Falls	August 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Snoqualmie River Mouth to falls (07.0219)	August 1 - August 15
All other Snohomish River tributaries	August 1 - August 31
Stillaguamish River (05.0001) - Mouth to Forks	August 1 - August 31
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28
South Fork Stillaguamish River (05.0001) - Mouth to Deer Creek	August 1 - August 15
South Fork Stillaguamish River (05.0001) - Upstream of Deer Creek	August 1 - August 15
<b>Spokane County</b>	June 16 - August 31
Latah Creek (56.0003)	June 16 - August 31
Little Spokane River (55.0600) - Mouth to Deer Creek	June 16 - August 31
Little Spokane River (55.0600) - Upstream of Deer Creek	June 16 - August 31
Spokane River (57.0001)	June 16 - August 31
<b>Stevens County</b>	July 16 - August 31
Columbia River	See Below
Big Sheep Creek (61.0150)	July 16 - August 15
Colville River (59.0002) - Mouth to the falls	July 16 - September 30
Colville River (59.0002) - Upstream of the falls	July 16 - September 30
Deep Creek (61.0195)	July 16 - August 15
Onion Creek (61.0098)	July 16 - August 15
Sheep Creek (59.0861)	July 16 - September 30
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 - February 28
Tributaries of Little Spokane River (55.0600)	June 16 - August 31
Calispel Creek (62.0628)	August 1 - August 31
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31
<b>Thurston County</b>	July 16 - September 15
Cedar Creek (23.0570)	August 1 - September 30
Chehalis River (22.0190/23.0190) - Upstream of Porter Creek	August 1 - August 15
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31
Deschutes River (13.0028) - Mouth to Deschutes Falls	July 16 - August 31
Deschutes River (13.0028) - Upstream of Deschutes Falls	July 16 - August 31
Ellis Creek (13.0022)	May 16 - September 30
Little Deschutes River (13.0110)	July 16 - February 28
McLane Creek (13.0138)	August 1 - October 31
Percival Creek (13.0029)	July 16 - August 31
Nisqually River (11.0008)	July 16 - August 31
Tributaries of Nisqually River (11.0008)	July 16 - August 31
Porter Creek (23.0543)	August 1 - September 30
Schneider Creek (14.0009)	August 1 - October 31
Waddell Creek (23.0677)	August 1 - September 30
Woodard Creek (13.0012)	July 16 - August 31
Woodland Creek (13.0006)	July 16 - September 30
<b>Wahkiakum County</b>	July 16 - September 15
Columbia River	See Below
Abernathy Creek (25.0297)	July 16 - September 15
Deep River (25.0011)	July 16 - September 15
Elochoman River (25.0236)	July 16 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Grays River (25.0093)	July 16 - September 15
Mill Creek (25.0284)	July 16 - September 15
Naselle River (24.0543)	July 16 - September 15
Skamokowa Creek (25.0194)	July 16 - September 15
<b>Walla Walla County</b>	July 16 - September 30
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15
Touchet River (32.0097) - Mouth to Forks	August 1 - August 15
North Fork Touchet/Wolf Fork (32.0761)	Submit Application
South Fork Touchet (32.0708)	Submit Application
<b>Whatcom County</b>	July 16 - August 15
Damfino Creek (00.0032)	July 16 - August 31
Nooksack River (01.0120)	Submit Application
Cascade Creek (02.0057) - Mouth to FR 37	Submit Application
Cascade Creek (02.0057) - Upstream of FR 37	July 16 - February 28
Middle Fork Nooksack River (01.0339) - Mouth to city of Bellingham Diversion Dam	Submit Application
Middle Fork Nooksack River (01.0339) - Upstream of city of Bellingham Diversion Dam	Submit Application
North Fork Nooksack River (01.0120) - Mouth to Nooksack Falls	Submit Application
North Fork Nooksack River (01.0120) - Upstream of Nooksack Falls	Submit Application
Barometer Creek (01.0513)	July 16 - February 28
Ruth Creek (01.0531)	July 16 - February 28
Swamp Creek (01.0518)	July 16 - February 28
Wells Creek (02.0057)	Submit Application
Bar Creek (01.0500)	July 16 - February 28
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
South Fork Nooksack (01.0246) - Upstream of Wanlick Creek	Submit Application
Samish River (03.0005)	July 16 - August 15
Skagit River (03.0176/04.0176)	Submit Application
Baker River (04.0435) - Mouth to Baker Lake Dam (04.0435)	Submit Application
Baker River (04.0435) - Baker Lake to National Park boundary	Submit Application
Boulder Creek (04.0499)	July 16 - February 28
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28
Ross Lake tributaries (03.0176/04.0176)	Submit Application
Ruby Creek (04.2199)	Submit Application
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28
Barron Creek (04.2591)	October 1 - February 28
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application
Cascade Creek (05.2584)	October 1 - February 28
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28
Granite Creek (04.2313) - Mouth to East Creek	Submit Application
Granite Creek (04.2313) - Upstream of East Creek and tributaries	October 1 - February 28
Saar Creek (00.0003)	August 1 - September 30
Silesia Creek (00.0042) - Canadian border to Middle Fork	July 16 - August 15
Silesia Creek (00.0042) - Middle Fork to National Park boundary	July 16 - February 28
Rapid Creek (00.0048)	July 16 - February 28
West Fork Silesia Creek (00.0044)	July 16 - February 28
Winchester Creek (00.0045)	July 16 - February 28
<b>Whitman County</b>	July 16 - December 15
Snake River (35.0002)	See Below
Alkali Flats Creek (35.0570)	July 16 - December 15
Almota Creek (35.1017)	July 16 - December 15
Little Almota Creek (35.1018)	July 16 - December 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Palouse River (34.0003) - Mouth to Palouse Falls	July 16 - September 30
Palouse River (34.0003) - Upstream of Palouse Falls	July 16 - February 28
Penewawa Creek (35.0916)	July 16 - December 15
Wawawi Canyon Creek (35.1165)	July 16 - December 15
<b>Yakima County</b>	June 1 - September 15
Glade Creek (31.0851)	August 1 - September 30
Klickitat River (30.0002)	Submit Application
Yakima River (37.0002/38.0002/39.0002) - Mouth to Roza Dam	June 1 - September 15
Ahtanum Creek (37.1382)	June 16 - September 30
North Fork Ahtanum Creek (37.1382)	Submit Application
South Fork Ahtanum Creek (37.1382)	Submit Application
Naches River (38.0003) - Mouth to Tieton River	July 1 - October 15
Naches River (38.0003) - Upstream of mouth of Tieton River to Bumping River	July 1 - August 15
Bumping River (38.0998)	July 16 - August 15
American River (38.1000)	Submit Application
Gold Creek (38.MISC)	July 16 - February 28
Kettle Creek (38.1033)	Submit Application
Miner Creek (38.1027)	July 16 - February 28
Morse Creek (38.1072) - Mouth to SR410 crossing	August 1 - August 15
Morse Creek (38.1072) - Upstream of SR410 crossing	August 1 - February 28
Rock Creek (38.MISC)	July 16 - February 28
Timber Creek (38.1062)	August 1 - August 15
Union Creek (38.1045) - Upstream of 500 feet above falls	August 1 - February 28
Union Creek (38.1045) - Mouth to 500 feet above falls	Submit Application
Other American River tributaries not listed	August 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Deep Creek (38.MISC)	Submit Application
Copper Creek (38.MISC)	August 1 - August 15
Cowiche Creek (38.0005) - Mouth to South Fork Cowiche Creek	July 1 - September 30
North Fork Cowiche Creek (38.0008)	July 1 - February 28
South Fork Cowiche Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30
South Fork Cowiche Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31
Granite Creek (38.MISC)	August 1 - August 15
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15
Crow Creek (38.0858)	July 16 - August 15
Nile Creek (38.0692)	July 16 - October 15
Rattlesnake Creek (38.0518)	July 16 - August 15
Tieton River (38.0166) - Mouth to Rimrock Dam	July 1 - August 31
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15
Clear Creek (38.0317)	July 16 - February 28
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application
South Fork Tieton River (38.0374) - Upstream of South Fork Falls	July 16 - February 28
Indian Creek (38.0302)	Submit Application
Tributaries of Tieton River below Rimrock Dam	July 16 - February 28
Umtanum Creek (39.0553)	July 16 - September 30
Wenas Creek (39.0032)	July 16 - October 15
Other Yakima River tributaries	July 16 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Columbia River	-
Mouth to the I-205 Bridge	August 1 - March 31
I-205 Bridge to Bonneville Dam	July 16 - September 15
Bonneville Dam to Snake River	July 16 - February 28
Snake River to Priest Rapids Dam	July 16 - September 30
Priest Rapids Dam to Mouth of Crab Creek	July 16 - February 28
Mouth of Crab Creek to Wanapum Dam	July 16 - September 30
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 - February 28
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 - September 30
SR 2 bridge to one mile downstream of the Chelan River	July 16 - February 28
From one mile downstream of the Chelan River to the SR 97 bridge	July 16 - September 30
From SR 97 bridge to Chief Joseph Dam	July 16 - February 28
Chief Joseph Dam to Grand Coulee Dam	June 16 - March 31
Grand Coulee Dam to Canadian border	Submit Application
All Columbia River tributaries	See County Listings
Snake River	-
Mouth to Ice Harbor Dam	July 16 - September 30
Ice Harbor Dam to Mouth of Clearwater River	July 16 - March 31
Mouth of Clearwater River to state line	August 1 - August 31
All Snake River tributaries	See County Listings
Lakes	Submit Application
Strait of Juan de Fuca, Puget Sound, Hood Canal	Submit Application

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates
Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605	January 1 - December 31
All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605	Submit Application

AMENDATORY SECTION (Amending WSR 19-12-126, filed 6/5/19, effective 11/1/19)

**WAC 220-660-305 ((Suction dredging-)) Mineral prospecting involving motorized or gravity siphon equipment.** (1) **Description:** ((Suction dredging)) Mineral prospecting involving motorized or gravity siphon equipment are projects that excavate, process, ((and)) or classify aggregate using small motorized ((or nonmotorized equipment that removes aggregate from the bed, banks, or uplands by means of vacuum created by water flowing through a tube or hose)) equipment or pumps. Such methods include, but are not limited to, suction dredges, dryland dredges, power sluice/suction dredge combinations, motorized high-bankers or power sluices, trommels, and spiral wheels. These projects also include methods using gravity siphons that supply water for excavating, processing, or classifying aggregate by means of vacuum created by water flowing through a tube or hose, such as gravity dredges or nonmotorized high-bankers. Bulb sniffers are not considered ((suction dredges)) motorized or gravity siphon equipment. The rules in this section apply to using motorized ((and nonmotorized suction dredges)) or gravity siphon equipment . See WAC 220-660-300 for mineral prospecting with other types of equipment ((either than suction dredges)).

(2) **Fish life concerns:** ((Suction dredging)) Mineral prospecting involving motorized or gravity siphon equipment can harm fish life and habitat that supports fish life.

- (a) Direct impacts ((from suction dredging)) can include:
  - (i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed;
  - (ii) Mortality from passing vulnerable fish through ((suction dredges)) equipment; and
  - (iii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.
- (b) Indirect impacts can include changes in food resources and human disturbances.
- (c) The department minimizes impacts ((of suction dredging)) by restricting the type of mining equipment

allowed, limiting excavation zones within streams, and setting allowable timing windows.

(d) Aquatic invasive species can be transported on or in ((suction dredges)) motorized and gravity siphon equipment and spread between water bodies. This can harm all life stages of fish life and permanently harm, destroy, or alter ecosystems.

(3) **General requirements:**

(a) Before conducting any ((suction dredging activity)) mineral prospecting involving motorized or gravity siphon equipment, a person must obtain the approval of the department through the issuance of a standard, single-site written HPA or standard, multisite written HPA as described in WAC 220-660-050. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(b) ((When seeking a single site or multisite standard HPA, a person must identify the upstream and downstream extent of each suction dredging location within a stream. The location of each site can be no greater than the length contained within a registered mining claim, if the project occurs on a claim, or one thousand three hundred linear feet of stream, if the project does not occur on a claim.)) The department will determine the authorized work time for mineral prospecting activities involving motorized or gravity siphon equipment that discharge water to surface or ground water per WAC 220-660-110.

(c) Nothing in this chapter ((220-660 WAC)) relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

(4) **Aquatic invasive species prevention:**

(a) All ((suction dredge)) motorized or gravity siphon equipment that has been used in waters outside of Washington state must be inspected for the presence of aquatic invasive species by an authorized department employee or agent before being used in waters of the state.

(b) All ((suction dredge)) motorized or gravity siphon equipment used in any water of the state must be decontaminated according to department specification prior to use in a different water of the state.

(5) ((Suction dredging in fresh waters-)) **Mineral prospecting involving motorized or gravity siphon equipment:**

(a) A person may ((suction dredge)) operate motorized or gravity siphon equipment in ((fresh)) waters of the state only ((during the times and)) with the mineral prospecting equipment limitations identified in ((subsection (7) of) this section and during the times identified in the written HPA.

(b) When ((suction dredging)) mining using motorized or gravity siphon equipment, a person may use only handheld mineral prospecting tools and the following mineral prospecting equipment:

- (i) Pans;
- (ii) Spiral wheels;

- (iii) Concentrators and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;
- (iv) Gravity siphons;
- (v) Motorized or nonmotorized suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. See Figure 1((-);



**Figure 1: Suction dredge intake nozzle**

~~((ii))~~ (vi) Power sluice/suction dredge combinations, when configured and operated as suction dredges, that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size. See Figure 1((-;

(e) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations configured and operated as suction dredges must not exceed the diameters allowed in the listing for the stream or stream reach where a person is operating, as identified in subsection (7) of this section.

~~(d) Except when operating a dryland dredge, a person may not excavate aggregate outside of the wetted perimeter.))~~;

(vii) Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including ganged equipment and pump hoses with inside diameters of four inches or less;

(viii) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

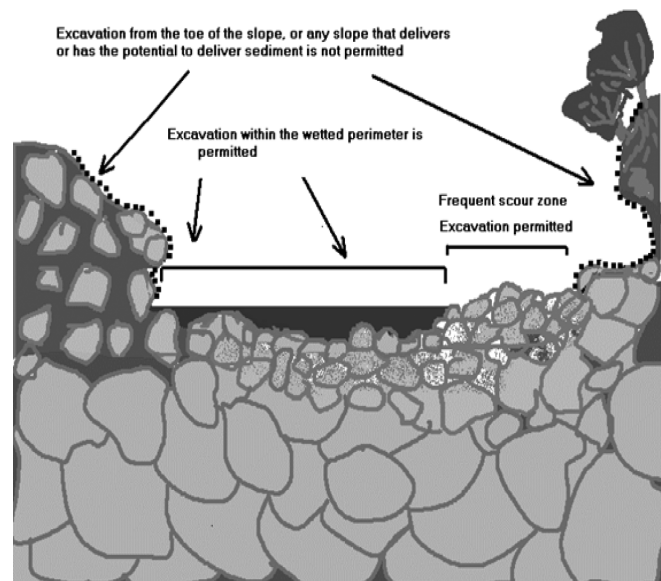
(c) Motorized or gravity siphon equipment listed in the previous provision may be used ONLY in waters in Adams, Benton, Clallam, Franklin, Grant, Grays Harbor, Lincoln, Spokane, Whitman, and Yakima counties that are NOT designated under the Endangered Species Act as critical habitat for salmon, steelhead, or bull trout or have a freshwater des-

ignated use of salmonid spawning, rearing, and migration. A map identifying waters where motorized methods are allowed is available from Washington department of ecology.

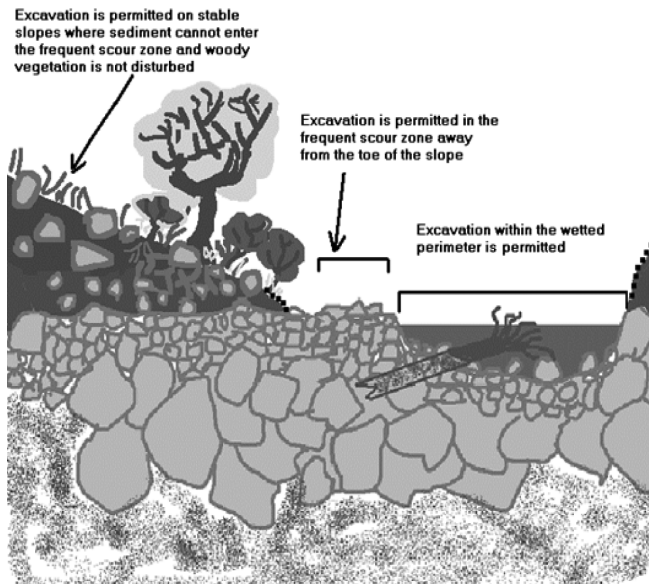
(d) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations configured and operated as suction dredges must not exceed the diameters allowed in this subsection (5).

(e) When operating a dryland dredge:

(i) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 2 and 3.



**Figure 2: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites when operating a dryland dredge. Dashed lines indicate areas where excavation is not permitted.**



**Figure 3: Permitted and prohibited excavation sites in a typical body of water under rules for dryland dredging. Dashed lines indicate areas where excavation is not permitted.**

(ii) A person must process aggregate collected from upland areas landward of the frequent scour zone only at an upland location landward of the frequent scour zone. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(f) A person may not use vehicle-mounted winches. A person may use one motorized winch and one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(g) Equipment separation:

(i) A person may use mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating ((a suction dredge or power sluice/suction dredge combination configured and operated as a suction dredge)) motorized or gravity siphon equipment other than that identified in (g)(i) of this subsection, a person's equipment must be at least two hundred feet from all others also operating ((this type of equipment or any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), high banker, or power sluice)) any type of motorized or gravity siphon equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ((actually)) operating within that two hundred foot radius.

(h) ((As provided in RCW 77.57.010 and 77.57.070,)) Any device a person uses for ((pumping)) removing water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the ((pump)) intake. A person must screen the ((pump)) intake with material that has open-

ings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(i) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(j) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(k) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(l) A person must not disturb existing fish habitat improvement structures or stream channel improvements.

(m) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

(n) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

(o) A person may work in only one excavation site at a time. However, you may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

(p) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

~~((p))~~ (q) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or has the potential to deliver, sediment to the wetted perimeter or frequent scour zone.

~~((q))~~ (r) A person may partially divert a body of water into mineral prospecting equipment using natural or artificial materials provided the diversion is constructed by hand. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter. Before abandoning the site, a person must remove artificial



materials used in the construction of a diversion structure and restore the site to its approximate original condition.

(s) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; mini high-bankers; or other concentrators with riffle areas totaling three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas totaling more than three but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, you may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

(t) A person may process aggregate collected from the upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; concentrators; or mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment. A person must classify the aggregate at the collection or excavation site prior to processing with this equipment within the wetted perimeter or frequent scour zone:

(ii) Only at an upland location landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices. A person may not discharge tailings or wastewater into the wetted perimeter or frequent scour zone.

((+)) (u) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter, for crevicing using a dryland dredge, or for introducing water under low pressure to an excavation site from the nozzle of a dryland dredge. No other use of pressurized water is permitted.

((+)) (v) A person may conduct crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than 3/4-inch. If a person crevices landward of the frequent scour zone, a person may not discharge sediment or wastewater to the wetted perimeter or the frequent scour zone.

(w) A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

((+)) (x) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

((+)) (y) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will

require additional measures to mitigate the prospecting impacts.

~~(6) ((Suction dredging)) Mineral prospecting involving motorized or gravity siphon equipment on ocean beaches:~~ A person may ~~((suction dredge))~~ operate motorized or gravity siphon equipment year-round on ocean beaches of the state. A person must follow the rules listed below:

(a) A person may ~~((suction dredge))~~ operate only between the line of ordinary high tide and the line of extreme low tide on beaches within the seashore conservation area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(b) When ~~((suction dredging))~~ operating motorized or gravity siphon equipment, a person may use only hand-held mineral prospecting tools and the ~~((following mineral prospecting equipment:~~

~~(i) Motorized or nonmotorized suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size;~~

~~(ii) Power sluice/suction dredge combinations, when configured and operated as suction dredges, that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size)) equipment authorized in subsection (5)(b) of this section.~~

(c) Motorized types of mineral prospecting equipment listed in the previous provision may be used ONLY in waters in Grays Harbor, and Pacific counties that are NOT designated under the Endangered Species Act as critical habitat for salmon, steelhead, or bull trout. A map identifying waters where motorized methods are allowed is available from Washington department of ecology.

(d) A person may not use vehicle-mounted winches. A person may use one ~~((motorized winch and one))~~ nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~((d) Under RCW 77.57.010 and 77.57.070,)) (e) Any device a person uses for ~~((pumping))~~ removing water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the ~~((pump))~~ intake. A person must screen the ~~((pump))~~ intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.~~

~~((e)) (f) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the~~

body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.

~~((f))~~ (g) A person may work only from one-half hour before official sunrise to one-half hour after official sunset. ~~((If a person uses mineral prospecting equipment in a fish-bearing freshwater stream and the equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.~~

~~(g))~~ (h) A person may not undermine, cut, disturb, or move embedded large woody material or woody debris jams.

~~((h))~~ (i) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to another excavation site (except during use as a settling pond) or leaving an excavation site.

~~((i))~~ A person may partially divert a body of water into suction dredges. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

(j) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

~~(k))~~ (j) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter ~~((; for ereieving using a dryland dredge, or for introducing water under low pressure to an exeavation site from the nozzle of a dryland dredge)).~~ No other use of pressurized water is permitted.

~~((H))~~ (k) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

~~((m))~~ (l) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

~~((7))~~ **Authorized work times and suction dredge restrictions by specific state waters for suction dredging projects:**

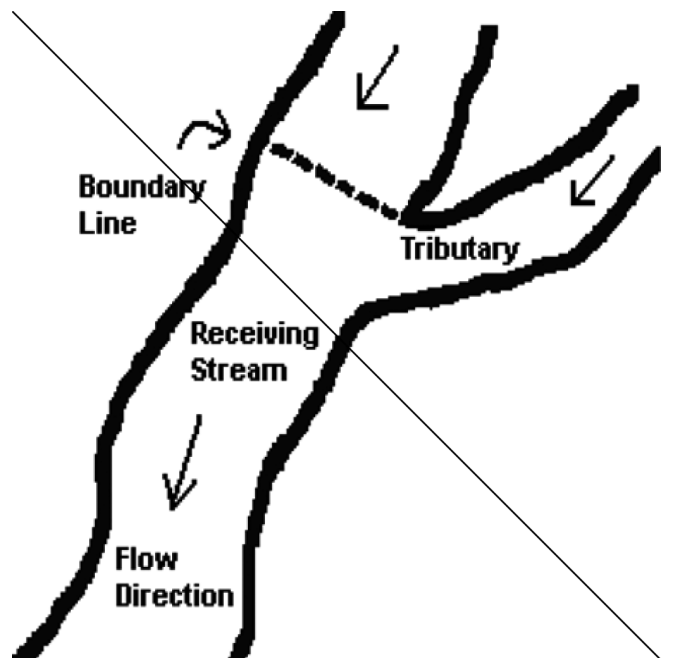
(a) A person may suction dredge under subsection (5) of this section in any of the state waters, with the equipment restrictions, and during the times specified in the following table of authorized work times following issuance of a standard single site or multisite written HPA.

(b) The general work time for a county applies to all state waters within that county unless otherwise indicated in the table.

(c) The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

(d) Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 4.

(e) A person wishing to suction dredge within water bodies identified in the table of authorized work times as "submit application" or at different work times or using different equipment than listed in the following table of authorized work times must obtain a standard single site or multisite written HPA to work in these water bodies.



**Figure 4: Where the boundary is located if a tributary listed as a boundary.**

(f) Suction dredging using suction dredges that have suction intake nozzles with inside diameters that should be four inches or less, but must be no greater than four and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle, is authorized only in the state waters identified in the table of authorized work times, and any tributaries to them, unless otherwise indicated in the table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

(g) Suction dredging using suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and

possible deformation of the nozzle is authorized only in the state waters specifically identified in the table of authorized work times. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. A person may use only suction dredges with sue-

tion intake nozzle inside diameters of four and one-quarter inches or less in tributaries of these state waters. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

**Table 1**

**Authorized Work Times and Suction Dredge Restrictions by Specific State Waters for Mineral Suction Dredge Projects**

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
<b>Adams County</b>	July 1 – October 31	X	-
Crab Creek (41.0002)	July 16 – February 28	X	X
Esquatzel Creek (36.MISC)	June 1 – February 28	X	X
Palouse River (34.0003)	July 16 – February 28	X	X
<b>Asotin County</b>	July 16 – September 15	X	-
Snake River (35.0002)	See Below	-	-
Alpowa Creek (35.1440)	July 16 – December 15	X	-
Asotin Creek (35.1716)	July 16 – August 15	X	-
Couse Creek (35.2147)	July 16 – December 15	X	-
Grande Ronde River (35.2192)	July 16 – September 15	X	X
Ten Mile Creek (35.2100)	July 16 – December 15	X	-
<b>Benton County</b>	June 1 – September 30	X	-
Columbia River	See Below	-	-
Glade Creek (31.0851)	August 1 – September 30	X	-
Yakima River (37.0002)	June 1 – September 15	X	X
Amon Wasteway (37.0009)	June 1 – September 30	X	-
Corral Creek (37.0002)	June 1 – September 30	X	-
Spring Creek (37.0205)	June 1 – September 30	X	-
<b>Chelan County</b>	July 16 – August 15	X	-
Columbia River	See Below	-	-
Antoine Creek (49.0294) – Mouth to falls at river mile 1.0	July 1 – February 28	X	-
Antoine Creek (49.0294) – Upstream of falls at river mile 1.0	July 1 – March 31	X	-
Chelan River (47.0052) – Mouth to Chelan Dam	July 16 – September 30	X	X
Colockum Creek (40.0760)	July 1 – October 31	X	-
Entiat River (46.0042) – Mouth to Entiat Falls	July 16 – July 31	X	X

<del>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</del>	<del>Suction Dredging is Allowed Only Between These Dates</del>	<del>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</del>	<del>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</del>
<del>Entiat River (46.0042) – Upstream of Entiat Falls</del>	<del>July 16 – March 31</del>	<del>X</del>	<del>-</del>
<del>Crum Canyon (46.0107)</del>	<del>July 16 – March 31</del>	<del>X</del>	<del>-</del>
<del>Mad River (46.0125)</del>	<del>July 16 – July 31</del>	<del>X</del>	<del>-</del>
<del>Indian Creek (46.0128)</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Lake Chelan (47.0052)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Railroad Creek (47.0410)</del>	<del>July 16 – September 30</del>	<del>X</del>	<del>-</del>
<del>Stehekin River (47.0508)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Twenty Five Mile Creek (47.0195)</del>	<del>July 16 – September 30</del>	<del>X</del>	<del>-</del>
<del>Other Lake Chelan tributaries outside of North Cascades National Park</del>	<del>July 1 – August 15</del>	<del>X</del>	<del>-</del>
<del>Other Lake Chelan tributaries within North Cascades National Park</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Number 1 Canyon (45.0011)</del>	<del>July 1 – February 28</del>	<del>X</del>	<del>-</del>
<del>Number 2 Canyon (45.0012)</del>	<del>July 1 – February 28</del>	<del>X</del>	<del>-</del>
<del>Squilehuck Creek (40.0836) – Mouth to South Wenatchee Avenue</del>	<del>July 1 – September 30</del>	<del>X</del>	<del>-</del>
<del>Squilehuck Creek (40.0836) – Upstream of South Wenatchee Avenue</del>	<del>July 1 – February 28</del>	<del>X</del>	<del>-</del>
<del>Stemilt Creek (40.0808) – Mouth to falls</del>	<del>July 1 – September 30</del>	<del>X</del>	<del>-</del>
<del>Stemilt Creek (40.0808) – Upstream of falls</del>	<del>July 1 – February 28</del>	<del>X</del>	<del>-</del>
<del>Wenatchee River (45.0030) – Mouth to Hwy 2 Bridge in Leavenworth</del>	<del>July 15 – September 30</del>	<del>X</del>	<del>X</del>
<del>Wenatchee River (45.0030) – Hwy 2 Bridge in Leavenworth to Lake Wenatchee</del>	<del>July 15 – August 15</del>	<del>X</del>	<del>X</del>
<del>Beaver Creek (45.0751)</del>	<del>July 1 – September 30</del>	<del>X</del>	<del>-</del>
<del>Chiwaukum Creek (45.0700)</del>	<del>July 1 – July 31</del>	<del>X</del>	<del>-</del>
<del>Chiwawa River (45.0759) – Mouth to Phelps Creek</del>	<del>July 1 – July 31</del>	<del>X</del>	<del>X</del>
<del>Chiwawa River (45.0759) – Upstream of Phelps Creek</del>	<del>July 1 – July 31</del>	<del>X</del>	<del>-</del>
<del>Deep Creek (45.0764)</del>	<del>July 1 – February 28</del>	<del>X</del>	<del>-</del>

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Phelps Creek (45.0875)	July 16 – August 15	✗	-
Ieiele Creek (45.0474) – Mouth to Johnny Creek	July 1 – July 31	✗	✗
Ieiele Creek (45.0474) – Upstream of Johnny Creek	July 1 – July 31	✗	-
Fourth of July Creek (45.0525)	July 1 – February 28	✗	-
Lake Wenatchee (45.0030)	Submit Application	-	-
Little Wenatchee (45.0985) – Mouth to Wilderness Boundary	July 1 – July 31	✗	✗
Little Wenatchee (45.0985) – Upstream of Wilderness Boundary	Submit Application	-	-
White River (45.1116) – Mouth to White River Falls	July 1 – July 31	✗	✗
White River (45.1116) – Upstream of White River Falls	July 1 – February 28	✗	-
Nason Creek (45.0888)	July 1 – July 31	✗	-
Peshastin Creek (45.0232) – Mouth to Etienne Creek	July 16 – August 15	✗	-
Peshastin Creek (45.0232) – Upstream of Etienne Creek	August 1 – February 28	✗	-
Ingalls Creek (45.0273) – Mouth to Cascade Creek	Submit Application	-	-
Ingalls Creek (45.0273) – Upstream of Cascade Creek	July 16 – February 28	✗	-
Etienne Creek (45.0323) – Mouth to falls at stream mile 2.9	Submit Application	-	-
Etienne Creek (45.0323) – Upstream of falls at stream mile 2.9	July 16 – February 28	✗	-
Ruby Creek (45.0318)	July 16 – February 28	✗	-
Fronson Creek (45.0346)	August 1 – February 28	✗	-
Seottty Creek (45.0376)	August 1 – February 28	✗	-
Shaser Creek (45.0365)	August 1 – February 28	✗	-
<b>Clallam County</b>	July 16 – September 15	✗	-
Clallam River (19.0129)	August 1 – August 15	✗	-
Dungeness River (18.0018)	Submit Application	-	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Independent Creek (18.MISC)	August 1 - August 31	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Hoko River (19.0148)	August 1 - September 15	X	-
Jimmycomelately Creek (17.0285)	August 1 - August 31	X	-
Lake Ozette (20.0046)	Submit Application	-	-
Little Quileene River (17.0076)	July 16 - August 31	X	-
Lake Ozette tributaries	July 16 - September 15	X	-
Lyre River (19.0031)	August 1 - September 15	X	-
McDonald Creek (18.0160)	August 1 - September 15	X	-
Morse Creek (18.0185)	August 1 - August 15	X	-
Ozette River (20.0046)	July 16 - September 15	X	-
Pysht River (19.0113)	August 1 - September 15	X	-
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15	X	X
Bogachiel River (20.0162)	Submit Application	-	-
Calawah River (20.0175)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	-
Sekiu River (19.0203)	August 1 - September 15	X	-
Snow Creek (17.0219)	July 16 - August 31	X	-
Sol Due River (20.0096)	Submit Application	-	-
Lake Pleasant (20.0313)	Submit Application	-	-
Lake Pleasant tributaries	July 16 - September 15	X	-
Sooes River (20.0015)	July 16 - September 15	X	-
<b>Clark County</b>	July 16 - September 30	-	-
Columbia River	See Below	-	-
Lacamas Creek (28.0160) - Mouth to dam	August 1 - August 31	X	-
Lacamas Creek (28.0160) - Upstream of dam	August 1 - September 30	X	-
Lewis River (27.0168)	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Mouth to Lucia Falls	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
East Fork Lewis River (27.0173) – Upstream of Sunset Falls	August 1 – February 28	X	-
Lake River (28.0020)	January 1 – December 31	X	X
Burnt Bridge Creek (28.0143)	August 1 – August 31	X	-
Salmon Creek (28.0059)	August 1 – August 31	X	-
Whipple Creek (28.0038)	August 1 – September 30	X	-
North Fork Lewis River (27.0334) – Confluence of East Fork to Merwin Dam	August 1 – August 15	X	X
Cedar Creek (27.0339)	August 1 – September 15	X	-
North Fork Lewis River (27.0334) – Merwin Dam to Lower Falls	July 16 – August 15	X	X
Canyon Creek (27.0442)	July 16 – February 28	X	-
North Fork Lewis River (27.0168) – Upstream of Lower Falls	July 16 – August 15	X	X
Washougal River (28.0159) – Mouth to headwaters	August 1 – August 31	X	X
<b>Columbia County</b>	July 16 – September 30	X	-
Touchet River (32.0097)	August 1 – August 15	X	X
Grande Ronde River tributaries (35.2192)	July 16 – August 15	X	-
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touchet (32.0708)	Submit Application	-	-
Tucannon River (35.0009)	July 16 – August 15	X	X
Walla Walla River (32.0008) – Mouth to Oregon state line	July 16 – September 15	X	X
Mill Creek (32.1436) – Mouth to Oregon state line	August 1 – August 15	X	-
<b>Cowlitz County</b>	July 16 – September 30	X	-
Chehalis River (22.0190/23.0190) – South Fork Chehalis River – Mouth to Fisk Falls	August 1 – August 31	X	X

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Chehalis River (22.0190/23.0190) – South Fork Chehalis River – Upstream of Fisk Falls	August 1 – August 31	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 – September 15	X	-
Burke Creek (27.0148)	August 1 – August 31	X	-
Burriss Creek (27.0151)	August 1 – August 31	X	-
Bybee Creek (27.0142)	August 1 – August 31	X	-
Canyon Creek (27.0147)	August 1 – August 31	X	-
Coal Creek (25.0340)	July 16 – September 15	X	-
Clark Creek (25.0371)	August 1 – August 31	X	-
Cowlitz River (26.0002) – Mouth to barrier dam at river mile 49.5	July 16 – August 15	X	X
Coweeman River (26.0003) – Mouth to Baird Creek	August 1 – August 31	X	X
Coweeman River (26.0003) – Upstream of Baird Creek	August 1 – August 31	X	-
Cowlitz River (26.0002) – Tributaries below barrier dam to mouth	July 16 – September 30	X	-
Owl Creek (26.1441)	July 16 – September 15	X	-
Toutle River (26.0227)	July 16 – August 15	X	X
North Fork Toutle River (26.0314) – Mouth to Debris Dam	July 16 – August 15	X	X
North Fork Toutle River (26.0314) – Upstream of Debris Dam	July 16 – August 15	X	-
Green River (26.0323) – Mouth to Shultz Creek	July 16 – September 30	X	X
Green River (26.0323) – Upstream of Shultz Creek	July 16 – September 30	X	-
South Fork Toutle (26.0248) – Mouth to Bear Creek	July 16 – September 15	X	X
South Fork Toutle (26.0248) – Upstream of Bear Creek	July 16 – September 15	X	-
Tributaries to Silver Lake	July 16 – September 30	X	-
Germany Creek (25.0313)	July 16 – September 15	X	-



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Kalama River (27.0002) – Mouth to Kalama Falls	August 1 – August 15	X	X
Kalama River (27.0002) – Upstream of Kalama Falls	August 1 – August 15	X	-
Lewis River (27.0168) – Mouth to East Fork Lewis River	August 1 – August 15	X	X
North Fork Lewis River (27.0334) – Confluence of East Fork to Merwin Dam	August 1 – August 15	X	X
North Fork Lewis River (27.0334) – Merwin Dam to Lower Falls	July 16 – August 15	X	X
Mill Creek (25.0284)	July 16 – September 15	X	-
Schoolhouse Creek (27.0139)	August 1 – August 31	X	-
<b>Douglas County</b>	July 1 – September 30	X	-
Columbia River	See Below	-	-
Douglas Creek Canyon (44.0146)	May 16 – January 31	X	-
Foster Creek (50.0065)	August 1 – April 15	X	-
McCarteney Creek (44.0002)	July 1 – February 28	X	-
Pine/Corbaley Canyon Creek (44.0779)	September 16 – April 15	X	-
Rock Island Creek (44.0630)	July 1 – September 30	X	-
<b>Ferry County</b>	July 1 – August 31	X	-
Columbia River	See Below	-	-
Kettle River (60.0002)	June 16 – August 31	X	X
Boulder Creek (60.0130) – Mouth to Hodgson Road Bridge	Submit Application	-	-
Boulder Creek (60.0130) – Upstream of Hodgson Road Bridge	June 16 – February 28	X	-
Deadman Creek (60.0008) – Mouth to SR395 Crossing	Submit Application	-	-
Deadman Creek (60.0008) – Upstream of SR395	June 16 – February 28	X	-
Goosmus Creek (60.0254)	June 16 – February 28	X	-
Toroda Creek (60.0410)	July 1 – September 30	X	-
San Poil River (52.0004)	June 16 – September 30	X	X

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<del>Granite Creek (52.0099) – Mouth to Powerhouse Dam</del>	<del>June 16 – September 30</del>	<del>X</del>	<del>-</del>
<del>Granite Creek (52.0099) – Upstream of Powerhouse Dam</del>	<del>June 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>West Fork San Poil River (52.0192) – Mouth to Deep Creek</del>	<del>June 16 – September 30</del>	<del>X</del>	<del>X</del>
<del>West Fork San Poil River (52.0192) – Upstream of Deep Creek</del>	<del>June 16 – September 30</del>	<del>X</del>	<del>-</del>
<del>Gold Creek (52.0197)</del>	<del>June 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Franklin County</del>	<del>June 1 – September 30</del>	<del>X</del>	<del>-</del>
<del>Columbia River</del>	<del>See Below</del>	<del>-</del>	<del>-</del>
<del>Snake River</del>	<del>See Below</del>	<del>-</del>	<del>-</del>
<del>Palouse River (34.0003)</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>X</del>
<del>North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River</del>	<del>June 16 – October 31</del>	<del>X</del>	<del>-</del>
<del>Garfield County</del>	<del>July 16 – September 30</del>	<del>X</del>	<del>-</del>
<del>Snake River (35.0003)</del>	<del>See Below</del>	<del>-</del>	<del>-</del>
<del>Alpowa Creek (35.1440)</del>	<del>July 16 – December 15</del>	<del>X</del>	<del>-</del>
<del>Asotin Creek (35.1716)</del>	<del>July 16 – August 15</del>	<del>X</del>	<del>-</del>
<del>Deadman Creek (35.0688)</del>	<del>July 16 – December 15</del>	<del>X</del>	<del>-</del>
<del>Grande Ronde River tributaries (35.2192)</del>	<del>July 16 – August 15</del>	<del>X</del>	<del>-</del>
<del>Meadow Creek (35.0689)</del>	<del>July 16 – December 15</del>	<del>X</del>	<del>-</del>
<del>Tucannon River (35.0009) – Mouth to Panjab Creek</del>	<del>July 16 – August 15</del>	<del>X</del>	<del>X</del>
<del>Tucannon River (35.0009) – Upstream of Panjab Creek</del>	<del>July 16 – August 15</del>	<del>X</del>	<del>-</del>
<del>Pataha Creek (35.0123) – Mouth to Pataha Creek</del>	<del>January 1 – December 31</del>	<del>X</del>	<del>-</del>
<del>Pataha Creek (35.0123) – Upstream of Pataha Creek</del>	<del>July 16 – December 31</del>	<del>X</del>	<del>-</del>
<del>Grant County</del>	<del>July 1 – October 31</del>	<del>X</del>	<del>-</del>
<del>Columbia River</del>	<del>See Below</del>	<del>-</del>	<del>-</del>
<del>Crab Creek (41.0002)</del>	<del>July 16 – September 15</del>	<del>X</del>	<del>X</del>
<del>Grays Harbor County</del>	<del>July 16 – October 15</del>	<del>X</del>	<del>-</del>

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
<del>Chehalis River (22.0190/23.0190) – Mouth to Porter Creek</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Chehalis River (22.0190/23.0190) – Porter Creek to Fisk Falls</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Chehalis River (22.0190/23.0190) – Upstream of Fisk Falls</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Cedar Creek (23.0570)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Cloquallum Creek (22.0501)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Porter Creek (23.0543)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Satsop River (22.0360)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Wishkah River (22.0191)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>✗</del>
<del>Wynoochee River (22.0260)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Copalis River (21.0767)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>✗</del>
<del>Elk River (22.1333)</del>	<del>July 1 – October 31</del>	<del>✗</del>	<del>✗</del>
<del>Hoquiam River (22.0137)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>✗</del>
<del>Humtulpis River (22.0004) – Mouth to Forks</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Humtulpis River (22.0004) – Upstream of Forks</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Johns River (22.1270)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Moclips River (21.0731)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>✗</del>
<del>North River (24.0034)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Queets River (21.0001)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Quinalt River (21.0398)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Raft River (21.0337)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>✗</del>
<b>Island County</b>	<del>June 16 – October 15</del>	<del>✗</del>	<del>-</del>
<del>Cavalero Creek (06.0065)</del>	<del>June 16 – December 15</del>	<del>✗</del>	<del>-</del>
<del>Chapman Creek (06.0070)</del>	<del>June 16 – December 15</del>	<del>✗</del>	<del>-</del>
<del>Creseent Creek (06.0002)</del>	<del>June 16 – December 15</del>	<del>✗</del>	<del>-</del>
<del>Cultus Creek (06.0026)</del>	<del>June 16 – March 15</del>	<del>✗</del>	<del>-</del>
<del>Deer Creek (06.0024)</del>	<del>June 16 – March 15</del>	<del>✗</del>	<del>-</del>
<del>Dugualla Creek (06.0001)</del>	<del>June 16 – March 15</del>	<del>✗</del>	<del>-</del>
<del>Glendale Creek (06.0025)</del>	<del>June 16 – December 15</del>	<del>✗</del>	<del>-</del>
<del>Kristoferson Creek (06.0062-06.0063)</del>	<del>May 1 – December 15</del>	<del>✗</del>	<del>-</del>
<del>Maxwelton Creek (06.0029)</del>	<del>June 16 – December 15</del>	<del>✗</del>	<del>-</del>

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North Bluff Creek (06.0006)	June 16 – March 15	X	-
Old Clinton Creek (06.0023)	June 16 – March 15	X	-
<b>Jefferson County</b>	July 16 – October 31	X	-
Big Quileene River (17.0012) – Mouth to falls	July 16 – August 31	X	X
Big Quileene River (17.0012) – Falls to Forks	August 1 – February 28	X	X
Big Quileene River (17.0012) – Upstream of Forks	August 1 – February 28	X	-
Bogachiel River (20.0162)	Submit Application	-	-
Chimacum Creek (17.0203)	July 16 – September 15	X	-
Donovan Creek (17.0115)	July 1 – October 15	X	-
Dosewallips River (16.0442)	July 16 – August 15	X	-
Duckabush River (16.0351)	July 16 – August 15	X	-
Dungeness River (18.0018)	August 1 – August 15	X	-
Elwha River (18.0272)	August 1 – August 15	X	X
Goodman Creek (20.0406)	August 1 – September 15	X	-
Hoh River (20.0422)	August 1 – August 15	X	X
Little Quileene River (17.0076)	July 16 – August 31	X	-
Queets River (21.0001)	August 1 – August 15	X	X
Matheny Creek (21.0165)	August 1 – August 15	X	-
Sams River (21.0205)	August 1 – August 15	X	X
Quinalt River (21.0398)	August 1 – August 15	X	X
Salmon Creek (17.0245)	July 16 – August 31	X	-
Skokomish River (16.0001)	August 1 – August 31	X	X
Snow Creek (17.0219)	July 16 – August 31	X	-
Tarboo Creek (17.0129)	August 1 – September 30	X	-
Thorndyke Creek (17.0170)	August 1 – October 15	X	-
<b>King County</b>	July 16 – September 30	X	-
Cedar River (08.0299) – Mouth to Forks	August 1 – August 31	X	X
Cedar River (08.0299) – Upstream of Forks	August 1 – August 31	X	-
Issaquah Creek (08.0178)	August 1 – August 31	X	-
Sammamish River (08.0057)	August 1 – August 31	X	-
Steele Creek (08.0379)	July 16 – February 28	X	-

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Green River (Duwamish River) (09.0001) – Mouth to Sawmill Creek	August 1 – August 31	✗	✗
Green River (Duwamish River) (09.0001) – Upstream of Sawmill Creek	August 1 – August 31	✗	-
Lake Washington tributaries (08.LKWA)	August 1 – August 31	✗	-
Snoqualmie River (07.0219) – Mouth to Snoqualmie Falls	August 1 – August 15	✗	✗
Snoqualmie River (07.0219) – Snoqualmie Falls to mouth of South Fork	July 16 – February 28	✗	✗
Patterson Creek (07.0376)	July 16 – September 30	✗	-
Middle Fork Snoqualmie River (07.0219) – Mouth to Taylor Creek	July 16 – February 28	✗	✗
Middle Fork Snoqualmie River (07.0219) – Upstream of Taylor Creek	July 16 – February 28	✗	-
Goat Creek (07.0754)	July 16 – February 28	✗	-
North Fork Snoqualmie River (07.0527) – Mouth to Lennox Creek	July 16 – February 28	✗	✗
North Fork Snoqualmie River (07.0527) – Upstream of Lennox Creek	July 16 – February 28	✗	-
Deep Creek (07.0562)	July 16 – February 28	✗	-
Illinois Creek (07.0624)	July 16 – February 28	✗	-
Lennox Creek (07.0596)	July 16 – February 28	✗	-
Bear Creek (07.0606)	July 16 – February 28	✗	-
Raging River (07.0384)	August 1 – September 15	✗	✗
South Fork Skykomish River (07.0012) – Mouth to Sunset Falls	August 1 – August 15	✗	✗
South Fork Skykomish River (07.0012) – Upstream of Sunset Falls	August 1 – August 15	✗	-
Beekler River (07.1413) – Mouth to Boulder Creek	August 1 – August 15	✗	✗
Beekler River (07.1413) – Upstream of Boulder Creek	July 16 – February 28	✗	-

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<del>Rapid River (07.1461) – Mouth to Meadow Creek</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Rapid River (07.1461) – Upstream of Meadow Creek</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Index Creek (07.1264) – Mouth to Mud Lake Creek</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Index Creek (07.1264) – Upstream of Mud Lake Creek including Salmon Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Miller River (07.1329) – Mouth to Forks</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Miller River (07.1329) – Upstream of Forks</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Coney Creek (07.1347)</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>East Fork Miller River (07.1329) – Mouth to Great Falls Creek</del>	<del>July 16 – August 15</del>	<del>✗</del>	<del>-</del>
<del>East Fork Miller River (07.1329) – Upstream of Great Falls Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Foss River (07.1562) – Mouth to Forks</del>	<del>July 16 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>East Fork Foss River (07.1562) – Mouth to Burn Creek</del>	<del>July 16 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>East Fork Foss River (07.1562) – Upstream of Burn Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>West Fork Foss River (07.1573) – Mouth to falls at river mile 2.0</del>	<del>July 16 – August 31</del>	<del>✗</del>	<del>-</del>
<del>West Fork Foss River (07.1573) – Upstream of falls at river mile 2.0</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>West Fork Miller River (07.1335)</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>✗</del>
<del>Money Creek (07.1300) – Mouth to 0.5 mile upstream of Kimball Creek</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Money Creek (07.1300) – Upstream of 0.5 mile upstream of Kimball Creek</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>

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Kimball Creek (07.1301)	August 1 – August 31	✗	-
Tye River (07.0012) – Mouth to Alpine Falls	August 1 – August 31	✗	✗
Tye River (07.0012) – Upstream of Alpine Falls	July 16 – February 28	✗	-
South Fork Snoqualmie River (07.0467)	July 16 – February 28	✗	✗
Denny Creek (07.0517)	July 16 – February 28	✗	-
Tolt River (07.0291) – Mouth to Forks	August 1 – August 31	✗	✗
North Fork Tolt River (07.0291) – Mouth to Yellow Creek	July 16 – September 15	✗	✗
North Fork Tolt River (07.0291) – Upstream of Yellow Creek	July 16 – February 28	✗	-
South Fork Tolt River (07.0302) – Mouth to dam	July 16 – September 15	✗	✗
South Fork Tolt River (07.0302) – Upstream of Tolt Reservoir	July 16 – February 28	✗	-
Yellow Creek (07.0337)	July 16 – February 28	✗	-
White River (10.0031)	July 16 – August 15	✗	✗
Greenwater River (10.0122)	July 16 – August 15	✗	✗
<b>Kittitas County</b>	July 1 – September 30	✗	-
Brushy Creek (40.0612)	July 1 – February 28	✗	-
Colockum Creek (40.0760)	July 1 – October 31	✗	-
Quilomene Creek (40.0613)	July 1 – October 31	✗	-
Stemilt Creek (40.0808) – Upstream of falls	July 1 – February 28	✗	-
Tarpisean Creek (40.0723)	July 1 – February 28	✗	-
Tekiason Creek (40.0686)	July 1 – February 28	✗	-
Whiskey Dick Creek (40.0591)	July 1 – February 28	✗	-
Yakima River (39.0002) – Roza Dam to Teanaway River	August 1 – August 31	✗	✗
Naches River (38.0003) – Tieton River to Bumping River	July 1 – August 15	✗	✗
Little Naches River (38.0852) – Mouth to Matthew Creek	July 16 – August 15	✗	✗

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Little Naches River (38.0852) – Upstream of Matthew Creek	July 16 – August 15	X	-
Pileup Creek (38.0932)	July 16 – August 31	X	-
Gold Creek (38.MISC)	July 16 – February 28	X	-
Swauk Creek (39.1157)	July 16 – September 30	X	-
Baker Creek (39.1157)	July 16 – September 30	X	-
First Creek (39.1157)	July 16 – September 30	X	-
Iron Creek (39.1157)	July 16 – September 30	X	-
Williams Creek (39.1157)	July 16 – September 30	X	-
Boulder Creek (39.1157)	July 16 – February 28	X	-
Cougar Gulch (39.1157)	July 16 – February 28	X	-
Lion Gulch (39.1157)	July 16 – February 28	X	-
Yakima River (39.0002) – Teanaway River to Easton Dam	August 1 – August 31	X	X
Yakima River (39.0002) – Upstream of Easton Dam	August 1 – August 31	X	X
Cle Elum River (39.1434) – Mouth to dam	July 16 – August 31	X	X
Cle Elum River (39.1434) – Upstream of Cle Elum Dam	Submit Application	-	-
Big Boulder Creek (39.1434MISC)	August 1 – February 28	X	-
Camp Creek (39.1434MISC)	August 1 – February 28	X	-
Fortune Creek (39.1434MISC)	August 1 – August 15	X	-
South Fork Fortune Creek (39.1434MISC)	August 1 – February 28	X	-
Howson Creek (39.1434)	July 16 – February 28	X	-
Little Salmon Le Sae Creek (39.1482)	August 1 – August 15	X	-
Paris Creek (39.1434MISC)	August 1 – February 28	X	-
Salmon Le Sae Creek (39.1520)	August 1 – February 28	X	-
Kachess River (39.1739) – Upstream of Lake Kachess	Submit Application	-	-
Kachess River (39.1739) – Below dam	July 16 – August 15	X	X
Box Canyon Creek (39.1765)	Submit Application	-	-
Mineral Creek (39.1792)	August 1 – August 15	X	-



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Lake Keechelus (39.1842)-tributaries	July 16 – August 15	X	-
Gold Creek (Lake Keechelus) (39.1842)	Submit Application	-	-
Manastash Creek (39.0988)	July 16 – September 30	X	-
Naneum Creek (39.0821)	July 16 – September 30	X	-
Taneum Creek (39.1081) – Mouth to I-90	July 16 – August 31	X	-
Taneum Creek (39.1157) – Upstream of I-90	July 16 – September 30	X	-
Teanaway River (39.1236)	July 16 – August 31	X	X
NF Teanaway River (39.1260)	Submit Application	-	-
Umtanum Creek (39.0553)	July 16 – September 30	X	-
Wenas Creek, Below dam (39.0032)	July 16 – October 15	X	-
Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 – February 28	X	-
Other Yakima River tributaries not listed	July 16 – August 31	X	-
<b>Kitsap County</b>	July 16 – October 15	X	-
Anderson Creek (15.0211)	August 1 – November 15	X	-
Barker Creek (15.0255)	August 1 – September 30	X	-
Big Beef Creek (15.0389)	August 1 – August 15	X	-
Big Seandia Creek (15.0280)	August 1 – September 30	X	-
Blackjack Creek (15.0203)	August 1 – September 30	X	-
Burley Creek (15.0056)	August 1 – September 30	X	-
Chico Creek (15.0229)	August 1 – October 15	X	-
Clear Creek (15.0249)	August 1 – September 30	X	-
Curley Creek (15.0185)	August 1 – September 30	X	-
Dewatto River (15.0420)	August 1 – August 15	X	-
Dogfish Creek (15.0285)	August 1 – August 15	X	-
Gorst Creek (15.0216)	August 1 – August 15	X	-
Grovers Creek (15.0299)	August 1 – August 31	X	-
Johnson Creek (15.0387)	August 1 – October 31	X	-
Ollala Creek (15.0107)	August 1 – September 30	X	-
Ross Creek (15.0209)	August 1 – November 15	X	-
Salmonberry Creek (15.0188)	August 1 – November 30	X	-
Seabeek Creek (15.0400)	August 1 – August 15	X	-

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Steele Creek (15.0273)	August 1 – September 30	X	-
Tahuya River (15.0446)	August 1 – August 31	X	X
Union River (15.0503)	August 1 – August 31	X	X
<b>Klickitat County</b>	July 15 – September 30	X	-
Alder Creek (31.0459)	August 1 – September 30	X	-
Chapman Creek (31.0192)	August 1 – September 30	X	-
Glade Creek (31.0851)	August 1 – September 30	X	-
Juniper Canyon Creek (31.0378)	August 1 – September 30	X	-
Klickitat River (30.0002) – Mouth to Klickitat hatchery	Submit Application	-	-
Klickitat River (30.0002) – Upstream of Klickitat hatchery	Submit Application	-	-
Little White Salmon River (29.0131) – Mouth to Cabbage Creek	July 16 – January 31	X	X
Little White Salmon River (29.0131) – Upstream of Cabbage Creek	July 16 – January 31	X	-
Pine Creek (31.0354)	August 1 – September 30	X	-
Rock Creek (31.0014)	August 1 – September 30	X	-
Six Prong Creek (31.0465)	August 1 – September 30	X	-
White Salmon River (29.0160) – Mouth to Cascade Creek	July 16 – August 15	X	X
White Salmon River (29.0160) – Upstream of Cascade Creek	July 16 – August 15	X	-
Wood Gulch Creek (31.0263)	August 1 – September 30	X	-
<b>Lewis County</b>	August 1 – September 30	X	-
Chehalis River (22.0190/23.0190) – Mouth to South Fork Chehalis River	August 1 – August 15	X	X
Chehalis River (22.0190/23.0190) – Upstream of South Fork Chehalis River	August 1 – August 31	X	X
Newaukum River (23.0882) – Mouth to South Fork	August 1 – August 31	X	X

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Newaukum River (23.0882) -- Upstream of South Fork	August 1 - August 31	X	-
Skookumchuck River (23.0761)	August 1 - August 31	X	X
Cowlitz River (26.0002)	August 1 - August 15	X	X
Cispus River (26.0668) -- Mouth to Squaw Creek (26.1010)	August 1 - August 15	X	X
Cispus River (26.0668) -- Squaw Creek to Chambers Creek	July 16 - February 28	X	X
Cispus River (26.0668) -- Upstream of Chambers Creek	July 16 - February 28	X	-
Yellowjacket Creek (26.0757)	August 1 - August 15	X	-
McCoy Creek (26.0766) -- Mouth to lower falls	August 1 - August 15	X	-
McCoy Creek (26.0766) -- Upstream of lower falls	July 16 - February 28	X	-
Walupt Creek (26.1010)	Submit Application	-	-
Paekwood Lake tributaries	August 16 - September 15	X	-
Filton River (26.0560) -- Mouth to North Fork	August 1 - September 30	X	X
Filton River (26.0560) -- Upstream of North Fork	August 1 - September 30	X	-
Toutle River (26.0227)	August 1 - August 31	X	X
North Fork Toutle River (26.0314)	July 16 - August 15	X	X
Green River (26.0323)	July 16 - September 30	X	X
Deschutes River (13.0028)	July 16 - August 31	X	X
Little Deschutes River (13.0110)	July 16 - February 28	X	-
Nisqually River (11.0008) -- Upstream of Alder Lake	July 16 - September 30	X	X
<b>Lincoln County</b>	June 16 - February 28	X	-
Columbia River	See Below	-	-
Hawk Creek (53.0101) -- Mouth to falls	June 16 - August 31	X	-
Hawk Creek (53.0101) -- Upstream of falls	June 16 - February 28	X	-
Upper Crab Creek (42.0001)	June 16 - February 28	X	-
Wilson Creek (43.0020)	June 16 - February 28	X	-

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<del>Mason County</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>-</del>
<del>Cloquallum Creek (22.0501)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Coulter Creek (15.0002)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Dewatto River (15.0420)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Goldsborough Creek (14.0035)</del>	<del>August 1 – October 15</del>	<del>✗</del>	<del>-</del>
<del>John Creek (16.0253)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Hamma Hamma River (16.0251) – Mouth to falls</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Johns Creek (14.0049)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Lilliwaup River (16.0230) – Mouth to falls</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Lilliwaup River (16.0230) – Upstream of falls</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Mill Creek (14.0029)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Satsop River (22.0360)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Schaerer Creek (16.0326)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Sherwood Creek (14.0094)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Skokomish River (16.0001) – Mouth to Forks</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Skokomish River (16.0001) – Upstream of Forks</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Tahuya River (15.0446)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Twanoh Creek (14.0134)</del>	<del>August 1 – October 31</del>	<del>✗</del>	<del>-</del>
<del>Union River (15.0503)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Okanogan County</del>	<del>July 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Aneas Creek (49.0243) – Mouth to falls</del>	<del>July 16 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Aneas Creek (49.0243) – Upstream of falls</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>Chewiliken Creek (49.0232) – Mouth to falls</del>	<del>July 16 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Chewiliken Creek (49.0232) – Upstream of falls</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>Chiliwist Creek (49.0034) – Mouth to falls</del>	<del>July 16 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Chiliwist Creek (49.0034) – Upstream of falls</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>Foster Creek (50.0065)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>

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<del>Methow River (48.0007) – Columbia confluence to Twisp River</del>	<del>July 1 – July 31</del>	<del>✗</del>	<del>✗</del>
<del>Methow River tributaries between Black Canyon Creek and Gold Creek</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Black Canyon Creek (48.0015) – Mouth to Left Fork</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Black Canyon Creek (48.0015) – Upstream of Left Fork</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Gold Creek (48.0104) – Mouth to Foggy Dew Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Foggy Dew Creek (48.0153) – Mouth to Foggy Dew Falls</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Foggy Dew Creek (48.0153) – Upstream of Foggy Dew Falls</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Middle Fork Gold Creek (48.0139)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>North Fork Gold Creek (48.0104)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Crater Creek (48.0177) – Mouth to Martin Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Crater Creek (48.0177) – Upstream of Martin Creek</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Martin Creek (48.0177)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>South Fork Gold Creek (48.0105) – Mouth to Rainy Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>South Fork Gold Creek (48.0105) – Upstream of Rainy Creek</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Rainy Creek (48.0105)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>McFarland Creek (48.0090) – Mouth to Vinegar Guleh</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>McFarland Creek (48.0090) – Upstream of Vinegar Guleh</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Methow River tributaries between Libby Creek and Beaver Creek</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Beaver Creek (48.0307)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>

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Frazer Creek (48.0309)	July 1 – February 28	X	-
Lightning Creek (48.0361)	July 1 – February 28	X	-
Middle Fork Beaver Creek (48.0307)	July 1 – February 28	X	-
South Fork Beaver Creek (48.0342)	July 1 – February 28	X	-
Libby Creek (48.0203) – Mouth to Hornet Draw Creek	Submit Application	-	-
Libby Creek (48.0203) – Upstream of Hornet Draw	July 1 – February 28	X	-
Methow River (48.0007) – Twisp River to Goat Creek	July 1 – July 31	X	X
Methow River (48.0007) – Upstream of Goat Creek	July 1 – July 31	X	-
Chewuch River (48.0728) – Mouth to Meadow Creek	July 1 – July 31	X	X
Chewuch River (48.0728) – Upstream of Meadow Creek	July 1 – February 28	X	-
Early Winters Creek (48.1408) – Mouth to Silver Star Creek	Submit Application	-	-
Early Winters Creek (48.1408) – Upstream of Silver Star Creek	July 1 – February 28	X	-
Goat Creek (48.1364) – Mouth to 500 feet upstream of Montana Creek	Submit Application	-	-
Goat Creek (48.1364) – 500-foot Upstream of Montana Creek to Roundup Creek	July 1 – February 28	X	-
Goat Creek (48.1364) – Upstream of Roundup Creek	Submit Application	-	-
Lost River (48.0592)	July 16 – August 15	X	X
Twisp River (48.0374)	July 1 – July 31	X	X
Buttermilk Creek (48.0466)	Submit Application	-	-
North Creek (48.0674)	Submit Application	-	-
North Fork Twisp River (48.0691)	July 1 – February 28	X	-
South Creek (48.0641) – Upstream of Louis Creek	July 1 – February 28	X	-

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South Creek (48.0641) – Mouth to Louis Creek	Submit Application	-	-
South Fork Twisp River (48.0698)	July 1 – February 28	X	-
Wolf Creek (48.1300)	Submit Application	-	-
Myers Creek (60.0517)	July 1 – February 28	X	-
Bolster Creek (60.0517)	July 1 – February 28	X	-
Ethel Creek (60.0517)	July 1 – February 28	X	-
Gold Creek (60.0517)	July 1 – February 28	X	-
Mary Ann Creek (60.0517)	July 1 – February 28	X	-
North Fork Mary Ann Creek (60.0517)	July 1 – February 28	X	-
Okanogan River (49.0019) – Mouth to Zosel Dam	July 1 – August 31	X	X
Antoine Creek (49.0294) – Mouth to velocity gradient at river mile 1.0	July 1 – February 28	X	-
Antoine Creek (49.0294) – Upstream of falls	July 1 – March 31	X	-
Bonaparte Creek (49.0246) – Upstream of falls	July 1 – March 31	X	-
Bonaparte Creek (49.0246) – Mouth to Bonaparte Falls at river mile 1.0	July 1 – February 28	X	-
Loup Loup Creek (49.0048) – Mouth to Loup Loup Falls at river mile 2.4	July 1 – February 28	X	-
Loup Loup Creek (49.0048) – Upstream of Loup Loup Falls at river mile 2.4	July 1 – March 31	X	-
Mosquito Creek (49.0321) – Mouth to falls	July 1 – August 31	X	-
Mosquito Creek (49.0321) – Upstream of falls	July 1 – March 31	X	-
Nine Mile Creek (49.0516)	July 1 – February 28	X	-
Omak Creek (49.0138) – Mouth to Mission Falls at river mile 5.4	July 1 – February 28	X	-
Omak Creek (49.0138) – Upstream of falls	July 1 – March 31	X	-

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<del>Salmon Creek (49.0079) – Mouth to diversion</del>	<del>July 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Salmon Creek (49.0079) – Upstream of diversion</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Similkameen River (49.0325) – Mouth to Enloe Dam</del>	<del>July 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Similkameen River (49.0325) – Enloe Dam to Palmer Creek</del>	<del>June 1 – October 31</del>	<del>✗</del>	<del>✗</del>
<del>Similkameen River (49.0325) – Upstream of Palmer Creek</del>	<del>July 1 – October 31</del>	<del>✗</del>	<del>✗</del>
<del>Sinlahekin Creek (49.0349) – Mouth to barrier dam at Connors Lake</del>	<del>July 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Cecile Creek (49.0447)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Chopaka Creek (49.0357)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Toats Coulee Creek (49.0368)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Cougar Creek (49.0368)</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Siwash Creek (49.0284) – Falls to headwaters</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>Siwash Creek (49.0284) – Mouth to falls at river mile 1.4</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Tonasket Creek (49.0501) – Mouth to Tonasket Falls at river mile 1.8</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Tonasket Creek (49.0501) – Upstream of Tonasket Falls at river mile 1.8</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>Tunk Creek (49.0211) – Mouth to falls</del>	<del>July 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Tunk Creek (49.0211) – Upstream of falls</del>	<del>July 1 – March 31</del>	<del>✗</del>	<del>-</del>
<del>San Poil River (52.0004)</del>	<del>June 16 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>West Fork San Poil (52.0192)</del>	<del>June 16 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Gold Creek (52.0197)</del>	<del>June 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Toroda Creek (60.0410)</del>	<del>July 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Pacific County</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Bear River (24.0689)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Bone River (24.0405)</del>	<del>August 1 – September 30</del>	<del>✗</del>	<del>-</del>
<del>Chehalis River (22.0190/23.0190)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>



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Columbia River	See Below	-	-
Chinook River (24.MISC)	August 1 – September 30	X	X
Grays River (25.0093)	July 16 – September 15	X	X
Naselle River (24.0543)	August 1 – September 15	X	X
Nemah River (24.0460)	August 1 – September 30	X	X
Niawiakum River (24.0417)	August 1 – September 30	X	-
North River (24.0034)	August 1 – September 30	X	X
Palix River (24.0426)	August 1 – September 30	X	-
Willapa River (24.0251)	August 1 – September 30	X	X
<b>Pend Oreille County</b>	July 1 – August 31	X	-
Little Spokane River (55.0003)	August 1 – March 15	X	-
West Branch Little Spokane River (55.0439)	August 1 – March 15	X	-
Harvey Creek (62.0310) – Mouth to Rocky Fork of Harvey Creek	August 1 – August 31	X	-
Harvey Creek (62.0310) – Upstream of Rocky Fork of Harvey Creek	July 16 – February 28	X	-
Pend Oreille River (62.0002)	Submit Application	-	-
Big Muddy Creek (62.0279)	August 1 – March 15	X	-
Bracket Creek (62.0815)	August 1 – March 15	X	-
Calispel Creek (62.0628)	August 1 – August 31	X	-
Exposure Creek (62.0261)	August 1 – August 31	X	-
Kent Creek (62.0819)	August 1 – March 15	X	-
Le Clere Creek (62.0415)	August 1 – August 31	X	-
Lime Creek (62.0014)	August 1 – March 15	X	-
Lodge Creek (62.0859)	August 1 – August 31	X	-
Lost Creek (62.0322)	August 1 – March 15	X	-
Marmust Creek (62.0842)	August 1 – March 15	X	-
Pee Wee Creek (62.0007) – Mouth to falls	August 1 – August 31	X	-
Pee Wee Creek (62.0007) – Upstream of falls	August 1 – March 15	X	-
Renshaw Creek (62.0310)	August 1 – March 15	X	-
Sullivan (O'Sullivan) Creek (62.0074)	August 1 – August 31	X	-

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North Fork Sullivan Creek (62.0075)	August 1 – August 31	X	-
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 – August 15	X	-
Currant Creek (61.0249)	July 16 – August 15	X	-
Meadow Creek (61.0351)	July 16 – August 15	X	-
Rocky Creek (61.0364)	July 16 – August 15	X	-
Silver Creek (61.0195)	July 16 – August 15	X	-
Smaekout Creek (61.0226)	July 16 – August 15	X	-
<b>Pierce County</b>	July 16 – August 31	X	-
Chambers/Clover Creek Watershed (12.MISC)	July 16 – September 30	X	-
Flett Creek (12.0009)	July 16 – October 31	X	-
Leach Creek (12.0008)	July 16 – September 30	X	-
Nisqually River (11.0008) – Mouth to Alder Lake	July 16 – August 31	X	X
Nisqually River (11.0008) – Upstream of Alder Lake	July 16 – September 30	X	X
Mashel River (11.0101) – Mouth to Busy Wild Creek	July 16 – September 30	X	X
Mashel River (11.0101) – Upstream of Busy Wild Creek	July 16 – September 30	X	-
Puyallup River (10.0021) – Mouth to PSE Electron Powerhouse Outfall	July 16 – August 31	X	X
Puyallup River (10.0021) – Upstream of PSE Electron Powerhouse Outfall	July 16 – August 15	X	X
Carbon River (10.0413)	July 16 – August 15	X	X
Cayada Creek (10.0525) – Mouth to falls about 800 feet upstream	July 16 – August 31	X	-
Cayada Creek (10.0525) – Upstream of the falls	January 1 – December 31	X	-
South Prairie Creek (10.0429)	July 16 – August 15	X	-
Voight Creek (10.0414) – Mouth to falls at river mile 4.0	July 16 – August 31	X	-

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Voight Creek (10.0414) – Upstream of falls river mile 4.0	July 16 – February 28	X	-
White River (10.0031)	July 16 – August 15	X	X
Clearwater River (10.0080)	July 16 – August 15	X	X
Greenwater River (10.0122)	July 16 – August 15	X	X
Huckleberry Creek (10.0253)	July 16 – August 15	X	-
West Fork White River (10.0186)	July 16 – August 15	X	X
Sequalitehew Creek (12.0019)	July 16 – September 30	X	-
<b>San Juan County</b>	July 1 – August 31	X	-
Caseade Creek (02.0057), Oreas Island – Upstream of Lower Falls	July 1 – February 28	X	-
Caseade Creek (02.0057), Oreas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 – October 31	X	-
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 – October 15	X	-
False Bay Creek (02.MISC) – San Juan Island; mouth to lake	July 1 – October 31	X	-
Glenwood Springs, Oreas Island; direct tributary to Eastsound Bay	July 1 – October 15	X	-
Moran Creek (02.MISC) – Oreas Island; from Cascade Lake delta upstream 1/4 mile	July 1 – October 15	X	-
Unnamed Creek (02.0041) – San Juan Island; mouth to lake	July 1 – October 15	X	-
<b>Skagit County</b>	August 1 – September 15	X	-
Granite Creek (04.2313) – Upstream of East Creek	July 16 – February 28	X	-
North Fork Stillaguamish River (05.0135) – Mouth to Squire Creek	August 1 – August 15	X	X

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<del>North Fork Stillaguamish River (05.0135) – Squire Creek to Cascade Creek</del>	<del>August 1 – August 15</del>	<del>X</del>	<del>-</del>
<del>North Fork Stillaguamish River (05.0135) – Upstream of Cascade Creek</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Samish River (03.0005)</del>	<del>August 1 – September 15</del>	<del>X</del>	<del>-</del>
<del>Skagit River (03.0176/04.0176)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Baker River (04.0435) – Mouth to Baker Dam</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Cascade River (04.1411)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Day Creek (03.1435)</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Lookout Creek (04.1447)</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Sibley Creek (04.1481)</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Day Creek (03.0299) – Mouth to Rocky Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Day Creek (03.0299) – Upstream of Rocky Creek</del>	<del>August 1 – February 28</del>	<del>X</del>	<del>-</del>
<del>Finney Creek (04.0392) – Mouth to Big Fir Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Finney Creek (04.0392) – Upstream of Big Fir Creek</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>Hlabot Creek (04.1346)</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Sauk River (04.0673) – Mouth to Forks</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Sauk River (04.0673) – Upstream of Forks</del>	<del>August 1 – August 15</del>	<del>X</del>	<del>-</del>
<del>Suiattle River (04.0710)</del>	<del>Submit Application</del>	<del>X</del>	<del>X</del>
<del>Wiseman Creek (03.0280) – Mouth to SR20</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Wiseman Creek (03.0280) – Upstream of SR20</del>	<del>July 16 – February 28</del>	<del>X</del>	<del>-</del>
<del>South Fork Nooksack River (01.0246) – Mouth to falls at river mile 30</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>South Fork Nooksack River (01.0246) – Falls at river mile 30 to Wanliek Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
South Fork Nooksack River (01.0246) – Upstream of Wanlick Creek	Submit Application	-	-
<b>Skamania County</b>	July 15 – September 15	X	-
Columbia River	See Below	-	-
Cispus River (26.0668)	August 1 – August 15	X	X
Cispus River (26.0668) tributaries located in Skamania County	August 1 – October 31	X	-
East Fork Lewis River (27.0173) – Lucia Falls to Sunset Falls	August 1 – February 28	X	X
East Fork Lewis River (27.0173) – Upstream of Sunset Falls	August 1 – February 28	X	-
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 – September 30	X	X
Hamilton Creek (28.0303)	August 1 – August 31	X	-
Hardy Creek (28.0303)	August 1 – August 31	X	-
Little White Salmon River (29.0131) – Mouth to Hatchery	July 16 – August 15	X	X
Little White Salmon River (29.0131) – Hatchery to Cabbage Creek	July 16 – January 31	X	X
Little White Salmon River (29.0131) – Upstream of Cabbage Creek	July 16 – January 31	X	-
North Fork Lewis River (27.0168) – Merwin Dam to Lower Falls	July 16 – August 15	X	X
Canyon Creek (27.0442)	July 16 – February 28	X	-
North Fork Lewis River (27.0168) – Upstream of Lower Falls	July 16 – February 28	X	X
Washougal River (28.0159) – Mouth to Stebbins Creek	August 1 – August 31	X	X
Washougal River (28.0159) – Upstream of Stebbins Creek	August 1 – August 31	X	-

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<del>White Salmon River (29.0160) – Mouth to Cascade Creek</del>	<del>July 16 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>White Salmon River (29.0160) – Upstream of Cascade Creek</del>	<del>July 16 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Wind River (29.0023)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Woodward Creek (28.0298)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del><b>Snohomish County</b></del>	<del>July 16 – September 15</del>	<del>✗</del>	<del>-</del>
<del>Lake Washington tributaries</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Sauk River (04.0673) – Mouth to Forks</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Sauk River (04.0673) – Upstream of Forks</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>-</del>
<del>Suiattle River (04.0710)</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Snohomish River (07.0012) – Mouth to Highway 9</del>	<del>August 1 – October 31</del>	<del>✗</del>	<del>✗</del>
<del>Snohomish River (07.0012) – Upstream of Highway 9</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Pilehuck River (07.0125) – Mouth to city of Snohomish Diversion Dam</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Pilehuck River (07.0125) – City of Snohomish Diversion Dam to Boulder Creek</del>	<del>August 1 – September 15</del>	<del>✗</del>	<del>✗</del>
<del>Pilehuck River (07.0125) – Upstream of Boulder Creek</del>	<del>August 1 – September 15</del>	<del>✗</del>	<del>-</del>
<del>Skykomish River (07.0012) – Mouth to Forks</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Deer Creek (05.0173) – Mouth to stream mile 0.5</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Deer Creek (05.0173) – Upstream of stream mile 0.5</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>North Fork Skykomish River (07.0982) – Mouth to Bear Creek Falls</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>North Fork Skykomish River (07.0982) – Bear Creek Falls to Deer Falls</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>North Fork Skykomish River (07.0982) – Deer Falls to West Cady Creek</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>✗</del>

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<del>North Fork Skykomish River (07.0982) – Upstream of West Cady Creek</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Howard Creek (07.1042)</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Silver Creek (07.1053) – Mouth to Lake Gulch</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>Silver Creek (07.1053) – Upstream of Lake Gulch</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Troublesome Creek (07.1085)</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>
<del>West Fork Troublesome Creek (07.1092)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>-</del>
<del>South Fork Skykomish River (07.0012) – Mouth to Sunset Falls</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Beekler River (07.1413) – Mouth to Boulder Creek</del>	<del>August 1 – August 15</del>	<del>✗</del>	<del>✗</del>
<del>Beekler River (07.1413) – Upstream of Boulder Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Rapid River (07.1461) – Mouth to Meadow Creek</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Rapid River (07.1461) – Upstream of Meadow Creek</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>✗</del>
<del>Sultan River (07.0881) – Mouth to Diversion Dam at river mile 9.4</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Sultan River (07.0881) – Diversion Dam to anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam)</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Sultan River (07.0881) anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam) to Elk Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>✗</del>
<del>Sultan River (07.0881) – Upstream of Elk Creek</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>-</del>
<del>Wallace River (07.0940) – Mouth to Wallace Falls</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>Wallace River (07.0940) – Upstream of Wallace Falls</del>	<del>August 1 – February 28</del>	<del>✗</del>	<del>-</del>

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<del>Olney Creek (07.0946) -- Mouth to Olney Falls</del>	<del>August 1 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Olney Creek (07.0946) -- Upstream of Olney Falls</del>	<del>August 1 -- February 28</del>	<del>X</del>	<del>-</del>
<del>Snoqualmie River Mouth to falls (07.0219)</del>	<del>August 1 -- August 15</del>	<del>X</del>	<del>X</del>
<del>All other Snohomish River tributaries</del>	<del>August 1 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Stillaguamish River (05.0001) -- Mouth to Forks</del>	<del>August 1 -- August 31</del>	<del>X</del>	<del>X</del>
<del>North Fork Stillaguamish River (05.0135) -- Mouth to Squire Creek</del>	<del>August 1 -- August 15</del>	<del>X</del>	<del>X</del>
<del>North Fork Stillaguamish River (05.0135) -- Squire Creek to Cascade Creek</del>	<del>August 1 -- August 15</del>	<del>X</del>	<del>-</del>
<del>North Fork Stillaguamish River (05.0135) -- Upstream of Cascade Creek</del>	<del>July 16 -- February 28</del>	<del>X</del>	<del>-</del>
<del>South Fork Stillaguamish River (05.0001) -- Mouth to Deer Creek</del>	<del>August 1 -- August 15</del>	<del>X</del>	<del>X</del>
<del>South Fork Stillaguamish River (05.0001) -- Upstream of Deer Creek</del>	<del>August 1 -- August 15</del>	<del>X</del>	<del>-</del>
<del><b>Spokane County</b></del>	<del>June 16 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Latah Creek (56.0003)</del>	<del>June 16 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Little Spokane River (55.0600) -- Mouth to Deer Creek</del>	<del>June 16 -- August 31</del>	<del>X</del>	<del>X</del>
<del>Little Spokane River (55.0600) -- Upstream of Deer Creek</del>	<del>June 16 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Spokane River (57.0001)</del>	<del>June 16 -- August 31</del>	<del>X</del>	<del>X</del>
<del><b>Stevens County</b></del>	<del>July 16 -- August 31</del>	<del>X</del>	<del>-</del>
<del>Columbia River</del>	<del>See Below</del>	<del>-</del>	<del>-</del>
<del>Big Sheep Creek (61.0150)</del>	<del>July 16 -- August 15</del>	<del>X</del>	<del>-</del>
<del>Colville River (59.0002) -- Mouth to the falls</del>	<del>July 16 -- September 30</del>	<del>X</del>	<del>X</del>
<del>Colville River (59.0002) -- Upstream of the falls</del>	<del>July 16 -- September 30</del>	<del>X</del>	<del>X</del>
<del>Deep Creek (61.0195)</del>	<del>July 16 -- August 15</del>	<del>X</del>	<del>-</del>



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Onion Creek (61.0098)	July 16 – August 15	X	-
Sheep Creek (59.0861)	July 16 – September 30	X	-
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 – February 28	X	-
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 – February 28	X	-
Tributaries of Little Spokane River (55.0600)	June 16 – August 31	X	-
Calispel Creek (62.0628)	August 1 – August 31	X	-
Other tributaries to the Pend Oreille River in Stevens County	July 1 – August 31	X	-
<b>Thurston County</b>	July 16 – September 15	X	-
Cedar Creek (23.0570)	August 1 – September 30	X	-
Chehalis River (22.0190/23.0190) – Upstream of Porter Creek	August 1 – August 15	X	X
Skookumchuck River (23.0761) – Mouth to Skookumchuck Reservoir	August 1 – August 31	X	X
Skookumchuck River (23.0761) – Upstream of Skookumchuck Reservoir	August 1 – August 31	X	-
Deschutes River (13.0028) – Mouth to Deschutes Falls	July 16 – August 31	X	X
Deschutes River (13.0028) – Upstream of Deschutes Falls	July 16 – August 31	X	-
Ellis Creek (13.0022)	May 16 – September 30	X	-
Little Deschutes River (13.0110)	July 16 – February 28	X	-
McLane Creek (13.0138)	August 1 – October 31	X	-
Percival Creek (13.0029)	July 16 – August 31	X	-
Nisqually River (11.0008)	July 16 – August 31	X	X
Tributaries of Nisqually River (11.0008)	July 16 – August 31	X	-
Porter Creek (23.0543)	August 1 – September 30	X	-
Schneider Creek (14.0009)	August 1 – October 31	X	-

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Waddell Creek (23.0677)	August 1 – September 30	X	-
Woodard Creek (13.0012)	July 16 – August 31	X	-
Woodland Creek (13.0006)	July 16 – September 30	X	-
<b>Wahkiakum County</b>	July 16 – September 15	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 – September 15	X	-
Deep River (25.0011)	July 16 – September 15	X	X
Elochoman River (25.0236)	July 16 – September 15	X	X
Grays River (25.0093)	July 16 – September 15	X	X
Mill Creek (25.0284)	July 16 – September 15	X	-
Naselle River (24.0543)	July 16 – September 15	X	X
Skamokowa Creek (25.0194)	July 16 – September 15	X	-
<b>Walla Walla County</b>	July 16 – September 30	X	-
Walla Walla River (32.0008) – Mouth to Oregon state line	July 16 – September 15	X	X
Mill Creek (32.1436) – Mouth to Oregon state line	August 1 – August 15	X	-
Touche River (32.0097) – Mouth to Forks	August 1 – August 15	X	X
North Fork Touche/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touche (32.0708)	Submit Application	-	-
<b>Whatecom County</b>	July 16 – August 15	X	-
Damfino Creek (00.0032)	July 16 – August 31	X	-
Nooksack River (01.0120)	Submit Application	-	-
Caseade Creek (02.0057) – Mouth to FR 37	Submit Application	-	-
Caseade Creek (02.0057) – Upstream of FR 37	July 16 – February 28	X	-
Middle Fork Nooksack River (01.0339) – Mouth to city of Bellingham Diversion Dam	Submit Application	-	-
Middle Fork Nooksack River (01.0339) – Upstream of city of Bellingham Diversion Dam	Submit Application	-	-
North Fork Nooksack River (01.0120) – Mouth to Nooksack Falls	Submit Application	-	-

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North Fork Nooksack River (01.0120) – Upstream of Nooksack Falls	Submit Application	-	-
Barometer Creek (01.0513)	July 16 – February 28	X	-
Ruth Creek (01.0531)	July 16 – February 28	X	-
Swamp Creek (01.0518)	July 16 – February 28	X	-
Wells Creek (02.0057)	Submit Application	-	-
Bar Creek (01.0500)	July 16 – February 28	X	-
South Fork Nooksack (01.0246) – Mouth to Wanlick Creek	Submit Application	-	-
South Fork Nooksack (01.0246) – Upstream of Wanlick Creek	Submit Application	-	-
Samish River (03.0005)	July 16 – August 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) – Mouth to Baker Lake Dam (04.0435)	Submit Application	-	-
Baker River (04.0435) – Baker Lake to National Park boundary	Submit Application	-	-
Boulder Creek (04.0499)	July 16 – February 28	X	-
Park Creek (04.0506) – Mouth to fish passage barrier at river mile 1.6	Submit Application	-	-
Park Creek (04.0506) – Upstream of river mile 1.6	July 16 – February 28	X	-
Swift Creek (04.0509) – Mouth to Rainbow Creek	Submit Application	-	-
Swift Creek (04.0509) – Upstream of Rainbow Creek	July 16 – February 28	X	-
Ross Lake tributaries (03.0176/04.0176)	Submit Application	-	-
Ruby Creek (04.2199)	Submit Application	-	-
Canyon Creek (04.2458) – Mouth to Barron Creek	Submit Application	-	-
Canyon Creek (04.2458) – Upstream of Barron Creek and tributaries	October 1 – February 28	X	-

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<del>Barron Creek (04.2591)</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Boulder Creek (04.2478) - Mouth to 300 feet upstream</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Friday Creek (04.2549) - Mouth to 300 feet upstream</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Holmes Creek (04.2473) - Mouth to 300 feet upstream</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Mill Creek (04.2504) - Mouth to 300 feet upstream</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Nielkol Creek (04.2476) - Mouth to 300 feet upstream</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Nielkol Creek (04.2476) - 300 feet upstream of mouth to headwaters</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>North Fork Canyon Creek (04.2583) - Mouth to Elk Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Caseade Creek (05.2584)</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>North Fork Canyon Creek (04.2583) - Upstream of Elk Creek</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Slate Creek (04.2557) - Mouth to falls at river mile 0.6</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Slate Creek (04.2557) - Upstream of falls at river mile 0.6</del>	<del>October 1 - February 28</del>	<del>X</del>	<del>-</del>
<del>Granite Creek (04.2313) - Mouth to East Creek</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>

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Granite Creek (04.2313) – Upstream of East Creek and tributaries	October 1 – February 28	X	-
Saar Creek (00.0003)	August 1 – September 30	X	-
Silesia Creek (00.0042) – Canadian border to Middle Fork	July 16 – August 15	X	-
Silesia Creek (00.0042) – Middle Fork to National Park boundary	July 16 – February 28	X	-
Rapid Creek (00.0048)	July 16 – February 28	X	-
West Fork Silesia Creek (00.0044)	July 16 – February 28	X	-
Winchester Creek (00.0045)	July 16 – February 28	X	-
<b>Whitman County</b>	July 16 – December 15	X	-
Snake River (35.0002)	See Below	-	-
Alkali Flats Creek (35.0570)	July 16 – December 15	X	-
Almota Creek (35.1017)	July 16 – December 15	X	-
Little Almota Creek (35.1018)	July 16 – December 15	X	-
Palouse River (34.0003) – Mouth to Palouse Falls	July 16 – September 30	X	X
Palouse River (34.0003) – Upstream of Palouse Falls	July 16 – February 28	X	X
Penewawa Creek (35.0916)	July 16 – December 15	X	-
Wawawai Canyon Creek (35.1165)	July 16 – December 15	X	-
<b>Yakima County</b>	June 1 – September 15	X	-
Glade Creek (31.0851)	August 1 – September 30	X	-
Khekitat River (30.0002)	Submit Application	-	-
Yakima River (37.0002/38.0002/39.0002) – Mouth to Roza Dam	June 1 – September 15	X	X
Ahtanum Creek (37.1382)	June 16 – September 30	X	-
North Fork Ahtanum Creek (37.1382)	Submit Application	-	-
South Fork Ahtanum Creek (37.1382)	Submit Application	-	-
Naches River (38.0003) – Mouth to Tieton River	July 1 – October 15	X	X

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Naches River (38.0003) – Upstream of mouth of Tieton River to Bumping River	July 1 – August 15	X	X
Bumping River (38.0998)	July 16 – August 15	X	X
American River (38.1000)	Submit Application	-	-
Gold Creek (38.MISC)	July 16 – February 28	X	-
Kettle Creek (38.1033)	Submit Application	-	-
Miner Creek (38.1027)	July 16 – February 28	X	-
Morse Creek (38.1072) – Mouth to SR410 crossing	August 1 – August 15	X	-
Morse Creek (38.1072) – Upstream of SR410 crossing	August 1 – February 28	X	-
Reek Creek (38.MISC)	July 16 – February 28	X	-
Timber Creek (38.1062)	August 1 – August 15	X	-
Union Creek (38.1045) – Upstream of 500 feet above falls	August 1 – February 28	X	-
Union Creek (38.1045) – Mouth to 500 feet above falls	Submit Application	-	-
Other American River tributaries not listed	August 1 – February 28	X	-
Deep Creek (38.MISC)	Submit Application	-	-
Copper Creek (38.MISC)	August 1 – August 15	X	-
Cowiehe Creek (38.0005) – Mouth to South Fork Cowiehe Creek	July 1 – September 30	X	-
North Fork Cowiehe Creek (38.0008)	July 1 – February 28	X	-
South Fork Cowiehe Creek (38.0031) – Mouth to Reynolds Creek	July 1 – September 30	X	-
South Fork Cowiehe Creek (38.0031) – Upstream of Reynolds Creek	July 16 – October 31	X	-
Granite Creek (38.MISC)	August 1 – August 15	X	-
Little Naches River (38.0852) – Mouth to Matthews Creek	July 16 – August 15	X	X
Little Naches River (38.0852) – Upstream of Matthews Creek	July 16 – August 15	X	-
Crow Creek (38.0858)	July 16 – August 15	X	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Nile Creek (38.0692)	July 16 – October 15	X	-
Rattlesnake Creek (38.0518)	July 16 – August 15	X	-
Tieton River (38.0166) – Mouth to Rimrock Dam	July 1 – August 31	X	X
North Fork Tieton River (38.0291) – Below Clear Lake Dam	Submit Application	-	-
North Fork Tieton River (38.0291) – Upstream of Clear Lake	July 1 – August 15	X	-
Clear Creek (38.0317)	July 16 – February 28	X	-
South Fork Tieton River (38.0374) – Below South Fork Falls	Submit Application	-	-
South Fork Tieton River (38.0374) – Upstream of South Fork Falls	July 16 – February 28	X	-
Indian Creek (38.0302)	Submit Application	-	-
Tributaries of Tieton River below Rimrock Dam	July 16 – February 28	X	-
Umtanum Creek (39.0553)	July 16 – September 30	X	-
Wenas Creek (39.0032)	July 16 – October 15	X	-
Other Yakima River tributaries	July 16 – August 31	X	-
Columbia River	-	-	-
Mouth to the I-205 Bridge	August 1 – March 31	X	X
I-205 Bridge to Bonneville Dam	July 16 – September 15	X	X
Bonneville Dam to Snake River	July 16 – February 28	X	X
Snake River to Priest Rapids Dam	July 16 – September 30	X	X
Priest Rapids Dam to Mouth of Crab Creek	July 16 – February 28	X	X
Mouth of Crab Creek to Wanapum Dam	July 16 – September 30	X	X
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 – February 28	X	X
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 – September 30	X	X

<del>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</del>	<del>Suction Dredging is Allowed Only Between These Dates</del>	<del>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</del>	<del>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</del>
<del>SR 2 bridge to one mile downstream of the Chelan River</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>✗</del>
<del>From one mile downstream of the Chelan River to the SR 97 bridge</del>	<del>July 16 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>From SR 97 bridge to Chief Joseph Dam</del>	<del>July 16 – February 28</del>	<del>✗</del>	<del>✗</del>
<del>Chief Joseph Dam to Grand Coulee Dam</del>	<del>June 16 – March 31</del>	<del>✗</del>	<del>✗</del>
<del>Grand Coulee Dam to Canadian border</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>All Columbia River tributaries</del>	<del>See County Listings</del>	<del>-</del>	<del>-</del>
<del>Snake River</del>	<del>-</del>	<del>✗</del>	<del>-</del>
<del>Mouth to Ice Harbor Dam</del>	<del>July 16 – September 30</del>	<del>✗</del>	<del>✗</del>
<del>Ice Harbor Dam to Mouth of Clearwater River</del>	<del>July 16 – March 31</del>	<del>✗</del>	<del>✗</del>
<del>Mouth of Clearwater River to state line</del>	<del>August 1 – August 31</del>	<del>✗</del>	<del>✗</del>
<del>All Snake River tributaries</del>	<del>See County Listings</del>	<del>-</del>	<del>-</del>
<del>Lakes</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Strait of Juan de Fuca, Puget Sound, Hood Canal</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>
<del>Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605</del>	<del>January 1 – December 31</del>	<del>✗</del>	<del>✗</del>
<del>All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605</del>	<del>Submit Application</del>	<del>-</del>	<del>-</del>

~~(8) Suction dredge activity reporting.~~ By February 1st of each year, a person issued a suction dredge HPA must report to the department regarding the date, amount, type, and location of any suction dredging activity conducted during the preceding calendar year for which the HPA is in effect.)

**WSR 20-24-125**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed December 2, 2020, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-132.



Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): On January 11, 2021, at 4:00 p.m. Zoom meeting: Join from PC, Mac, Linux, iOS, or Android: <https://wsu.zoom.us/j/97192466550?pwd=c01aOTdOckdROTI1mWWFQMw8vbVV3Zz09&from=addon>, Meeting ID: 971 9246 6550, Passcode: 933153, OR join by telephone (long distance): +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656 (enter the meeting ID and passcode when prompted). Due to the public health emergency resulting from COVID-19 and guidance/directives from the Washington department of health, no in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: March 12, 2021.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email [prf.forms@wsu.edu](mailto:prf.forms@wsu.edu), fax 509-335-3969, by January 11, 2021.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, fax 509-335-3969, email [prf.forms@wsu.edu](mailto:prf.forms@wsu.edu), by January 7, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university is updating the rules regarding the standards of conduct for students.

Reasons Supporting Proposal: On May 19, 2020, the United States Department of Education (the department) published amendments to its regulations implementing Title IX of the Education Amendments of 1972 (Title IX). The department's amended regulations specify how recipients of federal financial assistance covered by Title IX (which include the university) must respond to allegations of sexual harassment. Amendments to the university's standards of conduct for students are required to comply with the department's amended Title IX regulations.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law, Title IX of the Education Amendments of 1972 and federal regulations 34 C.F.R. Part 106.

Name of Proponent: Washington State University (WSU), public.

Name of Agency Personnel Responsible for Drafting: Karen Metzner, Director, Center for Community Standards, Lighty Services 360, Pullman, WA 99164-1050, 509-335-4532; or Holly Ashkannejhad, Director, Compliance and Investigation; Title IX Coordinator, Compliance and Civil Rights, French Administration 225, Pullman, WA 99164-1022, 509-335-8288; Implementation and Enforcement: Mary Jo Gonzales, Vice President, Student Affairs, French Administration 134, Pullman, WA 99164-1013, 509-335-4531.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider these rules to be significant legislative rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025.

Explanation of exemptions: The amendments to WSU student conduct code only apply to students at WSU, and therefore do not effect [affect] business or commerce in any way.

December 2, 2020

Deborah L. Barlett, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-010 Definitions.** Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:

(1) Academic integrity hearing board. Teaching faculty and student representatives who, collectively, are authorized by the university or college to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(2) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a university conduct board's or conduct officer's determination as to whether a student has violated the standards of conduct and any sanctions (~~(imposed)~~) assigned.

(3) Brief adjudication. The process by which a conduct officer may adjudicate student conduct matters (~~(involving)~~) that are not resolving allegations that would constitute Title IX sexual harassment within the university's Title IX jurisdiction, and where possible sanctions(~~(, other than matters involving)~~) do not include suspension for more than ten instructional days, expulsion, loss of recognition, or revocation of degree. Also referred to as a "conduct officer hearing" or "brief adjudicative proceeding."

(4) CCR. The university's office of compliance and civil rights.

(5) Cheating. Includes, but is not limited to:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.

(ii) Counterfeiting a record of internship or practicum experiences.

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by the center for community standards. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

~~((6))~~ (6) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint. Any individual, group, or entity, including the university, who submits a complaint alleging that a student or a registered or recognized student organization violated the standards of conduct.

~~((6))~~ (7) Conduct board. The group of students, faculty, and staff, collectively authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.

~~((7))~~ (8) Conduct officer. A university official authorized by the vice president for student affairs to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.

~~((8))~~ (9) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

~~((9))~~ (10) Full adjudication. The process by which a conduct board adjudicates matters involving possible suspension of greater than ten instructional days, expulsion, loss of recognition, revocation of degree, or other matters as determined by the university. Also referred to as "formal adjudication," "formal (or full) adjudicative proceeding," or "conduct board hearing."

~~((10))~~ (11) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

~~((11))~~ (12) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the vice president for student affairs or designee.

~~((12))~~ (13) Parties. The parties to a student conduct proceeding must include the university and the respondent. The parties in a student conduct matter ~~((implicating Title IX of the Civil Rights Act of 1964))~~ where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s)~~((, if the complainant(s) notifies the university in writing that they wish to participate as a party))~~. The university may designate other complainants, individuals, or recognized or registered student organizations as parties to conduct proceedings, or allow individuals or recognized or registered student organizations to intervene in conduct proceedings.

~~((13))~~ (14) Policies. The written rules and regulations of the university as found in, but not limited to, the standards of conduct, university policy manuals, housing and dining policies, academic regulations, and the university's graduate, undergraduate, and professional catalogs and other publications, including electronic publications.

~~((14))~~ (15) Recognized or registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition or registration.

~~((15))~~ (16) Respondent. A student or recognized or registered student organization alleged to have violated these standards of conduct.

~~((16))~~ (17) Student. Any person taking courses at the university, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the standards of conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the university (including suspended students) or who have been notified of their acceptance for admission are considered "students" as are persons who are living in university residence halls, even if not enrolled.

~~((17))~~ (18) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.

(19) University. Includes all locations, premises, programs, and operations of Washington State University.

~~((18))~~ (20) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.

~~((19))~~ (21) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-015 Jurisdiction and applicability—Relationship to other proceedings.** (1) General. The standards of conduct apply to conduct that occurs on university premises or in connection with university sponsored activities, including transit to or from the activity.

(2) Off-campus conduct. In addition to subsection (1) of this section, the standards of conduct may apply to conduct that occurs off university premises and not in connection with university-sponsored activities, if the conduct adversely affects the health and/or safety of the university community or the pursuit of the university's vision, mission, or values.

(a) The university has sole discretion to make this determination. In making this determination, the conduct officer considers whether the alleged conduct:

(i) Requires the university to exercise jurisdiction under law or as required by federal or state agencies;

(ii) Negatively impacted the reputation of the university or its students;

(iii) Occurred on the property of recognized or registered student organizations;

(iv) Caused physical, mental, or emotional harm to another; or

(v) Was recognized by onlookers, complainants, or witnesses as being carried out by a student or recognized or registered student organization.

(b) When the university chooses to exercise jurisdiction for off-campus conduct not in connection with a university-sponsored activity, the parties must be notified in writing of the decision and the reasons for the decision, and their right to challenge the decision to the vice president for student affairs or designee. Challenges to jurisdiction must be in writing and filed within five calendar days from the date the notice is sent. In cases implicating Washington State University's executive policy 15, (~~which prohibits discrimination, sexual harassment, and sexual misconduct,~~) the vice president for student affairs or designee must consult with the university's Title IX coordinator.

(3) Online conduct - Electronic communications. These standards of conduct may be applied to behavior conducted online, via electronic mail, text message, or other electronic means.

(4) Time frame for applicability. Each student is responsible and accountable for their conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards apply to a student's conduct even if the student withdraws from school, takes a leave of absence, or graduates.

(5) Group accountability. Recognized or registered student organizations that violate university policies and the standards of conduct are subject to sanctions. A recognized or registered student organization may be held accountable for the behavior of its officers, members, or guests when the university demonstrates that:

(a) The organization or its officers should have foreseen that behavior constituting a violation was likely to occur, yet failed to take reasonable precautions against such behavior;

(b) A policy or practice of the organization was responsible for a violation; or

(c) The behavior constituting a violation was committed by, condoned by, or involved a significant number of organization officers, members, or guests.

(6) International and national study programs. Students who participate in any university-sponsored or sanctioned international or national study program must observe the following rules and regulations:

(a) The laws of the host country and/or state;

(b) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(c) Any other agreements related to the student's study program; and

(d) These standards of conduct.

(7) Academic and professional standards. Nothing in these standards of conduct is to be construed as limiting academic action that may be taken by a program or other academic unit against a respondent who, based on an established violation of these standards or otherwise, demonstrates a failure to meet the academic and/or professional standards of the program.

(8) Relationship between student conduct process and other legal processes. The university is not required to stay a student conduct proceeding pending any criminal or civil proceeding, nor must the disposition of any such criminal or civil proceeding control the outcome of any student conduct proceeding. Respondents may choose to remain silent during conduct proceedings, in accordance with WAC 504-26-045.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-020 Advisors and representatives.** (1) Advisors. Any party may have an advisor of their choice present during all stages of a conduct process. Upon a party's request, a list of trained advisors from outside the office of the dean of students (and those offices reporting to the dean of students) who can provide support at no cost to the student is provided. Advisors may assist any party engaged in the conduct process and attend meetings and hearings. Advisors

may not be witnesses to the alleged behavior. (~~Students should select an advisor whose schedule allows for attendance at the scheduled date and time of the informational meeting and/or hearing, because delays are not normally allowed due to scheduling conflicts of the advisor.~~)

(2) Communication with the center for community standards. Advisors and representatives may communicate directly with the center for community standards to receive information on dates and times of meetings, status of conduct processes, and outcomes. As a condition of participation in the conduct process, the center for community standards may require advisors and representatives to sign a statement agreeing to comply with legal requirements and university rules including, but not limited to, requirements related to confidentiality of student information.

(3) Advisors in conduct meetings and conduct officer hearings. During any conduct (~~process~~) meeting or conduct officer hearing, breaks may be taken, within reason, to allow a party to consult with their advisor. However, advisors are not permitted to speak on behalf of parties.

(4) Advisors in conduct board hearings. As with all other conduct meetings and conduct officer hearings, advisors are not permitted to speak on behalf of parties, except that in conduct board hearings, advisors are permitted to ask relevant cross-examination questions as instructed by a party.

(5) Representatives. A party may choose to be represented during a full adjudication, at their own expense. Only persons currently admitted to practice law, including licensed legal interns, are permitted to act as representatives. In conduct board hearings, questions regarding logistical and administrative issues are to be directed to the presiding officer, who may impose reasonable conditions upon participation of advisors and representatives.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-045 Evidence.** (1) Except as provided in subsection (2) of this section, evidence, including hearsay evidence, is admissible in student conduct proceedings if, in the judgment of the conduct officer or presiding officer, it is the kind of evidence that reasonably prudent persons are accustomed to rely on in the conduct of their affairs. The conduct officer or presiding officer determines the admissibility and relevance of all information and evidence. (~~The sexual history of a complainant is not admissible in a student conduct proceeding except to the extent permitted by evidence rule 412 and RCW 34.05.452 (stating that presiding officers must refer to the Washington rules of evidence as guidelines for evidentiary rulings).~~)

(2) In conduct board hearings to resolve allegations that, if proven, would constitute Title IX sexual harassment within the university's Title IX jurisdiction, witnesses, including parties, must submit to cross-examination for their written or verbal statements to be considered by the university conduct board.

(3) The sexual history of a complainant is not relevant and not admissible in a student conduct proceeding unless such evidence about the complainant's sexual predisposition or prior sexual behavior is offered to prove that someone

other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

(4) Students may choose to remain silent during conduct proceedings, recognizing that they give up the opportunity to explain their version of events and that the decision is made based on the information presented at the hearing. No student must be compelled to give self-incriminating evidence, and no negative inference will be drawn from a student's refusal to participate in any stage of the conduct proceeding. If either party does not attend or participate in a hearing, the conduct officer or conduct board may resolve the matter based on the information available at the time of the hearing.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-050 Interim measures.** (1) While a student conduct matter is pending, the university may take a number of interim actions or supportive measures in order to ensure the preservation of the educational experience and the overall university environment of the parties. These actions may include, but are not limited to:

(a) A no-contact order (~~(imposed on)~~) assigned to any party;

(b) University housing room change for one or more involved parties; and/or

(c) Changes in academic schedules or assignments for any party.

(2) As stated in the university's housing and dining policies, the university reserves the right to assign roommates, to change room or hall assignments, and/or to consolidate vacancies by requiring residents to move from one room to another in the event such reassignments are determined to be necessary by the university.

(3) University departments taking interim or supportive measures must coordinate with the center for community standards, which advises the parties of the interim measures and the process for challenging them. For matters involving the university's executive policy 15, (~~(which prohibits discrimination, sexual harassment, and sexual misconduct,)~~) the departments must also consult with (~~(the university's office for equal opportunity)~~) CCR regarding interim or supportive measures. Interim and supportive measures are not sanctions and do not imply or assume responsibility for a violation of the standards of conduct.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-120 Training.** (1) Board members and presiding officers. Conduct board members, appeals board members, and presiding officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

(a) Cultural competency and implicit bias;

(b) Student development and student conduct philosophies, including the educational component of the student conduct process;

- (c) Identifying bias against individuals and against groups;
  - (d) Conflict of interest;
  - (e) Sexual assault and gender-based violence;
  - (f) Alcohol and drug prevention;
  - (g) Due process and burden of proof in student conduct matters; ~~((and))~~
  - (h) Sanctioning principles and guidelines;
  - (i) Title IX regulatory definitions, jurisdiction, and grievance processes; and
  - (j) Relevant and admissible evidence.
- (2) Conduct officers. Conduct officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:
- (a) Alternative dispute resolution;
  - (b) Restorative justice; and
  - (c) All training required of board members (see subsection (1) of this section).
- (3) Renewal of training. Training must be renewed on an annual basis.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-204 Abuse of others or disruption or interference with the university community.** Abuse of others or disruption or interference with the university community ~~((includes, but is not limited to))~~ is defined as:

- (1) Physical abuse, threats, intimidation, and/or other conduct that threatens, endangers, harms, or undermines the health, safety, or welfare of the university community or any person ~~((, including, but not limited to, domestic or intimate partner violence))~~.
- (2) Conduct that disrupts the university community or prevents any member of the university community from completing their duties.
- (3) Conduct that interferes with or disrupts the university's mission, operations, or activities.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-206 Hazing.** (1) No student or recognized or registered student organization at Washington State University may conspire to engage in hazing or participate in hazing of another.

(a) Hazing includes any activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical harm, regardless of the person's willingness to participate.

(b) Hazing activities may include, but are not limited to, the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.

(c) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and NCAA athletics, or

other similar contests or competitions, but gratuitous hazing activities occurring as part of such customary athletic event or contest are prohibited.

(2) Washington state law also prohibits hazing which may subject violators to criminal prosecution. As used in RCW 28B.10.901 and 28B.10.902, "hazing" includes any method of initiation into a recognized or registered student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary education institution in this state.

(3) Washington state law (RCW 28B.10.901) also provides sanctions for hazing:

(a) Any person who violates this rule, in addition to other sanctions that may be ~~((imposed))~~ assigned, forfeits any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the university.

(b) Any recognized or registered student organization that knowingly permits hazing by its members or others subject to its direction or control must be deprived of any official recognition or approval granted by the university.

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

**WAC 504-26-209 Violation of university policy, rule, or regulation.** Violation of any university policy, rule, or regulation published electronically on the university website or in hard copy including, but not limited to, Washington State University's alcohol and drug policy, executive policy 15 ~~((policy prohibiting discrimination, sexual harassment and sexual misconduct))~~, and housing and residence life policy.

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

**WAC 504-26-217 Unauthorized use of electronic or other devices.** Unauthorized use of electronic or other devices: Making an audio or video record of any person while on university premises without ~~((his or her))~~ their prior knowledge, or without ~~((his or her))~~ their effective consent when such a recording is of a private conversation or of images taken of a person(s) at a time and place where ~~((she or he))~~ they would reasonably expect privacy and where such images are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view, such as Martin Stadium or the Glenn Terrell Mall.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-219 Abuse of the student conduct system.** Abuse of the student conduct system ~~((including, but not limited to))~~ is defined as:

(1) Failure to obey any notice from a university conduct board or other university official to appear for a meeting or hearing as part of the student conduct system.

(2) Willful falsification, distortion, or misrepresentation of information before a university conduct proceeding.

(3) Disruption or interference with the orderly conduct of a university conduct board proceeding.

(4) Filing fraudulent charges or initiating a university conduct proceeding in bad faith.

(5) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(6) Attempting to influence the impartiality of a member of the university conduct system prior to, and/or during the course of, any university conduct board proceeding.

(7) Harassment (verbal, written, or physical) and/or intimidation of a member of a university conduct board, any individual involved in the conduct process, or any conduct officer before, during, and/or after any university conduct proceeding.

(8) Failure to comply with or failure to complete any term or condition of any disciplinary sanction(s) (~~imposed~~) assigned under the standards of conduct.

(9) Influencing or attempting to influence another person to commit an abuse of the university conduct system.

(10) Violation of probation or any probationary conditions.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-220 (~~(Discrimination and)~~ Discriminatory harassment.** (~~(Discrimination or discriminatory harassment)~~) (1) Unwelcome, intentional conduct on the basis of race; (~~(sex/gender)~~ sex and/or gender; sexual orientation; gender identity(~~(/)~~) or expression; religion; age; color; creed; national or ethnic origin; marital status; genetic information; status as an honorably discharged veteran or member of the military; physical, mental, or sensory disability (including disability requiring the use of a trained service animal);(~~marital status; genetic information; and/or status as an honorably discharged veteran or member of the military; and as defined in Washington State University's executive policy 15, which prohibits discrimination, sexual harassment, and sexual misconduct.~~) or immigration or citizenship status, except as authorized by federal or state law, regulation, or government practice, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

(a) Interferes with, or has the potential to interfere with, an individual's ability to participate in WSU employment, education, programs, or activities;

(b) Adversely alters the condition of an individual's WSU employment, education, or participation status;

(c) Creates an objectively abusive employment, program, or educational environment; or

(d) Results in a material or substantial disruption of WSU's operations or the rights of students, staff, faculty, visitors, or program participants.

(2) In determining if conduct is harassing, the totality of the circumstances are assessed including, but not limited to, the following factors:

(a) Severity;

(b) Frequency of the discrimination;

(c) Status of the reporting and responding parties and their relationship to each other;

(d) Physicality, threats, or endangerment; and

(e) Whether or not the conduct could be reasonably considered protected speech or serving some other lawful purpose.

AMENDATORY SECTION (Amending WSR 17-13-049, filed 6/15/17, effective 7/16/17)

**WAC 504-26-221 Sexual misconduct.** (1) Sexual misconduct is an egregious form of sex discrimination/sexual harassment. (~~(A number of acts may be regarded as sexual misconduct including, but not limited to, nonconsensual sexual contact (including sexual intercourse) and sexual exploitation.)~~) Sexual misconduct (~~(includes sexual assault and other sexual violence.)~~) is defined as:

(a) Sex offense. Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

(b) Rape (except statutory rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(c) Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(d) Sexual assault with an object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(e) Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(f) Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(g) Sexual exploitation, which occurs when a person takes nonconsensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above. Examples of sexual exploitation may include, but are not limited to:

(i) Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person.

(ii) Invading another person's sexual privacy.

(iii) Prostituting another person.

(iv) Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where they have a reasonable expectation of privacy.

(v) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection.

(vi) Exposing one's intimate parts in nonconsensual circumstances.

(h) Statutory rape. Sexual intercourse with a person who is under the statutory age of consent.

(i) Sexually based stalking and/or bullying.

(2) Consent. Consent to any sexual activity must be clear, knowing, and voluntary. Anything less is equivalent to a "no." Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, and throughout the sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrates clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(a) Force or coercion is threatened or used to procure compliance with the sexual activity.

(i) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

(ii) Coercion is unreasonable pressure for sexual activity. When an individual makes it clear through words or actions that the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail or extortion to overcome resistance or gain consent to sexual activity.

(b) The person is asleep, unconscious, or physically unable to communicate ~~((his or her))~~ their unwillingness to engage in sexual activity; or

(c) A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if the individual cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.

(3) ~~((Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object or body part, by one person against another person's intimate parts (or clothing covering any of those areas), or by causing another person to touch his or her own or another person's intimate body parts without consent and/or by force. Sexual contact also can include any intentional bodily contact in a sexual~~

~~manner with another person's nonintimate body parts. It also includes nonconsensual sexual intercourse.~~

~~(4) Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above. Examples of sexual exploitation may include, but are not limited to:~~

~~(a) Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person;~~

~~(b) Invading another person's sexual privacy;~~

~~(c) Prostituting another person;~~

~~(d) Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, records, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where he or she has a reasonable expectation of privacy;~~

~~(e) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection;~~

~~(f) Exposing one's intimate parts in nonconsensual circumstances;~~

~~(g) Sexually based stalking and/or bullying.~~

~~(5)) Use of alcohol or other drugs is not a valid defense to a violation of this policy.~~

AMENDATORY SECTION (Amending WSR 14-11-025, filed 5/12/14, effective 6/12/14)

**WAC 504-26-222 Harassment (other than sexual harassment or discriminatory harassment).** Harassment is conduct by any means that is severe, persistent, or pervasive, and is of such a nature that it would cause a reasonable person in the victim's position substantial emotional distress and undermine ~~((his or her))~~ their ability to work, study, or participate in ~~((his or her))~~ their regular life activities or participate in the activities of the university, and/or actually does cause the victim substantial emotional distress and undermines the victim's ability to work, study, or participate in the victim's regular life activities or participate in the activities of the university.

AMENDATORY SECTION (Amending WSR 14-11-025, filed 5/12/14, effective 6/12/14)

**WAC 504-26-223 Stalking.** (1) Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(a) Fear for ~~((his or her))~~ their safety or the safety of others; or

(b) ~~((Fear for harm to his or her property or the property of others; or~~

~~(c)) Suffer substantial emotional distress.~~

(2) ~~((Stalking includes, but is not limited to, conduct occurring in person, electronically, or through a third party.))~~ Course of conduct means two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or

means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(3) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(4) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(5) The use of alcohol or other drugs is not a valid defense to a violation of this policy.

**AMENDATORY SECTION** (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-227 Sexual harassment.** ~~((Sexual harassment includes behavior defined in Washington State University's executive policy 15, which prohibits discrimination, sexual harassment, and sexual misconduct.))~~ Unwelcome, intentional conduct, on the basis of sex and/or gender, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

(1) Interferes with, or has the potential to interfere with, an individual's ability to participate in WSU employment, education, programs, or activities;

(2) Adversely alters the condition of an individual's WSU employment, education, or participation status;

(3) Creates an objectively abusive employment, program, or educational environment; or

(4) Results in a material or substantial disruption of WSU's operations or the rights of students, staff, faculty, visitors, or program participants.

**AMENDATORY SECTION** (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-230 Retaliation.** ~~((Retaliation includes any act that would dissuade a reasonable person from making or supporting a complaint, or participating in an investigation, under the standards of conduct (this chapter). Retaliatory behavior includes action or threat of action that could negatively affect another's employment, education, reputation, or other interest. It also includes retaliation as defined in Washington State University's executive policy 15, which prohibits discrimination, sexual harassment, and sexual misconduct.))~~ (1) Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by university policies, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

(2) First amendment activities do not constitute retaliation.

#### **NEW SECTION**

**WAC 504-26-231 Intimate partner violence.** Intimate partner violence is defined as:

(1) Dating violence, which is defined as violence committed by a person who is or has been in a social relationship

of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the:

(a) Length of the relationship;

(b) Type of relationship; and

(c) Frequency of interaction between the persons involved in the relationship.

(2) Domestic violence, which is defined as a felony or misdemeanor crime of violence committed by:

(a) A current or former spouse or intimate partner of the victim;

(b) A person with whom the victim shares a child in common;

(c) A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

(d) A person similarly situated to a spouse of the victim under the domestic or family violence laws of Washington; or

(e) Any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of Washington.

**AMENDATORY SECTION** (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-401 Initiating conduct proceedings.** (1) Complaints. Any member of the university community may submit a complaint that a student or recognized or registered student organization violated the standards of conduct. In addition, the university may initiate conduct proceedings when it receives any direct or indirect report of conduct that may violate the standards of conduct.

(2) Decision not to refer the matter for hearing. Except as provided below, after reviewing the initial information, if the conduct officer determines that further conduct proceedings are not warranted, the conduct officer dismisses the matter. If the conduct officer decides not to initiate a conduct proceeding when requested by a complainant, the conduct officer must notify the complainant in writing of the decision, the reasons for the decision, and how to seek review of the decision. Conduct matters may be reopened if new relevant information becomes known. A conduct officer cannot dismiss a matter received from CCR where CCR completed a formal investigation implicating Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, regardless of the investigation's outcome. In such cases, the conduct officer must refer the matter to a conduct board hearing, which must be held within sixty days of the date the CCR formal investigation report was received, unless good cause exists to extend the date of the hearing or the matter is resolved through agreement or alternative dispute resolution.

(3) Notice of informational meeting. After reviewing initial information regarding a possible student conduct violation, if the student conduct officer decides conduct proceedings are warranted, the student conduct officer sends the respondent, or parties as appropriate, written notice of an informational meeting. The notice must, at a minimum, briefly describe the factual allegations or issues involved, the specific standard of conduct provision(s) the respondent is alleged to have violated, the range of possible sanctions for



such violations, and the time, date, and place of the meeting. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-504 (Interpretation—Policies, procedures, and guidelines) must be provided. Any request to change or extend the time or date of the informational meeting should be addressed to the conduct officer.

(4) Purpose of informational meeting. The purpose of the informational meeting is to provide the respondent with information on the conduct process and their rights and responsibilities, and to determine next steps, if any, in resolving the matter. During the informational meeting, the respondent may provide names of witnesses to the conduct officer to potentially contact. In cases involving Title IX, an informational meeting is also offered to a complainant.

(5) Agreement and alternative dispute resolution. A conduct officer may resolve a matter by agreement. Agreements may be reached directly or through alternative dispute resolution. In cases where agreement is not reached directly, before referring the matter to a hearing, the conduct officer must consider, and make a written determination, whether alternative dispute resolution is appropriate to resolve the matter. Alternative dispute resolution must not be used in matters involving sexual misconduct or sexual harassment. When resolution of a matter is reached by agreement or alternative dispute resolution, the agreement must be in writing and signed by the parties and the conduct officer. In the agreement, the parties must be advised in writing that:

- (a) The disposition is final and they are waiving any right to a hearing on the matter, including any right to appeal; and
- (b) If any party decides not to sign the agreement, and the matter proceeds to a hearing, neither the agreement nor a party's refusal to sign will be used against either party at the hearing.

(6) Referral for adjudication. Except as provided in subsection (2) of this section, after the informational meeting, if the conduct officer determines that a conduct hearing is warranted, and the matter is not resolved through agreement or alternative dispute resolution, the matter is handled through either a conduct officer hearing (brief adjudication) in accordance with WAC 504-26-402, or conduct board hearing (full adjudication) in accordance with WAC 504-26-403. In determining which process is appropriate, the conduct officer considers factors including, but not limited to, the nature and severity of the allegations, the respondent's past contacts with the center for community standards, and the range of possible sanctions that could be (~~imposed~~) assigned. A student may request that a conduct board hear the case, but the final decision regarding whether to refer the matter to the conduct board for hearing is made by the conduct officer and is not subject to appeal.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-402 Conduct officer hearings (brief adjudications).** (1) The majority of student conduct matters are adjudicated through conduct officer hearings. However, conduct officer hearings are not used to adjudicate matters in which the respondent faces possible sanctions of suspension

for more than ten instructional days, expulsion, or revocation of degree or when a recognized or registered student organization faces possible loss of recognition. In addition, conduct officer hearings generally are not used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221.

(2) Notice of hearing. The conduct officer must provide the parties with written notice no later than ten calendar days prior to the conduct officer hearing. The notice must, at a minimum, briefly describe the factual allegations or issues involved, the specific standard of conduct provision(s) the respondent is alleged to have violated, the range of possible sanctions for such violations, and the time, date, and place of the hearing. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-504 must be provided. The notice must also include:

- (a) A jurisdiction statement if the alleged behavior occurred off campus and information regarding the right to challenge jurisdiction in accordance with WAC 504-26-015;
- (b) Information regarding the right to request recusal of a conduct officer under WAC 504-26-125; and
- (c) Any request to extend the time or date of the conduct officer conference/hearing should be addressed to the conduct officer.

(3) Hearing and possible outcomes. Conduct officer hearings are brief adjudications conducted in accordance with RCW 34.05.482 through 34.05.494. The hearing allows the conduct officer to review available information, hear the parties' view of the matter, render a decision regarding responsibility, and (~~impose~~) assign sanctions, as appropriate.

(a) Before the hearing begins, the conduct officer must inform the respondent that:

- (i) All respondents are presumed "not responsible" for pending charges;
- (ii) The university must prove all violations by a preponderance of the evidence, meaning that it is more likely than not that the violation occurred; and
- (iii) The parties have the right to have an advisor present at the hearing.

(b) Upon conclusion of the hearing, the conduct officer may take any of the following actions:

- (i) Terminate the proceeding and enter a finding that the respondent is not responsible for the alleged conduct violation;
- (ii) Dismiss the matter with no finding regarding responsibility, in which case the matter may be reopened at a later date if relevant new information becomes known;
- (iii) Find the respondent responsible for any violations and impose sanctions within the limitations described in subsection (1) of this section; or
- (iv) Refer the matter to the conduct board.

(4) Notice of decision and right to appeal. The conduct officer notifies the parties in writing of the decision within ten calendar days of the conduct officer hearing. This is the initial order of the university and includes information regarding the parties' right to appeal under WAC 504-26-420.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-403 Conduct board hearings (full adjudications).** (1) Conduct board hearings are used in matters in which the respondent faces possible sanctions of suspension for more than ten instructional days, expulsion, or revocation of degree and matters in which a recognized or registered student organization faces possible loss of recognition. In addition, conduct board hearings are generally used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221. Other matters may be referred to a conduct board in the discretion of the conduct officer.

(2) Adoption of model rules of procedure. Conduct board hearings are full adjudications governed by the Administrative Procedure Act, RCW 34.05.413 through 34.05.476, and chapter 10-08 WAC, Model rules of procedure, except as otherwise provided in this chapter. In the event of a conflict between the rules in this chapter and the model rules, this chapter governs.

(3) Notice of hearing. Notice to the parties of a conduct board hearing must comply with model rule WAC 10-08-040 and standards of conduct rule WAC 504-26-035. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-504 must be provided.

(4) Time for conduct board hearings. The conduct board hearing is scheduled not less than ten calendar days after the parties have been sent notice of the hearing.

In accordance with WAC 10-08-090, requests to extend the time and/or date for hearing must be addressed to the presiding officer. A request for extension of time is granted only upon a showing of good cause.

(5) Subpoenas. Subpoenas may be issued and enforced in accordance with model rule WAC 10-08-120. In determining whether to issue, quash, or modify a subpoena, the presiding officer must give due consideration to state and federal legal requirements including, but not limited to, Title IX, its implementing regulations, and guidance issued by the federal Office for Civil Rights. The party requesting the subpoena has the burden of showing that a subpoena is necessary for full disclosure of all the relevant facts and issues.

(6) Discovery. Depositions, interrogatories, and physical or medical examinations of parties are not permitted in adjudications of student conduct matters. Other forms of discovery may be permitted at the discretion of the presiding officer; however, discovery should be limited to help ensure the prompt completion of the adjudication process.

(7) Cross-examination. As required by RCW 34.05.449, cross-examination of witnesses is permitted to the extent necessary for full disclosure of all relevant facts and issues. ~~((The preferred method of cross-examination in all student conduct matters is through written questions submitted to, and asked by, the presiding officer. Regardless, in))~~ Cross-examination is conducted orally through the party's advisor or representative. If a party does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no cir-

cumstance may the complainant or respondent be permitted to cross-examine each other directly ((in person or through their representative)). Before any witness or party may answer a cross-examination question, the presiding officer must first determine whether the question is relevant. The presiding officer ((may decline to ask)) must instruct parties or witnesses not to answer cross-examination questions that are irrelevant, immaterial, or unduly repetitious. ((All questions submitted by the parties must be retained as part of the agency record, in accordance with RCW 34.05.566.))

(8) Decision requirements. Decisions regarding responsibility and sanctions are made by a majority of the conduct board hearing the matter, except that any sanction of expulsion, revocation of degree, or loss of recognition of a recognized or registered student organization requires a supermajority consisting of no more than one "no" vote.

(9) Notice of decision and right to appeal. Within ten calendar days of the completion of the hearing, the conduct board must issue a decision simultaneously to all parties, which is the initial order of the university and must contain the following:

(a) Description of the allegations that initiated the community standards process;

(b) Description of procedural steps taken from the receipt of the formal complaint up to and including the university conduct board hearing;

(c) Appropriately numbered findings of fact and conclusions;

~~((b))~~ (d) The sanction(s) and/or remedy(ies) to be ((imposed)) assigned, if any, and the rationale for the sanction(s) and/or remedy(ies);

~~((e))~~ (e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and

~~((d))~~ (f) Notice that the initial order becomes final unless an appeal is filed within ((twenty-one)) twenty calendar days of ((service of)) the date the initial order is sent to the parties.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-409 Emergency suspension.** (1) Definition. An emergency suspension is a temporary exclusion of a student from all or specified portions of university premises, programs, or activities pending an investigation or student conduct proceeding relating to alleged standards of conduct violations. An emergency suspension may be ~~((imposed))~~ assigned at any time prior to the issuance of the university's final order in the matter.

(2) Circumstances warranting emergency suspension.

(a) For matters which would not constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, emergency suspension may be ~~((imposed))~~ assigned only in situations when the ~~((vice president for student affairs))~~ dean of students or campus chancellor (in consultation with the center for community standards), or their designee, has cause to believe that the student:

~~((a))~~ (i) Has violated any provision of the standards of conduct; and

~~((b))~~ (ii) Presents an immediate danger to the health, safety, or welfare of any part of the university community or the public at large. Conduct that creates an ongoing disruption of, or interference with, the operations of the university and that prevents other students, employees, or invitees from completing their duties or accessing their education or the educational environment, is conduct harmful to the welfare of members of the university community.

(b) For matters which would constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, emergency suspension may be assigned only in a situation where the dean of students or campus chancellor (in consultation with the center for community standards), or their designee, has engaged in an individualized safety and risk analysis, and determines that removal is justified because the student:

(i) Has violated any provision of the standards of conduct; and

(ii) Is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sexual harassment.

(3) Procedure. The ~~((vice president for student affairs))~~ dean of students or campus chancellor, or their designee, ordering an emergency suspension must send the student a written notice of emergency suspension. The notice must contain the reasons for the decision (both the factual basis and the conclusions as to why those facts constitute a violation of the standards of conduct), ~~((and))~~ the policy reasons for the emergency suspension, and the process to challenge the decision. The emergency suspension does not replace the regular hearing process, which must proceed to a conduct officer hearing or conduct board hearing, as applicable, as quickly as feasible. Once a final order is entered, any emergency suspension is lifted and the sanction, if any, set forth in the final order is ~~((imposed))~~ assigned.

(4) Challenge of the decision. The student can challenge the emergency suspension decision within ten calendar days of the date of notice. Challenges are reviewed by the vice president of student affairs or their designee, provided the designee is not the same person who made the original emergency suspension decision. The vice president of student affairs or designee has ten calendar days to respond to the review and can uphold, reverse, or modify the emergency suspension. The submission of a challenge does not stay the emergency suspension decision.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-415 Procedure for academic integrity violations.** (1) Initial hearing.

(a) When a responsible instructor finds that a violation of academic integrity has occurred, the instructor must assemble the evidence and, upon reasonable notice to the student of the date, time, and nature of the allegations, meet with the student suspected of violating academic integrity policies. If the student admits violating academic integrity policies, the instructor assigns an outcome in keeping with published

course policies and notifies the center for community standards in writing, including the allegations, the student's admission, and the sanctions ~~((imposed))~~ assigned.

(b) If the instructor is unable to meet with the student or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor must make a determination as to whether the student did or did not violate the academic integrity policies. If the instructor finds that the student was in violation, the instructor must provide the student and the center for community standards with a written determination, the evidence relied upon, and the sanctions ~~((imposed))~~ assigned.

(c) The student has twenty-one calendar days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) ~~((imposed))~~ assigned to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a student who has been found by their instructor to have violated the academic integrity policies, the academic integrity hearing board must make a separate and independent determination of whether or not the student is responsible for violating the academic integrity policies and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board is empowered to provide an appropriate remedy for a student including arranging a withdrawal from the course, having the student's work evaluated, or changing a grade where it finds that:

(i) The student is not responsible for violating academic integrity policies; or

(ii) The outcome ~~((imposed))~~ assigned by the instructor violates the instructor's published policies.

(c) Academic integrity hearing board proceedings.

(i) Any student appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:

(A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;

(B) The approximate time and place of the alleged act that forms the factual basis for the violation;

(C) The time, date, and place of the hearing;

(D) A list of the witnesses who may be called to testify, to the extent known; and

(E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the student must have the right to inspect the documentation.

(ii) Time for hearings.

(A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the student has been sent notice of the hearing.

(B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to the center for community standards. A request for extension of time is granted only upon a showing of good cause.

(iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by (c)(iv) of this subsection:

(A) Academic integrity hearing board hearings are conducted in private.

(B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.

(C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.

(D) In hearings involving graduate students, board members are comprised to include graduate students and graduate teaching faculty to the extent possible.

(E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weeks before the hearing. The respondent is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may suggest written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.

(F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.

(G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.

(H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(I) The respondent is notified of the academic integrity hearing board's decision within twenty calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.

(iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is

presented and considered in the respondent's absence, and the board may issue a decision based upon that information.

(v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.

(vi) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

(3) If the reported violation is the respondent's first offense, the center for community standards ordinarily requires the respondent to attend a workshop separate from, and in addition to, any academic outcomes (~~imposed~~) assigned by the instructor. A hold is placed on the respondent's record preventing registration or graduation until completion of the workshop.

(4) If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, with a recommendation that the respondent be dismissed from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred for a full adjudicative hearing, with a recommendation for dismissal from the university even if it is the respondent's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings must be reported to the responsible instructor and the chair or dean.

**AMENDATORY SECTION** (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-420 Appeals.** (1) Time for appeals. Decisions made by a conduct officer or conduct board become final (~~twenty-one~~) on the twenty-first calendar day(s) after the date the decision is sent to the parties, unless an appeal is submitted (~~before that date~~) within twenty calendar days of the date the decision is sent to the parties.

(2) Effect of appeal - Stay. Except in extraordinary circumstances, which must be explained in writing in the conduct officer's or conduct board's initial order, the implementation of an initial order (~~imposing~~) assigning sanctions must be stayed pending the time for filing an appeal and the issuance of the university's final order.

(3) Appeals of conduct officer decisions. Upon receipt of a timely appeal, the appeals board provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond, and conducts a limited review as described below.

(a) Scope of review. Except as required to explain the basis of new information, appeal of a conduct officer decision

is limited to a review of the record for one or more of the following purposes:

(i) To determine whether the conduct officer hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures; deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results;

(ii) To determine whether the decision reached was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct occurred;

(iii) To determine whether the sanction(s) (~~imposed~~) assigned were appropriate for the violation of the standards of conduct that the respondent was found to have committed; or

(iv) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original conduct officer hearing, because such information and/or facts were not known to the person appealing at the time of the original conduct officer hearing.

(b) Conversion to conduct board hearing. The appeals board makes any inquiries necessary to ascertain whether the proceeding must be converted to a conduct board hearing in accordance with WAC 504-26-403.

(4) Appeals of conduct board decisions. Upon receipt of a timely appeal, the appeals board provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond.

(a) The appeals board must have and exercise all the decision-making power that the conduct board had, except that the appeals board must give due regard to the conduct board's opportunity to observe the witnesses, if applicable. The appeals board members must personally consider the whole record or such portions of it as may be cited by the parties.

(b) Scope of review. The appeals board conducts a full review in accordance with RCW 34.05.464.

(5) University's right to initiate appeal. The university president or designee, at their own initiative, may request that the appeals board review any initial order. Prior to taking action, the appeals board must notify the parties and allow them an opportunity to explain the matter.

(6) Appeals board decisions.

(a) Actions. After reviewing the record and any information provided by the parties, the appeals board may take the following actions:

(i) Affirm, reverse, or modify the conduct board's or conduct officer's decision, or any part of the decision;

(ii) Affirm, reverse, or modify the sanctions (~~imposed~~) assigned by the conduct board or conduct officer, or any part of the sanctions; or

(iii) Set aside the findings or sanctions, or any part of the findings or sanctions, and remand the matter back to the conduct board or conduct officer with instructions for further proceedings.

(b) Content of decision. The decision includes the outcome, any sanction, and a brief statement of the reasons for the decision. The letter must advise the parties that judicial review may be available. For appeals of conduct board hear-

ings, the decision includes, or incorporates by reference to the conduct board's decision, all matters as set forth in WAC 504-26-403.

(c) Service and effective date of decision. For appeals of conduct officer decisions, the appeals board's decision must be sent simultaneously to the parties within twenty calendar days of receipt of the appeal. For appeals of conduct board decisions, the appeals board's decision must be sent simultaneously to the parties within thirty calendar days of receipt of the appeal, unless the appeals board notifies the parties in writing that additional time (up to ninety calendar days) is needed. The appeals board's decision is the final order of the university, except in the case of remand, and is effective when sent.

(7) Reconsideration of final orders. Within ten calendar days of service of a final order, any party may submit a request for reconsideration. The request must be in writing, directed to the appeals board, and must state the reasons for the request. The request for reconsideration does not stay the effective date of the final order. However, the time for filing a petition for judicial review does not commence until the date the appeals board responds to the request for reconsideration or twenty-one calendar days after the request has been submitted, whichever is sooner. If the appeals board does not respond to the request for reconsideration within twenty-one calendar days, the request is deemed to have been denied.

(8) Stay. A party may request that the university delay the date that the final order becomes effective by requesting a stay in writing to the appeals board within ten calendar days of the date the order was served.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-425 Sanctions.** (1) Publication of guidelines for sanctioning. Sanctioning guidelines and other information regarding sanctioning must be published on the center for community standards website. Guidelines must explain in plain language the types of sanctions that a respondent may face for a particular violation and the factors that are used to determine the sanction(s) (~~imposed~~) assigned for a particular violation. Factors must include, but not be limited to, the following:

(a) Conduct record. Any record of past violations of the standards of conduct, and the nature and severity of such past violations;

(b) Malicious intent. If a respondent is found to have intentionally selected a victim based upon the respondent's perception of the victim's race, color, religion, national or ethnic origin, age, sex/gender, marital status, status as an honorably discharged veteran or member of the military, sexual orientation, genetic information, gender identity/expression, or mental, physical, or sensory disability (including disability requiring the use of a trained service animal), such finding is considered an aggravating factor in determining a sanction for such conduct; and

(c) Impact on victim and/or university community.

(2) Effective date of sanctions. Except as provided in WAC 504-26-420(2), sanctions are implemented when a final order becomes effective. If no appeal is filed, an initial

order becomes a final order on the day after the period for requesting review has expired. (See WAC 504-26-420.)

(3) Types of sanctions. The following sanctions may be (~~imposed upon~~) assigned to any respondent found to have violated the standards of conduct. More than one of the sanctions listed below may be (~~imposed~~) assigned for any single violation:

(a) Warning. A notice in writing to the respondent that the respondent is violating or has violated institutional regulations.

(b) Probation. Formal action placing conditions upon the respondent's continued attendance, recognition, or registration at the university. Probation is for a designated period of time and warns the student or recognized or registered student organization that suspension, expulsion, loss of recognition, or any other sanction outlined in this section may be (~~imposed~~) assigned if the student or recognized or registered student organization is found to have violated any institutional regulation(s) or fails to complete any conditions of probation during the probationary period. A student on probation is not eligible to run for or hold an office in any recognized or registered student group or organization; they are not eligible for certain jobs on campus including, but not limited to, resident advisor or orientation counselor; and they are not eligible to serve on the university conduct or appeals board.

(c) Loss of privileges. Denial of specified privileges for a designated period of time.

(d) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. The university may require the respondent to successfully complete an educational project designed to create an awareness of the respondent's misconduct.

(f) Community service. (~~Imposition~~) Assignment of service hours (not to exceed eighty hours per student or per member of a recognized or registered student organization).

(g) University housing suspension. Separation of the student from a residence hall or halls for a definite period of time, after which the student may be eligible to return. Conditions for readmission may be specified.

(h) University housing expulsion. Permanent separation of the student from a residence hall or halls.

(i) University suspension. Separation of the student from the university for a definite period of time, after which the student is eligible to request readmission. Conditions for readmission may be specified.

(j) University expulsion. Permanent separation of the student from the university. Also referred to as university dismissal. The terms are used interchangeably throughout this chapter.

(k) Revocation of admission and/or degree. Admission to or a degree awarded from the university may be revoked for fraud, misrepresentation, or other violation of law or standard of conduct in obtaining the degree, or for other serious violations committed by a student before awarding of the degree.

(l) Withholding degree. The university may withhold awarding a degree otherwise earned until the completion of the process set forth in these standards of conduct, including the completion of all sanctions (~~imposed~~) assigned, if any.

(m) Trespass. A student may be restricted from any or all university premises based on their misconduct.

(n) Loss of recognition. A recognized or registered student organization's recognition (or ability to register) may be withheld permanently or for a specific period of time. A fraternity or sorority may be prohibited from housing first year students. Loss of recognition is defined as withholding university services, privileges, or administrative approval from a recognized or registered student organization. Services, privileges, and approval to be withdrawn include, but are not limited to, intramural sports (although individual members may participate), information technology services, university facility use and rental, student involvement office organizational activities, and center for fraternity and sorority life advising.

(o) Hold on transcript and/or registration. A hold restricts release of a student's transcript or access to registration until satisfactory completion of conditions or sanctions (~~imposed~~) assigned by a conduct officer or university conduct board. Upon proof of satisfactory completion of the conditions or sanctions, the hold is released.

(p) No contact order. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(q) Fines. Previously established and published fines may be (~~imposed~~) assigned. Fines are established each year prior to the beginning of the academic year and are approved by the vice president for student affairs.

(r) Additional sanctions for hazing. In addition to other sanctions, a student who is found responsible for hazing forfeits any entitlement to state-funded grants, scholarships, or awards for a specified period of time, in accordance with RCW 28B.10.902.

(s) Remedies. Sanctions designed to restore or preserve a victim's equal access to the university's educational programs or activities.

(4) Academic integrity violations. No credit need be given for work that is not a student's own. Thus, in academic integrity violations, the responsible instructor has the authority to assign a grade and/or educational sanction in accordance with the expectations set forth in the relevant course syllabus. The instructor's choices may include, but are not limited to, assigning a grade of "F" for the assignment and/or assigning an educational sanction such as extra or replacement assignments, quizzes, or tests, or assigning a grade of "F" for the course.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-504 Interpretation—Policies, procedures, and guidelines.** (1) The vice president for student affairs or designee has authority to interpret these rules and develops policies, procedures, and guidelines for the administration of the university's student conduct system that are consistent with the provisions in this chapter. These must be published, at a minimum, on the center for community standards website and in the university's student handbook. A link to the student handbook or center for community standards website must be provided to parties prior to any infor-

mational meeting or student conduct hearing and must provide the following information:

- (a) Rights in the student conduct process;
  - (b) A clear explanation of what to expect during the process;
  - (c) Information regarding legal resources available in the community;
  - (d) A statement that respondents are presumed "not responsible"; and
  - (e) A statement regarding the right not to self-incriminate in accordance with WAC 504-26-045.
- (2) Definitions from these standards are incorporated into Washington State University's executive policy 15(~~which prohibits discrimination, sexual harassment, and sexual misconduct~~)).

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-515 Periodic review and assessment.** At the end of each academic year, the center for community standards provides a report to the vice president for student affairs which must include, at a minimum, a numerical breakdown of the types of matters handled and the sanctions (~~imposed~~) assigned. The vice president for student affairs must make the report publicly available, provided all personally identifiable or readily ascertainable student information is removed.

The standards of conduct and the student conduct system as a whole are reviewed every three years under the direction of the vice president for student affairs or designee. The student government council is asked to provide recommendations and input on proposed changes. After completion of any adjudication or other resolution of a student conduct matter, the center for community standards must send a survey to all parties requesting feedback on the process. Feedback results must be reviewed, at a minimum, every three years in connection with the periodic review and assessment.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

**WAC 504-26-525 Good standing.** The award of a degree and/or diploma is conditioned upon the student's good standing in the university and satisfaction of all university graduation requirements. "Good standing" means the student has resolved any acts of academic or behavioral misconduct and complied with all sanctions (~~imposed~~) assigned as a result of the misconduct. The university has the sole authority in determining whether to withhold the degree and/or diploma in cases where the student is not in good standing. The university must deny the award of a degree if the student is dismissed from the university based on their misconduct. Neither diplomas nor transcripts are sent until students have resolved any unpaid fees and resolved any acts of academic or behavioral misconduct and complied with all sanctions (~~imposed~~) assigned as a result of misconduct. (See also academic regulation 45 in the university general catalog.)

**WSR 20-24-132**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**ENTERPRISE SERVICES**  
 [Filed December 2, 2020, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-22-094.

Title of Rule and Other Identifying Information: Chapter 200-200 WAC, Parking and traffic control on the capitol grounds.

Hearing Location(s): On January 5, 2021, at 4 to 6 p.m., virtual public hearing via Zoom. To attend the hearing, copy and paste the following hyperlink into your internet browser <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdes-wa.zoom.us%2Fj%2F96339464999%3Fpwd%3DK3ZzQX14b1BNeUk0UIRUVGxSRHY1UT09&data=04%7C01%7Cjack.zeigler%40des.wa.gov%7C233de46f5bb449b22b7d08d896dfb3f8%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637425234827365212%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000&sdata=XrcJOIzNH4Ny2Uv1P%2BG8NIvzw17MJOYrttToK2TJAFE%3D&reserved=0>.

Date of Intended Adoption: January 13, 2021.

Submit Written Comments to: Jack Zeigler, online <https://des.wa.gov/about/policies-laws-rules/rulemaking#restrictions>, by 5:00 p.m., Friday, January 8, 2021.

Assistance for Persons with Disabilities: Contact Jack Zeigler, email [jack.zeigler@des.wa.gov](mailto:jack.zeigler@des.wa.gov), by 5:00 p.m., Friday, January 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to clarify the authority of the director to put in place enforceable parking restrictions anywhere on the Capitol Campus roadways and parking areas. Other changes were made to (1) clearly identify those rules which only apply to employees parking on the Capitol Campus, and (2) address the ability of the department's visitor services program to issue parking permits to event sponsors holding campus use permits for vehicles parking on the Capitol Campus.

Reasons Supporting Proposal: State law establishes the power of the director of the department of enterprise services to put in place rules governing control of traffic and parking on the state capitol grounds. Certain sections of the current rules are not clear regarding permitting requirements, authorizations to park on the Capitol Campus, and enforcement of parking violations. Because of this lack of clarity, the full scope of the authority of the director to establish and enforce parking and traffic regulations on the state capitol grounds may be unintentionally weakened.

Statutory Authority for Adoption: RCW 43.19.125, 46.08.150, and 43.19.011.

Statute Being Implemented: RCW 46.08.150.

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

Name of Proponent: Department of enterprise services (DES), governmental.

Name of Agency Personnel Responsible for Drafting: Jack Zeigler, 1500 Jefferson [Street], Olympia, WA, 360-

407-9209; Implementation: Courtney Kleck, 1312 Fones Road, Building 4, Olympia, WA, 360-664-9203; and Enforcement: MariJane Kirk, 1500 Jefferson [Street], Olympia, WA, 360-407-9392.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DES is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, DES does not voluntarily make section 201 applicable to this rule adoption nor to date, has the joint administrative rules review committee made section 201 applicable to this rule adoption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

December 2, 2020

Jack Zeigler  
Policy and Rules Manager

**AMENDATORY SECTION** (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-015 Definitions.** As used in this chapter, the following terms shall mean:

(1) "Building and grounds," "state capitol grounds," "capitol campus" defined. Those buildings and grounds over which the department of enterprise services exercises custody and control under RCW 43.19.125, 46.08.150, 79.24.300 through 79.24.320, and 79.24.710, which includes, but is not limited to, the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building, Capitol Lake, Marathon Park, Heritage Park, Centennial Park, ways open to the public, and adjoining lands and roadways, including the portion of Deschutes Parkway adjoining state lands.

(2) "Director" defined. The director of the department of enterprise services and any designee of the director.

(3) "Disabled" defined. Any person who has made application to the department of licensing and displays a valid permit under chapter 46.19 RCW.

(4) "Employee" defined. Any person assigned to a state facility, including state employees, vendors and their staff, concessionaires, contractors and consultants, who are performing duties that are similar to the duties of state employees or that are in direct support of the state agency functions performed at the facility.

(5) "Impound"/"impoundment" defined. To take and hold a vehicle, consistent with law, at the direction of a law enforcement officer(§) or the director or designee, subject to the procedures outlined in this chapter and in chapter 46.55 RCW. Such definition includes towing of an unauthorized vehicle.

(6) "Permit" defined. A written authorization to park on the capitol campus. Permits may be in the form of, but are not limited to, a sticker, a receipt issued by a parking meter, or other official document clearly indicating authorization to park on the capitol campus.

(7) "Vehicle" defined. Vehicle is defined the same as RCW 46.04.670 as amended by chapter 170, Laws of 2019, which includes bicycles among other vehicles.

((7)) (8) "Visitor" defined. Any person parking on the capitol campus or visiting a state facility who is not employed by the state or any employee whose primary duty station not located on the capitol campus at that facility.

((8)) (9) "Way open to the public" defined. Any road, alley, lane, parking area, parking structure, path, or any place private or otherwise adapted to and fitted for travel that is in common use by the public with the consent expressed or implied of the owner or owners, and further shall mean public play grounds, school grounds, recreation grounds, parks, park ways, park drives, park paths.

**AMENDATORY SECTION** (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-085 Marking.** The marking of streets, parking lots and garages shall include, but not be limited to, the following:

(1) Yellow areas—No standing.

(2) White areas with hash marks or stripes—Crosswalks (no stopping in crosswalks) and no parking (~~(stalls (no stopping in parking stalls without a permit or payment of fee))~~) or stopping areas.

(3) White areas (~~(with hash marks or stripes (ADA stall permitted use only))~~)—Parking stalls. May be marked with specific restrictions limiting use.

(4) Red areas—Emergency parking only and fire lanes (no stopping in emergency parking and fire lanes).

(5) Green areas—Electric vehicle stalls for charging purposes in accordance to RCW 46.08.185.

**AMENDATORY SECTION** (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-186 Parking time limits in metered areas or areas subject to a time restriction.** (1) No person or entity shall park any vehicle on the state capitol grounds or in any area designated as metered parking for a consecutive period of time longer than that period of time for which parking is (~~(permitted))~~ authorized in such areas, irrespective of the amount of time for which parking has been paid.

(2) Vehicles moved from one parking space to another or from one lot to another shall be assumed to have been parked continuously from the time they are initially parked in any time restricted area.

(3) A showing that the time period between when a vehicle is twice found parked in any time restricted area on the



same day is more than the time allowed for parking in time restricted areas shall constitute a prima facie presumption that the vehicle has been parked in violation of this section.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

**WAC 200-200-189 Service and delivery vehicles.** Service or delivery vehicles may park in specifically designated areas on the state capitol grounds ~~((, provided,))~~. A parking permit is ~~((obtained))~~ required before parking in such areas.

NEW SECTION

**WAC 200-200-193 Parking restrictions on the state capitol grounds.** (1) No vehicle shall be parked or remain parked at any place on the state capitol grounds where official signs, curbs, and/or ground markings prohibit parking in such place or at such time. Violators shall be subject to towing. Such signs or markings include, but are not limited to, "no parking" (with or without additional restrictions), "tow zone," "fire zone," and "parking prohibited."

(2) The director or its designee may install/erect permanent, temporary signs, or emergency barricades, paint marks, and other structures or directions upon the streets, curbs, and parking areas within the state capitol grounds. Drivers shall obey the signs, barricades, structures, markings, and directions.

(3) Parking spaces may not be used for other purposes such as the conduct of private business or the storage of personal property.

AMENDATORY SECTION (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-200 Authorization for issuance of employee permits.** All employee parking on state capitol grounds shall be authorized through the issuance of valid parking permits unless otherwise authorized. These permits shall be issued by the director to state officials, state employees, state agencies for official cars, and to such other individuals as determined by the director to require parking to aid in carrying out state business. These permits shall not be transferred from one vehicle to another except as authorized by the director. All employee parking subject to permit on state capitol grounds shall be for official purposes only. ~~((Parking spaces may not be used for other purposes such as the conduct of private business or the storage of personal property.))~~

NEW SECTION

**WAC 200-200-210 Display of permits.** All permits shall be clearly displayed in the location indicated at the time of issuance or, if no location is indicated, in the front windshield of the vehicle.

AMENDATORY SECTION (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-220 Allocation of employee parking permits.** Employee parking permits shall be allocated by the

director in such manner as will best achieve the objectives of these regulations. Unless in the director's opinion the objectives of these regulations would otherwise be better served, the director shall observe the following priorities in the issuance of employee parking permits:

- (1) Disabled state employees and officials;
- (2) Car pools consisting of three or more persons per vehicle;
- (3) Other state employees, state officials, state agencies, and nonstate parkers.

NEW SECTION

**WAC 200-200-265 Parking permits for events taking place on the capitol campus.** (1) A vehicle may be issued a permit to park in a restricted parking area or other area for the purpose of participating as a vendor or sponsor of an event or providing transportation to an event permitted under chapter 200-220 WAC. Parking permits shall only be issued to the registered vehicle owner or operator who is participating as an event vendor or sponsor and shall:

- (a) Identify the parking location;
  - (b) Specify the duration parking is allowed;
  - (c) Whether overnight parking is allowed;
  - (d) Clearly display the parking permit from the front windshield of the vehicle.
- (2) Violators shall be subject to towing.

AMENDATORY SECTION (Amending WSR 15-23-062, filed 11/13/15, effective 12/14/15)

**WAC 200-200-300 Monthly parking fee payments.** Agencies and nonstate personnel will be billed by the parking office. State employee rental parking fees and any and all state employee parking permit fees shall be by payroll deduction. The person to whom the permit is issued, upon termination of use of such permit, shall notify the parking office prior to such termination of use.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

**WAC 200-200-320 Responsibility of person to whom permit is issued.** Any person or any governmental or private entity to whom a permit is issued pursuant to these regulations shall be responsible for all violations of these regulations involving that person's or entity's vehicle or permit: Provided, however, that such responsibility shall not relieve other persons or entities who violate these regulations.

AMENDATORY SECTION (Amending WSR 20-05-042, filed 2/12/20, effective 3/14/20)

**WAC 200-200-361 Suspension and/or revocation of employee parking privileges.** Repeated employee use of assigned parking spaces ~~((by))~~ for unauthorized vehicles or for nonofficial purposes or for the storage of personal property and/or the repeated transfer of parking permits from one vehicle to another as defined in WAC 200-200-360 may result in the suspension or revocation of the employee's parking privileges. Violations may result in suspension and/or

revocation of any permits issued to the violator and/or removal, suspension, and/or revocation from the parking waiting list for parking on state capitol grounds.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

**WAC 200-200-500 Violations unlawful.** A violation of any of these regulations is unlawful. All violators are subject to removal from the state capitol grounds by the Washington state patrol (~~capitol detachment~~).