

ERRATUM

Reviser's note: Due to a clerical error in the office of the code reviser, the following sections were inadvertently not published with WSR 06-12-075. This document was permanently filed by the department of labor and industries on June 6, 2006. These sections will be effective on January 1, 2007, as stated in WSR 06-12-075.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-651 Classification 4902.

4902-00 State government(~~(--)~~) clerical and administrative(~~(--clerical, and sales)~~) office personnel

~~Applies to ((those)) state employees who are assigned to work in an office environment in a clerical or administrative capacity, ((a clerical office, or in public relations or sales work)) with no field duties. ((For the purposes of this classification, field exposure is to the normal travel to a work assignment such as a field auditor or social worker would encounter. This classification includes all departments, agencies, boards, commissions, committees and elected officials of all branches of state government.~~

~~This classification excludes employees with field exposure other than that described above, employees with law enforcement powers, and employees who provide patient health care.~~

~~See classifications 4906, 5307, 7103, and 7201 for other state government activities.) The work performed in this classification normally includes working with telephones, correspondence, creating financial, employment, personnel or payroll records, research, composing informational material at a computer, creating or maintaining computer software, or library work, but may include other administrative work performed in an office location. For the purpose of this classification, employees reported in 4902 would have no field work or routine travel outside of the office, other than occasional errands, a trip to the bank or post office, attendance at training, meetings or a conference in support of their normal duties. This classification may include, but is not limited to, jobs such as office support, secretary, administrative assistant, customer service representative, accountant, fiscal analyst, information systems, when normal job duties do not require travel and are completed in an office environment.~~

~~This classification excludes: Employees whose duties include field exposure, employees who may be called upon to restrain individuals or participate in recreational activities in state hospitals, schools, homes, detention or correctional facilities, who are to be reported separately in the appropriate classification (5307, 7103, or 7201); administrative field employees who are to be reported separately in risk classification 5300; law enforcement officers in any capacity who are to be reported separately in risk classification 7103; or employees who provide patient or health care and work in state hospitals, homes, schools, detention or correctional facilities who are to be reported separately in risk classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.~~

~~This classification may be assigned to all departments, agencies, boards, commissions and committees of either the~~

executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 4902 and any other classification. For purposes of this classification the term((s)) "clerical and administrative office(~~"and "sales~~) personnel" shall have the same meaning as "clerical office employees" defined in the standard exception provision of the general reporting rule.

NEW SECTION

WAC 296-17-67603 Classification 5300.

5300-00 State government - administrative field personnel

Applies to state employees whose duties require them to travel to an alternative work location but their work assignment is administrative in nature. Workers reported in this classification have duties which routinely involve travel to meetings or appointments with clients, customers, or businesses. Typical work includes, but is not limited to, field auditor, collector, social worker, attorney, public relations or consulting staff with no hazardous exposures. Supervisors who occasionally travel to accompany field staff for purposes such as observation or information gathering, but who do not typically perform any work other than administrative, are also included in this classification. Employees in this classification may also have follow-up work that is completed in the office such as writing reports, correspondence, etc.

This classification excludes employees with duties outside of the office which are more than administrative in nature such as, but not limited to, engineers, inspectors, and biologists who may have some field exposure, and are to be reported in 5307. For purposes of this classification, field exposure is defined as any work period, other than the normal travel to or from a work environment, which involves "hands on" work.

This classification excludes: Employees whose duties include field or hazardous exposure, employees who perform work with inmates, residents, patients or potentially violent persons in state hospitals, schools, homes, detention or correctional facilities which may involve security, recreation, or staff who may be called upon to restrain individuals, who are to be reported separately in the appropriate classification (5307, 7103, 7201); clerical and administrative office personnel who are to be reported separately in classification 4902; law enforcement officers in any capacity who are to be reported separately in classification 7103; and employees who provide patient or health care and work in state hospitals, homes, schools, detention or correctional facilities who are to be reported separately in classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 5300 and any other classification.

For purposes of this classification, the term "administrative field personnel" shall have the same meaning as "sales

personnel" defined in the standard exception provision of the general reporting rule.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-67901 Classification 5307.

5307-00 State government employees - N.O.C.

Applies to state government employees not covered by another classification (N.O.C. - not otherwise classified) (who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, construction, or the operation of machinery or equipment. This classification includes administrative personnel such as engineers, safety inspectors, and biologists, who have field exposure, and store and stock clerks. For the purposes of this classification field exposure is defined as any exposure other than the normal travel to a work assignment, such as a field auditor or social worker would encounter. This classification includes all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

See classifications 4902, 4906, 7103, and 7201 for other state government operations)). This is the basic state agency classification which covers employees who have duties that support the mission of the agency and have field or hazardous exposure. For purposes of this classification field or hazardous exposure is defined as any work which involves "hands on" work. Employees reported in this classification may have jobs that include, but are not limited to, performing manual labor or supervising a work crew performing manual labor, work in the trades, construction-type work or maintenance/repair work, operating machinery or equipment, stores/stock clerks, warehouse, supplies, deliveries, food services, facilities, recreational, or general security staff with no law enforcement duties. This classification also includes, but is not limited to, personnel such as engineers, inspectors, and biologists, who have field exposure. This classification includes supervisors who work at a field site and routinely perform supervision duties in the field. This classification includes nonpatient care employees in state operated homes, schools, detention or correctional facilities not described in another classification.

This classification excludes: Employees who have law enforcement power in any capacity, who are to be reported separately in classification 7103; employees who work in state hospitals, homes, schools, detention or correctional facilities who provide patient or health care, who are to be reported separately in classification 7201; administrative field employees, who are to be reported separately in classification 5300; and clerical and administrative office personnel, who are to be reported separately in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-763 Classification 7201.

7201-00 State government - patient or health care personnel

Applies to state employees who provide any type of patient or health care at state-operated (~~facilities or at health care facilities in state~~) hospitals, schools, homes, camps, detention or correctional ((institutions)) facilities. All employees who have responsibility for physical or mental health care of patients in these facilities are included in this classification. Types of employment contemplated by this classification include((s)), but ((is)) are not limited to, ((trav-eling)) doctors, nurses, therapists, ((and physicians)) atten-dants, or training and counseling staff who work with patients and may be called upon to restrain or attend to patients who are potentially aggressive or violent.

This classification excludes (~~any state employees who do not provide patient or health care who are to be reported separately in the classification applicable to work performed.~~

See classifications 4902, 4906, 5307, and 7103 for other state government operations)); Law enforcement officers in any capacity who are to be separately reported in classifica-tion 7103; employees who work in state hospitals, schools or prisons, who do not work directly in patient care such as food service, laundry, and janitorial, who are to be separately reported in classification 5307; administrative field employ-ees who are to be separately reported in classification 5300; or clerical and administrative office personnel who are to be separately reported in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement vol-unteers in classification 6906.

WSR 06-14-014

PERMANENT RULES

**COLUMBIA RIVER
GORGE COMMISSION**

[Filed June 23, 2006, 8:56 a.m., effective August 1, 2006]

Effective Date of Rule: August 1, 2006.

Purpose: The proposed amendments were added to the management plan in December 2005 (Plan Amendment File No. PA-05-02). The proposed amendments to the manage-ment plan are identical to the language adopted into the man-agement plan. The purpose of the proposed amendments to Commission Rule 350-81 is thus to make the land use ordi-nance consistent with the management plan. Anticipated effects were addressed during adoption of the amendments to the management plan.

Citation of Existing Rules Affected by this Order: Amending 350-81-108, 350-81-190, 350-81-270, 350-81-370, 350-81-450, and 350-81-490.

Statutory Authority for Adoption: 16 U.S.C. § 544e, RCW 43.97.015, ORS 196.150.

Adopted under notice filed as WSR 06-07-072 on March 13, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 6, Repealed 0.

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

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

Date Adopted: June 13, 2006.

Nancy A. Andring
Rules Coordinator

AMENDATORY SECTION

350-81-108. Commercial Events

(1) Commercial events include weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.

(2) Commercial events may be allowed in the GMA except on lands designated Open Space or Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

(a) The use must be in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114), and not the guidelines of this section.

(b) The owner of the subject parcel shall live on the parcel and shall operate and manage the use.

(c) A single commercial event shall host no more than 100 guests.

(d) The use shall comply with the following parking requirements:

(A) A single commercial event shall include no more than 50 vehicles for guests.

(B) All parking shall occur on the subject parcel.

(C) At least 200 square feet of parking space shall be required for each vehicle.

(D) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.

(E) All parking areas shall be fully screened from key viewing areas.

(e) The owner of the subject parcel may conduct 18 single events up to one day in length per year.

(f) The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event.

The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(g) Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.

(h) The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:

(A) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands. [350-81-190 (1)(q)(A)]

(B) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in 350-81-076 or designated Commercial Forest Land or Large or Small Woodland, as required in 350-81-310. [350-81-190 (1)(q)(C)]

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland. [350-81-190 (1)(q)(D)]

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision. [350-81-190 (1)(q)(E)]

(i) Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example, they may limit noise, lighting and operating hours.

(j) Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

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

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

NEW SECTION

350-81-114. Special Uses in Historic Buildings

(1) Special uses in historic buildings may be allowed as follows and subject to "Additional Resource Protection Guidelines for Special Uses in Historic Buildings" (350-81-114(2)).

(a) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property,

subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (350-81-114 (2)(a)(B)(i) and (ii), and 350-81-114 (2)(a)(C) through 350-81-114 (2)(a)(E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-81-114 (2)(b) through 350-81-114 (2)(d)). Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

(b) Properties in all GMA land use designations except Open Space and Agriculture-Special-with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (350-81-114 (2)(a)(B)(i) and (ii), and 350-81-114 (2)(a)(C) through 350-81-114 (2)(a)(E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-81-114 (2)(b) through 350-81-114 (2)(d)). The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

(c) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines 350-81-114 (2)(a)(B) through (E); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-81-114 (2)(b) through 350-81-114 (2)(d)).

(d) The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Special Uses in Historic Buildings":

(A) Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.

(B) Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.

(C) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property

(D) Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

(E) Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.

(F) Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.

(G) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

(H) Gift shops within a historic building, as the building existed as of January 1, 2006 that are:

(1) incidental and subordinate to another approved use included in 350-81-114 (1)(d); and

(2) no larger than 100 square feet in area.

(I) Interpretive displays, picnic areas or other recreational day use activities on the subject property.

(J) Parking areas on the subject property to support any of the above uses.

(e) For the purposes of the guidelines in this section, the term "historic buildings" refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline 350-81-114 (2)(a)(A) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings."

(f) Uses listed in 350-81-114 (1)(c) and 350-81-114 (1)(d)(C) are not subject to the "Commercial Events" provisions in 350-81-108. Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the "Operational Plan for Commercial Events" as specified in 350-81-114 (2)(B)(iv) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The following apply to commercial events at historic properties:

(A) Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

(B) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(g) Uses listed in 350-81-114 (1)(a) and 350-81-114 (1)(d)(I) are not subject to the parking limits and associated "Facility Design Guidelines" in the Recreation Intensity Classes.

(h) Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implement-

ing the "Protection and Enhancement Plan" required in Cultural Resources (350-81-114 (2)(a)) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The local government shall submit a copy of the applicant's documentation to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

(2) Additional Resource Protection Guidelines for Special Uses in Historic Buildings. The following guidelines apply to proposed uses listed under "Special Uses for Historic Buildings" in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources:

(a) Cultural Resources

(A) All applications for uses listed in 350-81-114 (1)(d), shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" (350-81-540 (1)(c)(H)). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the local government, based on input from the state historic preservation Agency (SHPA). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA. The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

(B) Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:

(i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate

maintenance of the historic resource, and a proposed schedule for completion of such actions.

(ii) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

(iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

(I) Number of events to be held annually.

(II) Maximum size of events, including number of guests and vehicles at proposed parking area.

(III) Provision for temporary structures, including location and type of structures anticipated.

(IV) How the proposed commercial events will contribute to protection and enhancement of the historic resource.

(C) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA comments shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.

(D) Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(E) The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(b) Scenic Resources

(A) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.

(B) New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and

shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.

(C) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

(c) Recreation Resources

(A) The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

(d) Agricultural and Forest Lands

(A) The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

(B) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

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

AMENDATORY SECTION

350-81-190. Review Uses—Agricultural Land

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete

within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least

\$40,000 in gross annual income. This determination can be made using the following formula:

$$(A)(B)(C) = I$$

where:

- A = Average yield of the commodity per acre or unit of production
- B = Average price of the commodity
- C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
- I = Income capability

(i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in 350-81-540 (1)(e).

(j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(k) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-81-190 (1)(h)(C).

(l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

(m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, reconstructing abandoned quarries).

(n) Structures associated with hunting and fishing operations.

(o) Towers and fire stations for forest fire protection.

(p) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or signifi-

cantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-81-076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-81-310).

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

(b) Forest uses and practices, as allowed for in 350-81-270.

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$$(A)(B)(C) = I$$

where:

- A = Average yield of the commodity per acre or unit of production
- B = Average price of the commodity
- C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
- I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial

agricultural enterprise as determined by 350-81-190 (2)(c)(C).

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.

(h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(m) Aquaculture.

(n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

(o) Utility facilities necessary for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

(q) Community facilities and nonprofit facilities related to agricultural resource management.

(r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.

(u) Road and railroad construction and reconstruction.

(v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(z) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

AMENDATORY SECTION

350-81-270. Review Uses—Forest Land

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland,

subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate local government. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the appropriate state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300). A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm. Guideline 350-81-190 (1)(h) shall be used to determine whether a dwelling is a farm dwelling. The siting of the dwelling shall comply with the "Approval Criteria for Fire Protection" in 350-81-300.

(d) Temporary onsite structures that are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located onsite, is temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(e) Temporary portable facility for the primary processing of forest products grown on a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(g) Structures associated with hunting and fishing operations.

(h) Towers and fire stations for forest fire protection.

(i) Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" (350-81-300).

(j) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the "Approval Criteria for Fire Protection" (350-81-300) and the standards in "Agricultural Buildings" (350-81-090).

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(l) or (1)(m) below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on

a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092) and the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-31-300).

(o) A second single-family dwelling for a farm operator's relative, subject to 350-81-190 (1)(k) and the "Approval Criteria for Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(p) Private roads serving a residence, subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(q) Recreation development, subject to the guidelines established for the recreation intensity classes (350-81-610) and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(r) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(s) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(t) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or to protect the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(u) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(v) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(w) On lands designated Large or Small Woodland, life estates, subject to the guidelines in "Approval Criteria for Life Estates" (350-81-320).

(x) Land divisions in Small Woodland, subject to the minimum lot sizes designated on the Land Use Designation Map. Land divisions in Commercial Forest Land and Large Woodland, subject to the standards and minimum lot sizes in Policies 4 through 9 in the "Land Use Policies" in Part II, Chapter 2: Forest Land of the Management Plan.

(y) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(z) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(aa) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(bb) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(cc) Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (350-81-108).

(dd) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Forest subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of forest products:

(a) All review uses allowed for in 350-81-190(2).

(b) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (2)(x), below.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the SMA.

(e) Silvicultural nurseries.

(f) Utility facilities for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Forest Land.

(B) The size is the minimum necessary to provide the service.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments, and uses consistent with the provisions of 350-81-620.

(j) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved forest management plan demonstrates that such a dwelling is necessary for and accessory to forest uses. The forest management plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement indicates a relationship between ongoing forest management and the need for a dwelling on the subject property.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate county. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute toward the successful management of the property.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with county dwelling, siting, and state/county fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(l) or (2)(m), below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) Home occupations and cottage industries, subject to the "Home Occupations and Cottage Industries" guidelines in 350-81-098.

(o) Temporary portable facilities for the processing of forest products.

(p) Towers and fire stations for forest fire protection.

(q) Community facilities and nonprofit facilities related to forest resource management.

(r) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(s) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(t) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(u) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(v) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(w) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

(x) Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:

(A) A Stewardship Plan shall be submitted and deemed complete by the Executive Director and submitted to the Forest Service for review. (350-81-270 (2)(y)(C)).

(B) Clearing trees for new agricultural use shall be limited to 15 acres.

(C) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of 350-81-270 (2)(x)(D)(i-iv) below and subject to guideline 350-81-270 (2)(x)(I).

(D) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:

(i) Scenic Resource guidelines in 350-81-270 (2)(y)(D)(i) and (vii).

(ii) Applicable guidelines of 350-81-550, 350-81-600 and 350-81-620.

(iii) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(iv) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

(E) The Forest Service shall send the review statement to the Executive Director. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the Executive Director.

(F) The Executive Director will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

(G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or Executive Director until a decision on the new agricultural use is issued by the Executive Director.

(H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

(I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

(y) Forest practices in accordance with an approved forest practices application (see 350-81-032) and subject to the additional guidelines in 350-81-270.

(A) The following information, in addition to general site plan requirements (350-81-032) shall be required:

(i) Delineate the following on a recent aerial photo or detailed map:

(I) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.

(II) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.

(III) Road and structure construction and/or reconstruction location.

(IV) Location of proposed rock or aggregate sources.

(V) Major skid trails, landings, and yarding corridors.

(VI) Commercial firewood cutting areas.

(VII) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(ii) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(iii) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in 350-81-270 (2)(y)(D) and 350-81-270 (2)(y)(E).

(iv) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(v) Road and structure construction and/or reconstruction design.

(vi) Existing and proposed rock pit development plans.

(vii) A discussion of slash disposal methods.

(viii) A reforestation plan as reviewed by the appropriate state forest practices agency.

(B) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

(C) Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements (350-81-032) shall be provided:

(i) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(ii) Describe the time frame and steps planned to reach the long term goals.

(iii) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(I) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(II) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(III) Give a clear explanation how a deviation from the applicable guidelines may better achieve forest health objectives

(IV) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(iv) For clearing trees for new agricultural use, the following shall be addressed in addition to 350-81-270 (2)(y)(C)(i) and (ii) above:

(I) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(II) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in 350-81-270 (2)(x)(D)(i-iv).

(III) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(IV) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

(D) For forest practices, the following scenic resource guidelines shall apply:

(i) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table in 350-81-530-2)(c).

(ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percent-

age of the composite KVA viewshed which maybe created in forest openings at one time.

(iii) In the western portion (to the White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

(iv) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in 350-81-270 (2)(y)(E)(i) through (iii).

(v) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in 350-81-270 (2)(y)(E)(i) through (iii).

(vi) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.

(I) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

(II) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(vii) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

(E) Forest practices shall maintain the following in addition to applicable natural resources guidelines in 350-81-600.

(i) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(ii) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in 350-81-270 (2)(y)(D)(vi).

(iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

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

AMENDATORY SECTION**350-81-370. Review Uses—Residential Land**

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land [350-81-076 and 350-81-190 (1)(q)(E)], or forest land [(350-81-290 (1)(a) and 350-81-310 (1)(a)]. If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (350-81-300).

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 590).

(h) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(i) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Agricultural structures, except buildings, in conjunction with agricultural use.

(l) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(o) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(q) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created lot or consolidated parcel. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(g) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-81-270(2).

(k) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(l) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(o) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(p) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

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

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

AMENDATORY SECTION

350-81-450. Review Uses—Commercial Designations

(1) The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620) and "Approval Criteria for Specified Review Uses," (350-81-460):

- (a) Travelers' accommodations, bed and breakfast inns.
- (b) Restaurants.
- (c) Gift shops.

(d) Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(e) One single-family dwelling per legally created parcel.

(f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed as accessory buildings larger than 200 square feet in area or 10 feet in height.

(g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel, subject to the following standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(h) Utility facilities and railroads.

(i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or

activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(j) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(k) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(l) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(m) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(n) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(o) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

AMENDATORY SECTION

350-81-490. Review Uses—Public Recreation and Commercial Recreation

(1) The following uses may be allowed on lands designated GMA-Public Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-81-520 through 350-81-620) and compliance with 350-81-610 (5)(a) and (c) through (g), where applicable, of the "Approval Criteria for Recreation Uses" contained in the recreation intensity class guidelines (350-81-610):

(a) Publicly-owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-81-610).

(b) Commercial uses and non-resource based recreation uses that are part of an existing or approved resource-based public recreation use, consistent with the guidelines for such uses contained in this section.

(c) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(d) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated GMA Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," (350-81-500), and (350-81-520 through 350-81-620):

(a) One single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 350-81-490 (2)(c).

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(f) Utility transmission, transportation, communication, and public works facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(3) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources (350-81-520 through 350-81-620) and compliance with 350-81-610 (5)(a) and (c) through (g) of the "Approval Criteria for Recreation Uses" guidelines (350-81-610):

(a) Commercially owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-81-610).

(b) Overnight accommodations that are part of a commercially owned, resource-based recreation use, where such resource-based recreation use occurs on the subject site or on adjacent lands that are accessed through the site, and that meet the following standards:

(A) Buildings containing individual units shall be no larger than 1,500 square feet in total floor area and no higher than 2-1/2 stories.

(B) Buildings containing more than one unit shall be no larger than 5,000 square feet in total floor area and no higher than 2-1/2 stories.

(C) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (4) of this guideline.

(D) Clustered overnight travelers accommodations meeting the following standards may include up to 35 individual units:

(i) Average total floor area of all units is 1,000 square feet or less per unit.

(ii) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas).

(iii) The facility is in an area classified for high-intensity recreation (Recreation Intensity Class 4).

(c) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non-resource based recreation uses that are part of an existing or approved resource-based commercial recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

(d) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(e) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(4) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with the "Approval Criteria for Non-Recreational Uses in Commercial Recreation," (350-81-510), and the guidelines for the protection of scenic, natural, cultural, and recreation resources (350-81-520 through 350-81-620):

(a) One single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 2.C below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(f) Utility transmission, transportation, and communication facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(5) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with 350-81-500 (1)(c), and in GMA Commercial Recreation, subject to compliance with 350-81-510 (1)(c).

(6) Lot line adjustments may be allowed in GMA Public Recreation and GMA Commercial Recreation, subject to compliance with the guidelines in "Lot Line Adjustments" (350-81-126).

(7) The following uses may be allowed on lands designated SMA-Public Recreation subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

(a) Forest uses and practices, as allowed for in 350-81-270(2).

(b) Public trails, consistent with the provisions in 350-81-620.

(c) Public recreational facilities, consistent with the provisions in 350-81-620.

(d) Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (350-81-190) or Forest Land (350-81-270(2)), or when shown to be necessary for public recreation site management purposes.

(f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(g) below.

(g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(h) Home occupation and cottage industries, as specified in "Home Occupations and Cottage Industries" (350-81-098).

(i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, reconstructing abandoned quarries).

(j) Road and railroad construction and reconstruction.

(k) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(l) Agricultural review uses, as allowed for in 350-81-190(2).

(m) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(n) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(o) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

WSR 06-16-008

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Management Services Administration)

[Filed July 20, 2006, 12:37 p.m., effective August 20, 2006]

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

Purpose: Amending WAC 388-02-0215 What is the authority of the ALJ (administrative law judge)?

WAC 388-02-0215(4) states the types of cases where the parties may request review of an initial order by a review judge at the DSHS board of appeals (BOA). In general, the proposed rule simplifies the current rule by referencing entire WAC chapters instead of referring to individual WAC sections, and by updating obsolete or changed cross references to WAC chapters. Specific amendments to subsection (4) of WAC 388-02-0215 include:

- In subsection (4)(e), permitting review of cases under chapters 388-71 and 388-101 WAC regarding findings of abuse, abandonment, neglect or financial exploitation rather than specific sections of chapter 388-71 WAC. The reference to chapter 388-101 WAC in this subsection is needed because the DSHS aging and disability services administration is amending that chapter to include references to investigations and findings by the DSHS residential care services of abuse, abandonment, neglect and financial exploitation;
- In subsection (4)(j) replacing obsolete cross references to sections of chapters 388-71 and 388-72A WAC that have been recodified in chapter 388-106 WAC. As does the current rule, this amendment does not authorize the board of appeals to review hearing decisions regarding the client's financial eligibility for long-term care services; and
- In subsection (4)(v), replacing an obsolete reference to chapter 388-820 WAC with the current reference to chapter 388-101 WAC. All sections of previous chap-

ter 388-820 WAC have been recodified as sections in chapter 388-101 WAC.

Department clients and providers will not lose hearing or appeal rights as a result of the proposed amendment.

The department plans to make further amendments to this rule under the preproposal statement of inquiry filed as WSR 05-06-081.

The rule is updated with current WAC references, is clearer, improves efficiency, and increases consistency. Amendments are intended to reduce the need for future amendments to this rule by simplifying WAC references in the list of cases where the parties may request BOA review of an initial order of an office of administrative hearings administrative law judge.

Citation of Existing Rules Affected by this Order: Amending WAC 388-02-0215.

Statutory Authority for Adoption: RCW 34.05.020, 34.05.220.

Other Authority: Chapter 34.05 RCW, Parts IV and V.

Adopted under notice filed as WSR 06-11-150 on May 23, 2006.

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

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

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

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

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

Date Adopted: July 20, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-02-018, filed 12/27/04, effective 1/27/05)

WAC 388-02-0215 What is the authority of the ALJ?

(1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, the ALJ may:

- (a) Determine the order for presenting evidence;
- (b) Issue subpoenas or orders directing witnesses to appear or bring documents;
- (c) Rule on objections, motions, and other procedural matters;
- (d) Rule on an offer of proof made to admit evidence;
- (e) Admit relevant evidence;
- (f) Impartially question witnesses to develop the record;
- (g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order in those cases where the parties may request review of an initial order by a review judge. Cases where the parties may request review of an initial order by a review judge are those relating to:

(a) Adult family home licenses under chapter 388-76 WAC;

(b) Boarding home licenses under chapter 388-78A WAC;

(c) Resident protection program findings under WAC 388-97-077;

(d) Nursing home licenses under WAC 388-97-550 through 388-97-695;

(e) ~~((Adult protective services))~~ DSHS findings of abandonment, abuse, financial exploitation or neglect under chapters 74.34, 74.39, 74.39A RCW and chapters 388-71 and 388-101 WAC ((388-71-01235 through 388-71-01275));

(f) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider for placing clients in imminent jeopardy under RCW 74.39A.095(7) and WAC 388-71-0551;

(g) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider due to inadequate performance or inability to deliver quality care under RCW 74.39A.095(7) and WAC 388-71-0540 and 388-71-0551;

(h) Where the client has requested a hearing under WAC 388-71-0560, the denial of a contract to a provider due to inability of the provider to appropriately meet the care needs of clients under RCW 74.39A.095(8) and WAC 388-71-0546;

(i) Where the client has requested a hearing under WAC 388-71-0560, the denial or termination of a contract and subsequent denial of payment to a provider due to a disqualifying crime or lack of character, competence, or suitability to maintain the health, safety, and well-being of clients under RCW 43.20A.710(5) and WAC 388-71-0540 (3) through (5);

(j) Social service eligibility under ~~((WAC 388-71-0400 through 388-71-0480, 388-71-0202, and 388-71-0203))~~ chapter 388-71 WAC, and under chapter ~~((388-72A))~~ 388-106 WAC, except for ~~((WAC 388-72A-0055(2), 388-72A-0060(1), and 388-72A-0065 (4) through (6)))~~ financial eligibility requirements;

(k) Domestic violence perpetrator treatment program certification under chapter 388-60 WAC;

(l) Licensing or certification of homes, programs, facilities, providers, and agencies serving children, juveniles, expectant mothers and developmentally disabled persons under chapter 74.15 RCW and chapters 388-140, 388-145, 388-147, 388-148 and 388-160 WAC;

(m) Child protective services findings of abuse and neglect under RCW 26.44.125 and chapter 388-15 WAC;

(n) Adoption support under WAC 388-27-0120 through 388-27-0390, for which a hearing has been held under WAC 388-27-0365;

(o) Child day care licenses under chapter 74.15 RCW and chapters 388-150, 388-151, 388-155, 388-295 and 388-296 WAC;

(p) Background checks of protective payees under WAC 388-460-0025, for which a hearing has been held under WAC 388-460-0070;

(q) Background checks of child care providers and other persons under WAC 388-290-0143, for which a hearing has been held under WAC 388-290-0260 as part of the working connections child care program;

(r) Background checks of persons acting in the place of a parent under WAC 388-454-0006, for which a hearing has been held under WAC 388-472-0005 (1)(j);

(s) Claims of good cause for not cooperating with the division of child support under WAC 388-422-0020;

(t) Parent address disclosure under WAC 388-14A-2114 through 388-14A-2140;

(u) Chemical dependency treatment provider certification under chapter 388-805 WAC;

(v) Community residential services and support certification (~~(, for which a hearing has been held under WAC 388-820-920)~~ under chapter 388-101 WAC;

(w) Denial or termination of eligibility for services under WAC 388-825-030 and 388-825-035, for which a hearing has been held under WAC 388-825-120 (1)(a);

(x) Development or modification of an individual service plan under WAC 388-825-050, for which a hearing has been held under WAC 388-825-120 (1)(b);

(y) Authorization, denial, reduction, or termination of services under WAC 388-825-055, for which a hearing has been held under WAC 388-825-120 (1)(c);

(z) Licensed community facilities under RCW 74.15.210 and WAC 388-730-0090;

(aa) Community mental health and involuntary treatment program licenses under WAC 388-865-0480;

(bb) Medical, dental, or transportation services, for which a hearing has been held under WAC 388-526-2610;

(cc) Medical provider overpayments, for which a hearing has been held under WAC 388-502-0230(5) or 388-502-0240(17); or

(dd) Background checks under WAC 388-06-0110 that result in denial of authorization for unsupervised access to children or to individuals with developmental disabilities, for which a hearing has been held under WAC 388-06-0240(1); or

(ee) Cases for which a right to a hearing existed, if the request for a hearing was received by OAH or DSHS on or

before November 14, 2002, and WAC 388-740-0060 and 388-891-0275 did not apply.

(5) The ALJ makes the final decision and enters the final order in all cases except those cases set forth in subsection (4) of this section.

(6) A review judge has the same authority as an ALJ when presiding at a hearing.

WSR 06-16-019

PERMANENT RULES OFFICE OF THE CODE REVISER

[Filed July 24, 2006, 10:36 a.m., effective August 24, 2006]

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

Purpose: Amending chapters 1-06 and 1-21 WAC, to correct internal references and make the language more consistent and clearer to understand.

Citation of Existing Rules Affected by this Order: Amending WAC 1-06-010, 1-06-020, 1-06-030, 1-06-050, 1-06-060, 1-06-070, 1-06-080, 1-06-100, 1-06-130, 1-06-140, 1-06-160, 1-21-010, 1-21-015, 1-21-020, 1-21-030, 1-21-040, 1-21-050, 1-21-060, 1-21-070, 1-21-080, 1-21-090, 1-21-120, 1-21-140, 1-21-150, 1-21-160, 1-21-170, and 1-21-180.

Statutory Authority for Adoption: RCW 1.08.110 and 34.05.385.

Other Authority: RCW 1.08.001 and Executive Order 97-2.

Adopted under notice filed as WSR 06-10-047 on May 1, 2006.

Changes Other than Editing from Proposed to Adopted Version: A typographical error was corrected in WAC 1-06-060 adding "the" before the word "charge" so the sentence now reads "The agency's public records shall be in the charge of...."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 27, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 27, Repealed 0.

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

Date Adopted: July 24, 2006.

K. Kyle Thiessen
Code Reviser

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the statute law committee and the office of the code reviser with the provisions of chapter ((42.17)) 42.56 RCW ((Initiative 276), and in particular RCW 42.17.250 through 42.17.348), dealing with public records.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics, except (a) those records of the bill drafting functions of the code reviser deemed confidential pursuant to RCW 1.08.027 and (b) computer programs, products, and data bases deemed exempt pursuant to chapter 42.56 RCW ((42.17.310)).

Public record as relates to this agency does not include computer programs, products, and data bases prepared, owned, used, or retained by this agency for the benefit of another state agency. Applications for the disclosure of such records should be addressed to the agency in interest.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Committee" means the statute law committee created pursuant to chapter 1.08 RCW (chapter 157, Laws of 1951).

(4) "Reviser" means the code reviser employed by the committee pursuant to RCW 1.08.011, and where appropriate the term also refers to the staff and employees of the office of the code reviser(('s office)).

(5) "Agency" means the committee, the code reviser, and the staff and employees thereof, unless the context clearly indicates otherwise.

(6) "Records of the bill drafting functions" means any file or writing in the office of the code reviser(('s office)) created in connection with a request for preparation of legislation or research thereon, and the confidentiality of such records may be waived only by the person who requested the services of the office of the code reviser(('s office)).

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-030 Description of central and field organization. (1) The office of the code reviser is located ((~~on~~)) in the ((ground floor of the Legislative)) Pritchard Building, Olympia, Washington, 98504.

(2) The committee consists of ((~~twelve attorneys~~)) eleven members. ((~~Five are appointed by the Washington~~

~~State Bar Association~~),) The secretary of the senate, the chief clerk of the house of representatives, the staff director of a nonpartisan professional committee, staff of the senate and the house of representatives, two ((each by)) members of the senate and the house ((judiciary committees)) of representatives, and one each appointed by the governor, the chief justice of the supreme court, and the ((speaker of the house)) Washington State Bar Association. The committee employs a code reviser, who serves as its secretary.

(3) Among the primary responsibilities of the committee and the code reviser is the duty to periodically codify, index, and publish the *Revised Code of Washington* and to revise, correct, and harmonize the statutes by means of administrative or suggested legislative action as may be appropriate. The agency is also the official bill drafting arm of the legislature and its various committees, and prepares for the legislature all bills, memorials, resolutions, amendments, and conference reports, which activities are pursued on a nonpartisan, professional, lawyer-client, confidential basis under RCW 1.08.027, and RCW 1.08.028 prohibits the office of the code reviser(('s office)) from rendering written opinions concerning the constitutionality of any proposal. The agency also produces the legislative digest and history of bills and the daily status report. Immediately following each session of the legislature, the committee indexes and publishes the temporary edition of the session laws and subsequently publishes the permanent edition; it also responds to citizen's requests for copies of recently enacted laws. The committee administers the Administrative Procedure Act, serving as official repository for the rules of the various state agencies and the institutions of higher ((~~learning~~)) education, and creating and publishing the *Washington Administrative Code*.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-050 Public records available. All public records of the agency, as defined in WAC 1-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.56 RCW ((42.17.310)) and WAC 1-06-100.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-060 Public records officer. The agency's public records shall be in the charge of the public records officer designated by the code reviser. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ((42.17)) 42.56 RCW.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter,

the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to ~~(5)~~ 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-080 Requests for public records. In accordance with requirements of chapter ~~((42.17))~~ 42.56 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-100 Exemptions. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 1-06-080 is exempt under the provisions of RCW 1.08.027 or ~~((42.17-310))~~ chapter 42.56 RCW.

(2) In addition, pursuant to RCW ~~((42.17.260))~~ 42.56.070(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ~~((42.17))~~ 42.56 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-130 Records index. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972, that are deemed by the agency to fall within the purview of RCW ~~((42.17.260))~~ 42.56.070 and that are not exempted under chapter 42.56 RCW, RCW 1.08.027, 40.14.180, ~~((42.17.310,))~~ or WAC 1-06-020.

(2) The current index promulgated by the agency must be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-140 Communications with the agency. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter ~~((42.17))~~ 42.56 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of the Code Reviser, c/o Public Records Officer, P.O. Box 40551, Olympia, WA 98504-0551.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-160 Request for public record—Form. A copy of the request for public records form may be obtained from the office of the code reviser~~((s office))~~.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-010 Preproposal statement of inquiry. To solicit comments from the public as required by RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, an agency shall complete and file with the office of the code reviser~~((s office))~~ a CR-101 form (preproposal statement of inquiry). This requirement does **not** apply to all rule making. The exceptions are set forth in RCW 34.05.310(4).

The text of the new rule is neither required nor recommended at this stage, but if text is submitted for filing, it must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the *Washington State Register* in accordance with the schedule provided in WAC 1-21-040. Note that the CR-101 must be published at least thirty days before the CR-102 form (proposed rule making) may be filed.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-015 Expedited rule making. (1) Expedited rule making filed under RCW 34.05.353 includes both the expedited adoption of rules and the expedited repeal of rules.

(2) An agency shall file notice for the expedited rule making with the office of the code reviser(~~'s office~~) on a CR-105 form (expedited rule making). The agency must file the full text of a proposed new or amendatory rule, along with the CR-105 form. The text must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the *Washington State Register* in accordance with the schedule provided in WAC 1-21-040. The expedited rule making must be published in the *Washington State Register* at least forty-five days before the agency may file a CR-103 form (rule-making order).

(3) WAC sections proposed for expedited repeal should be listed by citation and caption only, either individually or by entire chapter.

(4) The agency shall file the original and six copies of the expedited rule-making package (form and text). The office of the code reviser(~~'s office~~) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-020 Notice—Form, contents, numbers.

(1) An agency shall file a regular notice of proposed rule making under RCW 34.05.320 with the office of the code reviser(~~'s office~~) on a CR-102 form (proposed rule making). The agency must file the full text of the proposed rule along with the notice form (RCW 34.08.020). This filing must be at least thirty days after the CR-101 form, if required, was published (RCW 34.05.310).

(2) The agency shall file the original and six copies of the notice package (form and text). The office of the code reviser(~~'s office~~) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-030 Notice period—*Washington State Register* distribution date. (1) Under RCW 34.05.320, notice of proposed rule making must be published in the *Washington State Register* at least ~~((20))~~ twenty days before the agency may hold a hearing on the proposal. The *Washington State Register* is distributed on the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that *Washington State Register* will be delayed until Thursday.

(2) In counting the twenty-day notice period, consider the distribution date of the pertinent *Washington State Register* as day ~~((20))~~ twenty; count down to day zero to find the first day on which a hearing may be held; cf. RCW 1.12.040 and *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149 (1942).

(3) The schedule of closing dates on page 2 of each *Washington State Register* applies this section and WAC 1-21-040 to the current year. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-040 *Washington State Register* material—Time for filing. To permit sufficient lead time for the editorial, data capture, and printing process, material to be published in a particular issue of the *Washington State Register* must be in the physical possession of and filed in the office of the code reviser(~~'s office~~) according to the following schedule:

(1) If the material has been prepared and completed by the office of the code reviser's order typing service (OTS), by 12:00 noon on the fourteenth day before the distribution date of that issue of the *Washington State Register*; or

(2) If the material has been prepared by any means other than OTS and it contains:

(a) No more than ~~((40))~~ ten pages, by 12:00 noon on the fourteenth day before the distribution date of that *Washington State Register*; or

(b) More than ~~((40))~~ ten but less than ~~((30))~~ thirty pages, by 12:00 noon on the twenty-eighth day before the distribution date of that *Washington State Register*; or

(c) ~~((30))~~ Thirty or more pages, by 12:00 noon on the forty-second day before the distribution date of that *Washington State Register*.

The office of the code reviser's filing forms are not included in this page count, but all other material submitted for filing is counted for purposes of this section, excluding federal rules that are not published in the *Washington State Register*.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-050 Continuance. (1) Under RCW 34.05.-325(5), an agency may continue a proceeding that has already started by establishing the later time and place on the record. No publication is required in the *Washington State Register*, but before filing the administrative order adopting the rule, the agency shall give notice of the continuance to the office of the code reviser(~~'s office~~) on a CR-102 form. If no substantial change is made in the proposal, the continuance is not subject to the ~~((20))~~ twenty-day publication requirement of RCW 34.05.320. Note that RCW 34.05.335(4) prohibits an agency from adopting a rule before the time established in the published notice.

(2) An agency may change the date or the location, or both, of a rule-making proceeding before the proceeding has begun if the agency gives adequate notice to the public through the same methods that were used for the original notice. Adequate notice for purposes of the *Washington State Register* consists of filing the continuance notice on a CR-102 form with the office of the code reviser in time for it to appear in a *Washington State Register* that will be distributed at least five days before the originally scheduled proceeding.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-060 Withdrawal of proposal. Under RCW 34.05.335 a proposed rule may be withdrawn any time before adoption. The agency shall provide notice of withdrawal to the office of the code reviser(('s-office)) by a letter or memorandum signed by the person who signed the original notice, or by that person's designee. The agency shall send a copy of the withdrawal notice to the joint administrative rules review committee.

AMENDATORY SECTION (Amending WSR 04-02-071, filed 1/7/04, effective 2/7/04)

WAC 1-21-070 Administrative order. (1) The administrative order by which an agency adopts a rule shall be done on a CR-103 form (rule-making order) provided by the office of the code reviser(('s-office)) or, if required by agency practice, on an agency form that provides the information required by RCW 34.05.360.

(2) The agency shall file with the office of the code reviser(('s-office)) the original and six copies of the permanent or emergency package (form and text). The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

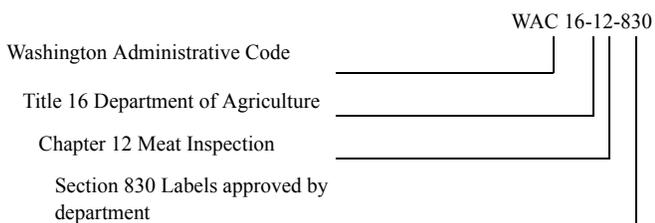
AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-080 Numbering system—Captions. (1) The primary division of the Washington Administrative Code (WAC) is the **Title**. The office of the code reviser assigns each agency a title number, which usually is in alphabetical order. A newly created agency shall apply to the office of the code reviser(('s-office)) for assignment of a title number. If an agency's name is changed, the title number stays the same. The list of titles is published in volume 1 of the WAC.

(2) Each title is divided into **chapters**, which are the major subject matter divisions of the agency's title.

(3) Each chapter is divided into **sections**, which are the individual rules and are the smallest unit that can be amended. The agency shall place a short caption on each section to describe its contents. Sections should be as short as reasonably possible to facilitate finding an individual rule and amending it in the future.

(4) The WAC citation number is a composite of these three divisions:



AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-090 Redesignation of WAC numbers. (1) WAC numbers are permanent and may not be changed by the use of addition and deletion marks used for text amendments. If an agency wishes to recodify its permanent rules, it should consult with the office of the code reviser(('s-office)) for the method to be used.

(2) WAC numbers previously assigned to repealed sections or chapters may not be reused to designate other sections or chapters. The numbers of the repealed rules are shown in a disposition table prepared by the office of the code reviser and published with the appropriate chapter or title.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-120 Underlining restricted. Since RCW 34.05.395 requires the use of the legislature's bill-drafting style to show amendments in previously adopted rules, underlined text may be used only to show new material added to an existing section. Underlining may not be used for emphasis, as it would not permit codification of the section in the usual manner. *Italics* or **boldface** may be used for emphasis. Consult with the office of the code reviser(('s-office)) if in doubt as to the proper method for indicating these styles.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-140 Review of previously adopted rules. When an agency is required under RCW 34.05.630 to review permanent or emergency rules previously adopted, the agency shall file notice of the review with the code reviser on a CR-104 form (review of previously adopted rules). The agency shall file the original and six copies of the notice. Four copies will be returned to the agency, three of which shall be delivered to the joint administrative rules review committee. The notice is subject to the twenty-day requirement of RCW 34.05.320. The text of the rule under review is not needed with this notice.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-150 Exemptions from publication. Agency rules that are likely to be omitted from WAC publication by the office of the code reviser under the authority of RCW 34.05.210, may, upon application by the agency to the office of the code reviser for an exemption, be exempted by the office of the code reviser from the form and style requirements of this chapter, other than requirements that are imposed by statute. An application for exemption must be made and approved before filing the rules.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-160 Filing after office hours. The office of the code reviser(~~(s-office)~~) is open for the filing of agency rule-making notices and orders from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. The office of the code reviser delegates to the Washington state patrol the authority to accept at other times the filing of orders adopting, amending, or repealing rules when the nature of the order requires their immediate filing and/or effectiveness. To use this service, the agency may telephone the capitol security unit of the state patrol at (360) 753-2191 to arrange for receipt of the filing by the state patrol. The agency shall notify the office of the code reviser(~~(s-office)~~) of the filing by 9:00 a.m. on the next business day after the filing.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-170 Official forms. Agencies may obtain the following official forms from the office of the code reviser(~~(s-office)~~) upon request:

- (1) Form CR-101 Preproposal statement of inquiry
- (2) Form CR-102 Proposed rule making
- (3) Form CR-103 Rule-making orders
- (4) Form CR-104 Review of previously adopted rules
- (5) Form CR-105 Expedited rule making.

AMENDATORY SECTION (Amending WSR 97-15-035, filed 7/10/97, effective 7/27/97)

WAC 1-21-180 Rule-making activity report. To implement RCW 1.08.112, agencies shall supply the information required by RCW 1.08.112 (1)(a) through (f) and (i) by completing the appropriate parts of the CR-103 form. Agencies shall report information required by RCW 1.08.112 (1)(g) and (h) by a memorandum on agency letterhead to the office of the code reviser.

WSR 06-16-020

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed July 24, 2006, 10:51 a.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: The purpose of this rule making is to make this rule easy to read, understand and more usable for employers. This rule adoption will place fixed ladder requirements from chapters 296-24 and 296-155 WAC into chapter 296-876 WAC, Portable ladders. The title of chapter 296-876 WAC has changed to Ladders, portable and fixed. Also, references were updated. There are no anticipated effects.

Also, we incorporated requirements from the American National Standards Institute (ANSI) into this chapter, ANSI A14.3 2002 - Safety requirements for fixed ladders. By doing this, it makes the requirements for both general and construction the same. References were also updated.

AMENDED PARTS:

Chapter 296-24 WAC, Part J-1.

- Deleted the words "fixed ladders" from the title of this part.
- Added a note to where the requirements for fixed ladders are going to be located.

Chapter 296-155 WAC, Part J.

- Deleted the words "and ladders" from the title of this part.

AMENDED SECTIONS:

WAC 296-24-23507 Footwalks and ladders.

- Updated a reference.

WAC 296-78-71001 General.

- Updated a reference.

WAC 296-78-71009 Stairways and ladders.

- Updated a reference.

WAC 296-78-71017 Dry kilns.

- Updated a reference.

WAC 296-155-475 Scope and application.

- Deleted the word "ladders" from this section.
- Updated a reference.

WAC 296-155-47501 Definitions applicable to this part.

- Deleted the following definitions: Cleat, double cleat ladder, fixed ladder, individual rung/step ladders, landing, maximum intended load, side step ladder, single cleat ladder, through fixed ladder.

WAC 296-874-40026 Meet these requirements when using ladder jack scaffolds.

- Updated a reference.

WAC 296-874-40038 Meet these requirements when using step, platform and trestle ladder scaffolds.

- Updated a reference.

WAC 296-876-100 Scope.

- Modified this section to include fixed ladders.

WAC 296-876-500 Training—Section contents.

- Renamed this section to "Fixed ladder design and construction—Section contents.["]

WAC 296-876-600 Definitions.

- Renamed this section to "Fixed ladder design and construction—Section contents.["]
- Moved definitions relating to portable and fixed ladders to WAC 296-876-900.

NEW SECTIONS:

WAC 296-876-50010 Design and construction—Fixed ladders installed on or after December 1, 2006.

- Moved the design and construction requirements for fixed ladders installed on or after December 1, 2006, to this section.

WAC 296-876-60005 Design and construction—Fixed ladders installed before December 1, 2006.

- Moved the design and construction requirements for fixed ladders installed before December 1, 2006, to this section.

WAC 296-876-60010 Design loads.

- Moved the design load requirements for fixed ladders to this section.

WAC 296-876-60015 Pitch.

- Moved pitch requirements for fixed ladders to this section.

WAC 296-876-60020 Welding.

- Moved welding requirements for fixed ladders to this section.

WAC 296-876-60025 Ladder surfaces.

- Moved ladder surface requirements for fixed ladders to this section.

WAC 296-876-60030 Rungs, cleats and steps.

- Moved rung, cleat and step requirements for fixed ladders to this section.

WAC 296-876-60035 Side rails.

- Moved side rail requirements for fixed ladders to this section.

WAC 296-876-60040 Clearances.

- Moved clearance requirements for fixed ladders to this section.

WAC 296-876-60045 Step-across distance.

- Moved step-across distance requirements for fixed ladders to this section.

WAC 296-876-60050 Extension and grab bars.

- Moved extension and grab bar requirements for fixed ladders to this section.

WAC 296-876-60055 Hatches.

- Moved hatch requirements for fixed ladders to this section.

WAC 296-876-60060 Platforms.

- Moved platform requirements for fixed ladders to this section.

WAC 296-876-60065 Protective structures and equipment.

- Moved protective structures and equipment requirements for fixed ladders to this section.

WAC 296-876-60070 Cages.

- Moved cage requirements for fixed ladders to this section.

WAC 296-876-60075 Wells.

- Moved well requirements for fixed ladders to this section.

WAC 296-876-60080 Ladder safety devices.

- Moved ladder safety device requirements for fixed ladders to this section.

WAC 296-876-700 Fixed ladder inspection and maintenance—Section contents.

- Created this section contents/summary page relating to inspection and maintenance of fixed ladders.

WAC 296-876-70005 Protection against corrosion and deterioration.

- Moved requirements relating to the corrosion and deterioration of fixed ladders to this section.

WAC 296-876-70010 Inspection and repair.

- Moved requirements relating to inspection and repair of fixed ladders to this section.

WAC 296-876-800 Fixed ladder use—Section contents.

- Created this section contents/summary page relating to fixed ladder use.

WAC 296-876-80005 Designed load.

- Moved requirements relating to the designed load of fixed ladders to this section.

WAC 296-876-80010 Climbing and descending.

- Moved requirements relating to climbing and descending on fixed ladders to this section.

WAC 296-876-900 Definitions.

- Moved definitions that relate to portable and fixed ladders to this section.

REPEALED SECTIONS: WAC 296-24-810 Fixed ladders, 296-24-81001 Definitions, 296-24-81003 Design requirements, 296-24-81005 Specific features, 296-24-81007 Clearance, 296-24-81009 Special requirements, 296-24-81011 Pitch, 296-24-81013 Maintenance and use, 296-155-480 Fixed ladders, 296-155-48060 Training requirements, 296-155-48080 Appendix A, 296-155-48090 Reserved, and 296-876-50005 Training. Requirements relating to fixed ladders have been moved to chapter 296-876 WAC, Portable ladders and fixed ladders.

Citation of Existing Rules Affected by this Order: Amending WAC 296-24-23507 Footwalks and ladders, 296-78-71001 General, 296-78-71009 Stairways and ladders, 296-78-71017 Dry kilns, 296-155-475 Scope and application, 296-155-47501 Definitions applicable to this part, 296-874-40026 Meet these requirements when using ladder jack scaffolds, 296-874-40038 Meet these requirements when using step, platform and trestle ladder scaffolds, 296-876-100 Scope, 296-876-500 Training—Section contents, and 296-876-600 Definitions; and repealing WAC 296-24-810 Fixed ladders, 296-24-81001 Definitions, 296-24-81003 Design requirements, 296-24-81005 Specific features, 296-24-81007 Clearance, 296-24-81009 Special requirements, 296-24-81011 Pitch, 296-24-81013 Maintenance and use, 296-155-480 Fixed ladders, 296-155-48060 Training requirements, 296-155-48080 Appendix A, 296-155-48090 Reserved, and 296-876-50005 Training.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 06-09-072 on April 18, 2006.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 24, Amended 11, Repealed 13.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 24, Amended 11, Repealed 13.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 24, Amended 11, Repealed 13.

Date Adopted: July 24, 2006.

Gary Weeks
Director

Chapter 296-876 WAC

((PORTABLE)) LADDERS, PORTABLE AND FIXED

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-100 Scope. This chapter applies to portable and fixed ladders, including job-made wooden ladders.

- Exemption:** This chapter does not apply to ((portable ladders used)):
- Portable ladders used by the fire services for fire combat that are covered by Safety standards for fire fighters, chapter 296-305 WAC;
 - ~~((or))~~ Agriculture activities covered by Safety standards for agriculture, chapter 296-307 WAC.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-500 ((Training)) Fixed ladder design and construction—Section contents.

Your responsibility:
((To train employees who use portable ladders. Training

WAC 296-876-50005.)) To make sure fixed ladders installed on or after December 1, 2006, meet design and construction requirements.

Design and construction—Fixed ladders installed on or after December 1, 2006.

WAC 296-876-50010

NEW SECTION

WAC 296-876-50010 Design and construction—Fixed ladders installed on or after December 1, 2006.

You must:

- Make sure fixed ladders installed **on or after** December 1, 2006, meet the design and construction requirements of ANSI A14.3-2002, American National Standard for Ladders-Fixed-Safety Requirements.

Note: Ladders will be considered to have met the requirements of this section if they meet the design and construction requirements of ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time they are installed.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-600 ((Definitions)) Fixed ladder design and construction—Section contents.

~~(((Cleat~~

~~A ladder crosspiece used in climbing or descending. Also called a step or rung.~~

~~**Extension ladder**~~

~~A nonself-supporting portable ladder consisting of two or more sections. The sections travel in guides or brackets that allow the length of the ladder to be changed. The size is designated by the sum of the lengths of each section, measured along the side rails.~~

~~**Failure**~~

~~The ladder or ladder component loses the ability to carry the load, breaks, or separates into component parts.~~

~~**Job-made ladder**~~

~~A ladder that is made, not commercially manufactured, to fit a specific job situation. They are for temporary use until a particular phase of construction is completed or until permanent stairways or fixed ladders are ready to use.~~

~~**Ladder**~~

~~A device having steps, rungs, or cleats that can be used to climb or descend.~~

~~**Ladder type**~~

~~The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:~~

Duty Rating	Ladder Type	Use	Maximum-Intended-Load (Pounds)
Extra Heavy-Duty	IA	Industry, utilities, contractors	300
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	II	Painters, offices, light maintenance	225
Light-Duty	III	General household use	200

~~**Maximum intended load**~~

The total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time. Sometimes referred to as working load.

Portable ladder

A ladder that can be readily moved or carried.

Reinforced plastic

A plastic that has high strength fillers embedded in the base resin to increase strength.

Reinforced plastic ladder

A ladder whose side rails are reinforced plastic. The crosspieces, hardware, and fasteners may be made of metal or other suitable material.

Rung

A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Single ladder

A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Single rail ladder

A portable ladder with crosspieces mounted on a single rail. Single rail ladders are prohibited from use.

Special purpose ladder

A portable ladder that is made by modifying or combining design or construction features of the general purpose types of ladders in order to adapt the ladder to special or specific uses.

Step

A ladder crosspiece used in climbing or descending. Also called a cleat or rung.

Stepladder

A self-supporting portable ladder, nonadjustable in length, with flat steps and hinged at the top. The size is designated by the overall length of the ladder measured along the front edge of the side rails.

Trestle ladder

A self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

Working length

The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.)) **Your responsibility:**

To make sure fixed ladders installed before December 1, 2006, meet design and construction requirements.

Design and construction—Fixed ladders installed before December 1, 2006.

WAC 296-876-60005

Design loads.

WAC 296-876-60010

Pitch.

WAC 296-876-60015

Welding.

WAC 296-876-60020

Ladder surfaces.

WAC 296-876-60025

Rungs, cleats and steps.

WAC 296-876-60030

Side rails.

WAC 296-876-60035

Clearances.

WAC 296-876-60040

Step-across distance.

WAC 296-876-60045

Extensions and grab bars.

WAC 296-876-60050

Hatches.

WAC 296-876-60055

Platforms.

WAC 296-876-60060

Protective structures and equipment.

WAC 296-876-60065

Cages.

WAC 296-876-60070

Wells.

WAC 296-876-60075

Ladder safety devices.

WAC 296-876-60080

NEW SECTION

WAC 296-876-60005 Design and construction—Fixed ladders installed before December 1, 2006.

You must:

• Make sure fixed ladders installed **before** December 1, 2006, meet the requirements of WAC 296-876-60010 through 296-876-60080.

Note: Ladders will be considered to have met the requirements of this section if they meet the design and construction requirements of ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time they are installed.

NEW SECTION

WAC 296-876-60010 Design loads.

You must:

• Make sure each ladder is able to support, without failure, the total of the following loads:

– At least two loads of two hundred and fifty pounds each, concentrated between any two consecutive attachments.

– Any additional concentrated loads of two hundred and fifty pounds each determined from the anticipated use of the ladder.

– Anticipated loads caused by all of the following that apply:

■ Ice buildup.

■ Winds.

■ Rigging attached to the ladder, including the load to be lifted.

■ Impact loads resulting from the use of ladder safety devices.

• Make sure the design of rails, supports, and fastenings includes:

– Live loads to be supported by the ladder

and

– The weight of the ladder and everything attached to it.

- Consider all live loads to be concentrated at the point or points that will cause the maximum stress on the ladder or structural member.

- Make sure each step or rung is capable of supporting a single concentrated load of at least two hundred fifty pounds applied in the middle of the step or rung.

- Make sure the design stresses for wood components of ladders meet the requirements and specifications of ANSI A14.1, American National Standard for Ladders-Portable Wood-Safety Requirements, in effect when the ladder was installed.

- Make sure fastenings are designed to meet the ladder load requirements.

NEW SECTION

WAC 296-876-60015 Pitch.

You must:

- Make sure the pitch of the ladder is no greater than ninety degrees from the horizontal.

Note:

- The preferred pitch of fixed ladders is within the range of seventy-five to ninety degrees from the horizontal. Ladders with a pitch range of sixty to seventy-five degrees from the horizontal are considered substandard and are only permitted if necessary to meet the installation requirements.
- Fixed stairs are an alternative for installations where a pitch angle of less than sixty degrees is necessary. See Fixed industrial stairs, WAC 296-24-765, in the General Safety and Health Standards, chapter 296-24 WAC.

NEW SECTION

WAC 296-876-60020 Welding.

You must:

- Make sure welding meets the requirements of the ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time the ladder was installed.

NEW SECTION

WAC 296-876-60025 Ladder surfaces.

You must:

- Make sure all parts and surfaces of the ladder are free of splinters, sharp edges, burrs, or projections that may be hazardous to persons using the ladder.

NEW SECTION

WAC 296-876-60030 Rungs, cleats and steps.

You must:

- Make sure rungs have a minimum diameter as follows:
 - Rungs of wood ladders are at least one and one-eighth inches.

- Rungs of metal ladders subject to unusually corrosive exposures, such as individual metal rungs imbedded in concrete which serve as access to pits and to other areas under floors, are at least one inch.

- Rungs of all other metal ladders are at least three-quarters inch.

- Make sure rungs, cleats, and steps are all of the following:

- Parallel.
- Level.
- Uniformly spaced throughout the length of the ladder.
- Spaced so the distance from the centerline of one rung to the centerline of the next rung does not exceed twelve inches.

Exception: The vertical distance from the ground, floor, or roof at the access level to the first rung may be adjusted within a range of fourteen inches.

You must:

- Make sure the minimum inside clear width of the stepping surface of rungs, steps, or cleats is sixteen inches.

- Make sure individual rung or step-type ladders have rungs or steps that are shaped so that a person's foot cannot slide off the end.

NEW SECTION

WAC 296-876-60035 Side rails.

You must:

- Make sure the shape of the side rail:
 - Provides an adequate gripping surface

and

- Is uniform throughout the length of climb.

- Make sure a side rail that has been spliced to obtain a longer length is at least equivalent in strength to a one-piece side rail made of the same material.

NEW SECTION

WAC 296-876-60040 Clearances.

You must:

- Make sure ladders without wells or cages are at least thirty inches from the nearest permanent object on the climbing side, measured perpendicular to the ladder from the centerline of the rungs, cleats, or steps.

Exception: When unavoidable obstructions are encountered, the minimum perpendicular clearance between the centerline of the rungs, cleats, or steps and an obstruction on the climbing side may be reduced to twenty-four inches if a deflection device is installed to guide persons around the obstruction.

You must:

- Make sure ladders without wells or cages have a clear width from the nearest permanent object on each side of the ladder of at least fifteen inches, measured from the center of the rungs, cleats, or steps.

- Make sure the distance from the centerline of the rungs, cleats, or steps to the nearest permanent object in back of the ladder is at least seven inches.

Exception: Fixed ladders in elevator pits may reduce the minimum clearance from the ladder to the nearest permanent object in back of the ladder to four and one-half inches.

NEW SECTION

WAC 296-876-60045 Step-across distance.

You must:

- Make sure a through ladder at the point of access or egress has a step-across distance, measured from the center-

line of the steps or rungs to the nearest edge of the landing area, that is:

- Not less than seven inches

or

- Greater than twelve inches.

• Make sure a side-step ladder at the point of access or egress has a step-across distance, measured from the side rail of the ladder to the nearest edge of the landing area, that is:

- Not less than seven inches

or

- Greater than twelve inches.

NEW SECTION

WAC 296-876-60050 Extensions and grab bars.

You must:

• Make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

Note: For a parapet ladder, the access level is:

- The roof if the parapet is cut to permit passage through it

or

- The top of the parapet if it is continuous and uncut.

You must:

• Make sure the extension of a through ladder above the access level or landing platform has:

- Steps or rungs omitted from the extension

and

- Clearance between the side rails that is:

- Not less than twenty-four inches

or

- Greater than thirty inches.

Exemption: The maximum clearance between side rails of the extension may be increased to thirty-six inches if the ladder has a ladder safety device.

You must:

• Make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

• Make sure side-step ladders have the steps or rungs and the side rails continuous in the extension.

• Make sure individual rung-step ladders are extended at least forty-two inches above the access level or landing platform by:

- Continuing the rung spacings as horizontal grab bars

or

– Providing vertical grab bars that have the same lateral spacing as the vertical legs of the rungs.

Exemption: Extensions are not required for individual rung-step ladders with access openings through a manhole or hatch.

You must:

• Make sure grab bars:

– Are at least four inches from the nearest permanent object in back of the grab bar, measured from the centerline of the grab bar

and

– Do not extend beyond the rungs on the climbing side of the ladder.

NEW SECTION

WAC 296-876-60055 Hatches.

You must:

• Make sure counterbalanced hatch covers open at least seventy degrees from the horizontal.

• Make sure the inside clear width of the hatch is a nominal thirty inches.

• Make sure the distance from the centerline of the rungs or cleats to the edge of the hatch opening on the climbing side, measured perpendicular to the ladder, is:

- Not less than twenty-four inches

or

- Greater than thirty inches.

• Make sure hatches with clearance on the climbing side of the ladder that is between twenty-four and twenty-seven inches are fitted with a deflector plate mounted at an angle of sixty degrees from the horizontal.

Note: The springs or other counterbalance mechanisms for the hatch may project into the hatch opening provided they do not reduce clearance to less than twenty-four inches and a deflector plate is installed to guide persons around the obstruction.

NEW SECTION

WAC 296-876-60060 Platforms.

You must:

• Make sure landing platforms for side-step ladders extend at least thirty inches on the climbing side of the ladder.

• Make sure landing platforms are:

- At least thirty inches wide

and

– Equipped with standard railings and toeboards placed to allow safe access to the ladder.

Reference: Requirements for standard railings and toeboards are in Railing, toeboards, and cover specifications, WAC 296-24-75011, the General Safety and Health Standards, chapter 296-24 WAC.

You must:

• Make sure the top rung or step of the ladder is level with the landing served by the ladder.

• Make sure the spacing from the landing platform to the first rung below the platform of a through ladder is the same as the rung spacing of the ladder.

• Make sure, if two or more separate ladders are used to reach an elevated work area, that the ladders are offset with a platform or landing between them.

Exemption: A platform or landing is not required when a portable ladder is used to reach a fixed ladder on structures such as utility towers and billboards where the bottom of the fixed ladder is elevated to limit access.

NEW SECTION

WAC 296-876-60065 Protective structures and equipment.

You must:

• Make sure a cage, well, or ladder safety system is provided if:

- The length of climb is less than twenty-four feet

and

– The top of the ladder is more than twenty-four feet above the ground, floor, or roof.

• Make sure a ladder with a single length of climb that is equal to or greater than twenty-four feet is either:

– Equipped with a ladder safety device

or

– Uses multiple ladder sections and meets all of the following:

■ Each section is provided with a cage or well.

■ The length of climb of any ladder section is not greater than fifty feet.

■ Each ladder section is offset from adjacent sections.

■ Landing platforms are provided at maximum intervals of fifty feet.

Exemption: During construction activities, a self-retracting lifeline with landing platforms provided at maximum intervals of one hundred and fifty feet may be used instead of a ladder safety device or multiple ladder sections.

NEW SECTION

WAC 296-876-60070 Cages.

You must:

• Make sure the cage meets all of the following:

– Extends at least forty-two inches above the top of the platform or above the point of access and egress at the top of the ladder.

– Has provisions for accessing and egressing the platform or the point of access or egress of the ladder.

– There is at least twenty-seven inches, but not more than thirty inches, from the cage to the centerline of the step or rung at all points except where the cage flares at the bottom of the ladder.

– The cage is at least twenty-seven inches wide.

– There are no projections inside the cage.

• Make sure the bottom of the cage is:

– At least seven feet but not more than eight feet above the point of access to the bottom of the ladder

and

– Flared at least four inches all around within the distance between the bottom horizontal band and the next higher band.

• Make sure vertical bars are:

– Spaced at intervals of nine and one-half inches or less on center around the circumference of the cage

and

– Fastened to the inside of the horizontal bands.

• Make sure the horizontal bands meet all of the following:

– The vertical intervals between horizontal bands is not more than four feet on center.

– The horizontal bands of ladders with side rails are fastened to the side rails.

– The horizontal bands of individual-rung ladders are fastened directly to the structure, building, or equipment.

NEW SECTION

WAC 296-876-60075 Wells.

You must:

• Make sure there is at least twenty-seven inches, but not more than thirty inches, from the centerline of the step or rung to the inside face of the well on the climbing side of the ladder.

• Make sure the inside clear width is at least thirty inches.

• Make sure the well:

– Completely encircles the ladder

and

– Is free of projections.

• Make sure the bottom of the wall on the access side is at least seven feet, but not more than eight feet, above the point of access to the bottom of the ladder.

NEW SECTION

WAC 296-876-60080 Ladder safety devices.

You must:

• Make sure ladder safety devices and related support systems meet all of the following:

– Are capable of withstanding, without failure, the test drop of a five hundred pound weight for a free-fall distance of eighteen inches.

– The device does not require a person to continually hold, push, or pull any part of the device and allows them to have both hands free to grip the ladder.

– In the event of a fall, the device:

■ Is activated within two feet

and

■ Limits the fall velocity to seven feet per second or less.

– Uses a connection between the carrier or lifeline and the point of attachment on the full body harness that is not longer than nine inches.

• Make sure ladder safety devices with rigid carriers have mountings that:

– Are attached at each end of the carrier

and

– Have intermediate mountings that are all of the following:

■ Spaced along the entire length of the carrier in accordance with the manufacturer's recommendations.

■ Installed within one foot below each splice on the carrier.

■ Have a maximum distance between mountings that is twenty-five feet or less.

• Make sure ladder safety devices with flexible carriers have:

– Mountings that are attached at each end of the carrier

and

– Cable guides that are spaced at least twenty-five feet, but no further than forty feet, apart along the entire length of the carrier.

• Make sure the design and installation of mountings and cable guides does not reduce the design strength of the ladder.

NEW SECTION**WAC 296-876-700 Fixed ladders inspection and maintenance—Section contents.****Your responsibility:**

To make sure fixed ladders are inspected and maintained properly.

Protection against corrosion and deterioration.

WAC 296-876-70005

Inspection and repair.

WAC 296-876-70010

NEW SECTION**WAC 296-876-70005 Protection against corrosion and deterioration.****You must:**

- Paint or otherwise treat metal ladders or metal parts to resist rust and corrosion if they are:

- Exposed to the elements

or

- Located where rust or corrosion could be expected.

- Treat wood ladders used in conditions where decay may occur with a nonirritating preservative.

- Make sure wood ladders are not coated with an opaque covering except for the minimum amount necessary for identification and warning information which may be placed on one face only of a side rail.

- Treat the interface between different materials or use other means to prevent:

- One material from damaging or having a harmful effect on another material

and

- Electrolytic action between dissimilar metals.

NEW SECTION**WAC 296-876-70010 Inspection and repair.****You must:**

- Keep ladders in safe condition.
- Have a competent person inspect a ladder for visual defects:

- Periodically

and

- After any occurrence that could affect safe use.

- Make sure any ladder with structural damage or other hazardous defect is immediately removed from service.

Note: • Structural damage includes, but is not limited to, any of the following:

- Broken or missing rungs, cleats, or steps.

- Broken or split rails.

- Corroded components.

- Bolts and welds missing or not secure.

- A ladder is considered to be removed from service if any of the following are done:

- It is marked to identify it as defective.

- It is tagged with "do not use" or similar language.

- It is blocked so that it cannot be used, for example, by using a plywood attachment that spans several rungs.

You must:

- Make sure repairs restore the ladder to a condition meeting its original design criteria.

NEW SECTION**WAC 296-876-800 Fixed ladder use—Section contents.****Your responsibility:**

To use fixed ladders safely.

Designed load.

WAC 296-876-80005

Climbing and descending.

WAC 296-876-80010

NEW SECTION**WAC 296-876-80005 Designed load.****You must:**

- Make sure not to overload ladders. Do not exceed either the:

- Maximum intended load

or

- Manufacturer's rated capacity.

Definition:

The **maximum intended load** is the total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time.

NEW SECTION**WAC 296-876-80010 Climbing and descending.****You must:**

- Have both hands free to hold on to the ladder.

- Face the ladder when climbing or descending.

- Keep ladders free of oil, grease, or other slippery materials.

NEW SECTION**WAC 296-876-900 Definitions.**

Cage. An enclosure that encircles the climbing space of a fixed ladder. It is fastened to the ladder side rails or to the structure and may also be called a cage or basket guard.

Cleat. A ladder crosspiece used in climbing or descending. Also called a step or rung.

Equivalent. Alternative design, material or method to protect against a hazard. You have to demonstrate it provides an equal or greater degree of safety for employees than the method, material or design specified in the rule.

Extension ladder. A nonself-supporting portable ladder consisting of two or more sections. The sections travel in guides or brackets that allow the length of the ladder to be changed. The size is designated by the sum of the lengths of each section, measured along the side rails.

Failure. The ladder or ladder component loses the ability to carry the load, breaks, or separates into component parts.

Fastenings. A fastening is a device to attach a ladder to a structure, building, or equipment.

Fixed ladder. A ladder permanently attached to a structure, building, or equipment.

Grab bars. Handholds placed adjacent to or as an extension above ladders for the purpose of providing access beyond the limits of the ladder.

Job-made ladder. A ladder that is made, not commercially manufactured, to fit a specific job situation. They are for temporary use until a particular phase of construction is completed or until permanent stairways or fixed ladders are ready to use.

Individual-rung/step ladder. A fixed ladder consisting of individual steps or rungs mounted directly to the side or wall of the structure, building, or equipment.

Ladder. A device having steps, rungs, or cleats that can be used to climb or descend.

Ladder safety device. Any device, other than a cage or well, designed to arrest the fall of a person using a fixed ladder.

Ladder type. The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:

Duty Rating	Ladder Type	Use	Maximum Intended Load (Pounds)
Extra Heavy-Duty	IA	Industry, utilities, contractors	300
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	II	Painters, offices, light maintenance	225
Light-Duty	III	General household use	200

Landing. Any area such as the ground, roof, or platform that provides access or egress to a ladder.

Maximum intended load. The total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time. Sometimes referred to as working load.

Pitch. The included angle between the horizontal and the ladder, measured on the opposite side of the ladder from the climbing side.

Portable ladder. A ladder that can be readily moved or carried.

Reinforced plastic. A plastic that has high-strength fillers embedded in the base resin to increase strength.

Reinforced plastic ladder. A ladder whose side rails are reinforced plastic. The crosspieces, hardware, and fasteners may be made of metal or other suitable material.

Rung. A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Side-step ladder. A fixed ladder that requires a person to step to the side of the ladder side rails to reach the landing.

Single ladder. A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Single-rail ladder. A portable ladder with crosspieces mounted on a single rail. Single-rail ladders are prohibited from use.

Special-purpose ladder. A portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

Step. A ladder crosspiece used in climbing or descending. Also called a cleat or rung.

Stepladder. A self-supporting portable ladder, nonadjustable in length, with flat steps and hinged at the top. The size is designated by the overall length of the ladder measured along the front edge of the side rails.

Through ladder. A fixed ladder that requires a person to step between the side rails of the ladder to reach the landing.

Trestle ladder. A self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

Well. A walled enclosure around a fixed ladder that provides a person climbing the ladder with the same protection as a cage.

Working length. The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-876-50005 Training.

PART J-1

WORKING SURFACES, GUARDING FLOORS AND WALL OPENINGS(~~(, FIXED LADDERS)~~)

Note: Requirements relating to portable ladders and fixed ladders have been moved to chapter 296-876 WAC, (~~(Portable)~~) Ladders, portable and fixed.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-24-23507 Footwalks and ladders. (1) Location of footwalks.

(a) If sufficient headroom is available on cab-operated cranes, a footwalk shall be provided on the drive side along the entire length of the bridge of all cranes having the trolley running on the top of the girders. To give sufficient access to the opposite side of the trolley, there should be provided either a footwalk mounted on the trolley, a suitable footwalk or platform in the building, or a footwalk on the opposite side of the crane at least twice the length of the trolley.

(b) Footwalks should be located to give a headroom not less than 78 inches. In no case shall less than 48 inches be provided. If 48 inches of headroom cannot be provided, foot-

walks should be omitted from the crane and a stationary platform or landing stage built for workers making repairs.

(2) Construction of footwalks.

(a) Footwalks shall be of rigid construction and designed to sustain a distributed load of at least 50 pounds per square foot.

(b) Footwalks shall have a walking surface of antislip type.

Note: Wood will meet this requirement.

(c) Footwalks should be continuous and permanently secured.

(d) Footwalks should have a clear passageway at least 18 inches wide except opposite the bridge motor, where they should be not less than 15 inches. The inner edge shall extend at least to the line of the outside edge of the lower cover plate or flange of the girder.

(3) Toeboards and handrails for footwalks. Toeboards and handrails shall be in compliance with WAC 296-24-750 through 296-24-75011 and WAC 296-800-260.

(4) Ladders and stairways.

(a) Gantry cranes shall be provided with ladders or stairways extending from the ground to the footwalk or cab platform.

(b) Stairways shall be equipped with rigid and substantial metal handrails. Walking surfaces shall be of an antislip type.

(c) Ladders shall be permanently and securely fastened in place and shall be constructed in compliance with ~~(WAC 296-24-810 through 296-24-81011)~~ chapter 296-876 WAC, Ladders, portable and fixed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-810	Fixed ladders.
WAC 296-24-81001	Definitions.
WAC 296-24-81003	Design requirements.
WAC 296-24-81005	Specific features.
WAC 296-24-81007	Clearance.
WAC 296-24-81009	Special requirements.
WAC 296-24-81011	Pitch.
WAC 296-24-81013	Maintenance and use.

PART J

STAIRWAYS ~~(AND FIXED LADDERS)~~

Note: Requirements relating to portable ladders and fixed ladders have been moved to chapter 296-876 WAC, Ladders, portable and fixed.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-155-475 Scope and application. This part applies to all stairways ~~(and fixed ladders)~~ used in construc-

tion, alteration, repair (including painting and decorating), and demolition workplaces covered under chapter 296-155 WAC, and also sets forth, in specified circumstances, when ~~(ladders and)~~ stairways are required to be provided.

Reference: • Requirements for ladders used on or with scaffolds are located in chapter 296-874 WAC, Scaffolds.
• Requirements for portable ladders and fixed ladders are located in chapter 296-876 WAC ~~(Portable ladders)~~.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-155-47501 Definitions applicable to this part.

~~(1) (C) Cleat means a ladder crosspiece of rectangular cross section placed on edge upon which a person may step while ascending or descending a ladder.~~

~~(2) Double cleat ladder means a ladder similar in construction to a single cleat ladder, but with a center rail to allow simultaneous two-way traffic for employees ascending or descending.~~

~~(3)) Equivalent means alternative designs, materials, or methods that the employer can demonstrate will provide an equal or greater degree of safety for employees than the method or item specified in the standard.~~

~~((4)) (2) Failure means load refusal, breakage, or separation of component parts. Load refusal is the point where the structural members lose their ability to carry the loads.~~

~~((5) Fixed ladder means a ladder that cannot be readily moved or carried because it is an integral part of a building or structure. A side-step fixed ladder is a fixed ladder that requires a person getting off at the top to step to the side of the ladder side rails to reach the landing. A through fixed ladder is a fixed ladder that requires a person getting off at the top to step between the side rails of the ladder to reach the landing. For the purpose of this standard, slip forms and scaffolds with built-in ladders permanently attached, are considered to be fixed ladders.~~

~~(6)) (3) Handrail means a rail used to provide employees with a handhold for support.~~

~~((7) Individual-rung/step ladders means ladders without a side rail or center rail support. Such ladders are made by mounting individual steps or rungs directly to the side or wall of the structure.~~

~~(8) Landing means any area such as the ground, roof, or platform that provides access/egress for a ladder.~~

~~(9)) (4) Lower levels means those areas to which an employee can fall from a stairway or ladder. Such areas include ground levels, floors, roofs, ramps, runways, excavations, pits, tanks, material, water, equipment, and similar surfaces. It does not include the surface from which the employee falls.~~

~~((10) Maximum intended load means the total load of all employees, equipment, tools, materials, transmitted loads, and other loads anticipated to be applied to a ladder component at any one time.~~

~~(11)) (5) Nosing means that portion of a tread projecting beyond the face of the riser immediately below.~~

~~((12)) (6) Platform means a walking/working surface for persons, elevated above the surrounding floor or ground.~~

~~((13)) (7) Point of access means all areas used by employees for work-related passage from one area or level to~~

another. Such open areas include doorways, passageways, stairway openings, studded walls, and various other permanent or temporary openings used for such travel.

~~((14))~~ (8) Riser height means the vertical distance from the top of a tread to the top of the next higher tread or platform/landing or the distance from the top of a platform/landing to the top of the next higher tread or platform/landing.

~~((15))~~ Side step fixed ladder. See "fixed ladder."

~~(16)~~ Single cleat ladder means a ladder consisting of a pair of side rails, connected together by cleats, rungs, or steps.

~~((17))~~ (9) Spiral stairway means a series of steps attached to a vertical pole and progressing upward in a winding fashion within a cylindrical space.

~~((18))~~ (10) Stairrail system means a vertical barrier erected along the unprotected sides and edges of a stairway to prevent employees from falling to lower levels. The top surface of a stairrail system may also be a "handrail."

~~((19))~~ Through fixed ladder. See "fixed ladder."

~~(20))~~ (11) Tread depth means the horizontal distance from front to back of a tread (excluding nosing, if any).

~~((21))~~ (12) Unprotected sides and edges means any side or edge (except at entrances to points of access) of a stairway where there is no stairrail system or wall 36 inches (.9 m) or more in height, and any side or edge (except at entrances to points of access) of a stairway landing, or ladder platform where there is no wall or guardrail system 39 inches (1 m) or more in height.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-155-480	Fixed ladders.
WAC 296-155-48060	Training requirements.
WAC 296-155-48080	Appendix A.
WAC 296-155-48090	Reserved.

AMENDATORY SECTION (Amending WSR 05-01-054, filed 12/7/04, effective 3/1/05)

WAC 296-874-40026 Meet these requirements when using ladder jack scaffolds.

You must:

- Make sure the platform height is not higher than twenty feet (6.1 m).
- Make sure ladder jacks are designed and constructed so they rest:
 - On the side rails and ladder rungs together;

OR

- Only on the rungs.
- Make sure ladder jacks that rest on rungs only have a bearing area that includes a length of at least ten inches (25.4 cm) on each rung.
- Make sure ladders used to support ladder jacks are:
 - Type I (two hundred fifty pound rated capacity) or Type IA (300 pound rated capacity);

AND

- Are placed, fastened, or equipped with devices to prevent slipping.

Note: Ladders with a duty rating or weight capacity greater than a Type I ladder (250 pounds) satisfy the requirement to use a Type I or Type IA ladder.

You must:

- Make sure job-made ladders are not used to support ladder jack scaffolds.
- Make sure scaffold platforms are not bridged together.

Reference: • There are specific fall protection requirements for employees using ladder jack scaffolds. Go to WAC 296-874-20056.

~~((Requirements for wood and metal ladders for general industry activities are found in other chapters:~~

~~—Portable ladders: Metal and wooden, WAC 296-800-290, are found in the safety and health core rules, chapter 296-800 WAC;~~

~~—Portable wood ladders, WAC 296-24-780, and portable metal ladders, WAC 296-24-795, are found in Working surfaces, guarding floors and wall openings, ladders, Part J-1, in the general safety and health standards, chapter 296-24 WAC.~~

~~• For construction activities, go to Ladders, WAC 296-155-480, in the safety standards for construction work, chapter 296-155.)~~

~~• Requirements for portable and fixed ladders are found in chapter 296-876 WAC. Ladders, portable and fixed.~~

AMENDATORY SECTION (Amending WSR 05-01-054, filed 12/7/04, effective 3/1/05)

WAC 296-874-40038 Meet these requirements when using step, platform and trestle ladder scaffolds.

You must:

- Make sure ladders used to support step, platform, and trestle ladder scaffolds are:
 - Type I (250 pound rated capacity) or Type IA (300 pound rated capacity);

AND

- Placed, fastened, or equipped with devices to prevent slipping.

Note: Ladders with a duty rating or weight capacity greater than a Type I ladder (250 pounds) satisfy the requirement to use a Type I or Type IA ladder.

You must:

- Make sure job-made ladders are not used to support step, platform, and trestle ladder scaffolds.

Reference: • There are specific fall protection requirements for employees using ladder jack scaffolds. Go to WAC 296-874-20056.

~~((Requirements for wood and metal ladders are found in other chapters:~~

~~—For general industry activities, go to the following:~~

~~■ The safety and health core rules, chapter 296-800 WAC, and find portable ladders: Metal and wooden, WAC 296-800-290.~~

~~■ Working surfaces, guarding floors and wall openings, ladders, chapter 296-24 WAC, Part J-1, and find Portable wood ladders, WAC 296-24-780, and Portable metal ladders, WAC 296-24-795.~~

~~—For construction activities, go to the safety standards for construction work, and find ladders, WAC 296-155-480.)~~

• Requirements for portable and fixed ladders are found in chapter 296-876 WAC, Ladders, portable and fixed.

You must:

- Make sure scaffold platforms are not placed higher than the second highest rung or step of the ladder supporting the platform.
- Make sure scaffold platforms are not bridged together.

AMENDATORY SECTION (Amending WSR 04-18-080, filed 8/31/04, effective 11/1/04)

WAC 296-78-71001 General. (1) Construction when not specifically covered in these standards shall be governed by such other standards adopted by the department of labor and industries as may apply.

(2) All buildings, docks, tramways, walkways, log dumps and other structures shall be so designed, constructed, and maintained as to provide a safety factor of four. This means that all members shall be capable of supporting four times the maximum load to be imposed. This provision refers to buildings, docks and so forth designed and constructed subsequent to the effective date of these standards and also refers in all cases where either complete or major changes or repairs are made to such buildings, docks, tramways, walkways, log dumps and other structures.

(3) Basements on ground floors under mills shall be evenly surfaced, free from unnecessary obstructions and debris, and provided with lighting facilities in compliance with the requirements of the safety and health core rules, WAC 296-800-210.

(4) All engines, motors, transmission machinery or operating equipment installed in mill basements or ground floors shall be equipped with standard safeguards for the protection of workers.

(5) Flooring of buildings, ramps and walkways not subject to supporting motive equipment shall be of not less than two-inch wood planking or material of equivalent structural strength.

(6) Flooring of buildings, ramps, docks, trestles and other structure required to support motive equipment shall be of not less than full two and one-half inch wood planing or material of equivalent structural strength. However, where flooring is covered by steel floor plates, two inch wood planking or material of equivalent structural strength may be used.

(7) Walkways, docks, and platforms.

(a) Walkways, docks and platforms shall be constructed and maintained in accordance with the requirements of WAC 296-24-735 through 296-24-75011 and WAC 296-800-270.

(b) Maintenance. Walkways shall be evenly floored and kept in good repair.

(c) Where elevated platforms are used they shall be equipped with stairways or ladders in accordance with WAC 296-24-765 through 296-24-81013, ~~((and))~~ WAC 296-800-250 and ~~((296-800-290))~~ chapter 296-876 WAC, Ladders, portable and fixed.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-71009 Stairways and ladders. (1) Stairways shall be used in preference over ladders wherever possible. Stairways or ladders, whichever is used, shall be constructed and maintained in accordance with the provisions of WAC 296-24-75009 through 296-24-81013, ~~((and))~~ WAC 296-800-250 and ~~((296-800-290))~~ chapter 296-876 WAC, Ladders, portable and fixed.

(2) Doors shall not open directly on a flight of stairs.

(3) Permanent ladders shall be fastened securely at both top and bottom.

(4) Portable ladders shall not be used upon footing other than suitable type.

(5) Hooks or other means of securing portable ladders when in use, shall be provided.

(6) Portable ladders shall not be used for oiling machinery which is in motion.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-71017 Dry kilns. (1) Dry kilns shall be so constructed upon solid foundations that tracks will not sag. Dry kilns shall be provided with suitable walkways. Each kiln shall have doors that operate from the inside and be provided with escape doors of adequate height and width to accommodate an average size man, that also operates from the inside, and shall be located in or near the main door. Escape doors shall swing in the direction of exit. Kiln doors and door carriers shall be fitted with safety devices to prevent the doors or carriers from falling.

(2) Ladders. A fixed ladder, in accordance with the requirements of ~~((WAC 296-24-810 through 296-24-81013 of the general safety and health standards and WAC 296-800-290 of the safety and health core rules))~~ chapter 296-876 WAC, Ladders, portable and fixed, or other means shall be provided to permit access to the roof. Where controls and machinery are mounted on the roof, a permanent stairway with standard handrail shall be installed in accordance with the requirements of WAC ~~((296-800-290))~~ 296-800-250.

(3) A heated room shall be provided for the use of the kiln operator in inclement weather. He should remain in such room for at least ten minutes after leaving a hot kiln before going to cold outside air.

(4) Where operating pits are used, they shall be well ventilated, drained and lighted. Substantial gratings shall be installed at the kiln floor line. Steam lines shall be provided with insulation wherever exposed to contact by employees. Fans shall be enclosed by standard safeguards.

(5) Mechanical equipment. All belts, pulleys, blowers, and other exposed moving equipment used in or about kilns shall be guarded in accordance with chapter 296-806 WAC, Machine safety.

WSR 06-16-022
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed July 24, 2006, 3:07 p.m., effective August 24, 2006]

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

Purpose: Revision of SCAPCA Regulation I, Article X, Section 10.09 - Asbestos fees - to achieve full cost recovery for SCAPCA's comprehensive asbestos program.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article X, Section 10.09 - Asbestos fees.

Statutory Authority for Adoption: RCW 70.94.141 and 70.94.380(2).

Adopted under notice filed as WSR 06-11-129 on May 22, 2006.

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

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

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

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

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

Date Adopted: July 13, 2006.

Matt Holmquist
for Brenda Smits
Air Quality Specialist

AMENDATORY SECTION

REGULATION I, ARTICLE X, SECTION 10.09 - ASBESTOS FEES

ARTICLE X

SECTION 10.09 ASBESTOS FEES

Written notification, as required in Article IX, Section 9.04, shall be accompanied by the appropriate nonrefundable fee according to Section 10.09.A.

A Notification Period and Fees

Project	Size or Type	Notification Period	Fee
Owner-Occupied, Single-Family Residence Asbestos Project (excluding demolition)	Notification Not Required	None	None
Owner-Occupied, Single-Family Residence Demolition	All	Prior Notice	\$((25)) <u>30</u>

Project	Size or Type	Notification	
		Period	Fee
All Other Demolitions with no asbestos project	All	10 Days	\$((150)) <u>250</u>
Asbestos Project includes demolition fee*	10-259 linear ft 48-159 square ft	3 Days	\$((150)) <u>250</u>
Asbestos Project includes demolition fee	260-999 linear ft 160-4,999 square ft	10 Days	\$((300)) <u>500</u>
((Asbestos Project includes demolition fee))	((1,000-9,999 linear ft)) ((5,000-49,999 square ft))	((10 Days))	((750))
Asbestos Project includes demolition fee	((>10,000)) ≥1,000 linear ft ((>50,000)) ≥5,000 square ft	10 Days	\$((1,500)) <u>1,250</u>
Emergency	9.04.C	Prior Notice**	Additional fee equal to project fee
Amendment***	9.04.B	Prior Notice	\$((50)) <u>0</u>
Alternate Means of Compliance (demolitions or friable asbestos-containing material)	9.07.A or C	10 Days	Additional fee equal to project fee
Alternate Means of Compliance (non-friable asbestos-containing material)	9.07.B	10 Days	Additional fee equal to project fee
Exception for Hazardous Conditions	9.05.B	Concurrent with Project	Regular Project Fee
Annual	9.04.A.8	Prior Notice	\$1,000

* Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

** Except in the case where advance notice is not required pursuant to Section 9.04.C.2.

*** For an amendment where the project type or job size category is associated with a higher fee, a fee equal to the difference between the fee associated with the most recently submitted notification and the fee associated with the increased project type or job size category shall be submitted in addition to the ((50)) amendment fee.

B. The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

C. Where a compliance investigation is conducted pursuant to Section 9.04 of this Regulation, the compliance investigation fee shall be equal to \$50 per hour of compliance investigation.

D. The asbestos project fee in Section 10.09.a is waived for any demolition performed in accordance with RCW 52.12.150(6), where the good faith inspection is an asbestos survey, as defined in Section 9.02.G, performed by an AHERA Building Inspector, as defined in Section 9.02.A.

E. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 06-16-026
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed July 24, 2006, 4:23 p.m., effective August 24, 2006]

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

Purpose: To update standards for long-term care programs that became effective April 1, 2006, and to remove the actual numbers since these standards are based on the federal poverty level (FPL). This will avoid having to amend the rule each year when the FPL changes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075 and 388-478-0085.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 06-09-087 on April 18, 2006.

Changes Other than Editing from Proposed to Adopted Version: The date of the standard change is added to both WACs as is a link to the federal register online site giving the specific dollar standard amounts of the change.

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

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

((FAMILY SIZE	100% FPL	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$798	\$1061	\$1197	\$1476	\$1595	\$1755	\$1994
2	\$1070	\$1422	\$1604	\$1978	\$2139	\$2353	\$2673
3	\$1341	\$1784	\$2012	\$2481	\$2682	\$2950	\$3353
4	\$1613	\$2145	\$2419	\$2984	\$3225	\$3548	\$4032
5	\$1885	\$2506	\$2827	\$3486	\$3769	\$4146	\$4711
6	\$2156	\$2868	\$3234	\$3989	\$4312	\$4743	\$5390
7	\$2428	\$3229	\$3642	\$4491	\$4855	\$5341	\$6069
8	\$2700	\$3590	\$4049	\$4994	\$5399	\$5939	\$6748
9	\$2971	\$3952	\$4457	\$5497	\$5942	\$6536	\$7428
10	\$3243	\$4313	\$4864	\$5999	\$6485	\$7134	\$8107
Add to the ten person standard for each person over ten:	\$272	\$362	\$408	\$503	\$544	\$598	\$680))

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

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

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

Date Adopted: July 18, 2006.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 06-03-080, filed 1/12/06, effective 2/12/06)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) ~~((The department bases the income standard upon the))~~ Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <http://aspe.hhs.gov/poverty/index.shtml>. The income standards for the following medical programs change on the first of April every year based on the new FPL:

- (a) Children's health program is one hundred percent of FPL;
- (b) Pregnant women's program up to one hundred eighty-five percent of FPL;
- (c) Children's categorically needy program up to two hundred percent of FPL;
- (d) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and
- (e) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but not over two hundred fifty percent of FPL.

(2) The department uses the FPL income standards to determine:

- (a) The mandatory or optional Medicaid status of an individual; and
 - (b) Premium amount, if any, for a Medicaid child.
- (3) There are no resource limits for the programs under this section.

~~((4) Beginning April 1, 2005, the monthly FPL standards are:))~~

AMENDATORY SECTION (Amending WSR 05-17-157, filed 8/22/05, effective 9/22/05)

WAC 388-478-0085 Medicare savings programs—Monthly income ~~((and countable resources))~~ standards.

(1) The income standards for Medicare Savings Programs change each year based on the federal poverty level (FPL) published yearly by the federal government in the Federal Register at <http://aspe.hhs.gov/poverty/index.shtml>. The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the ~~((federal poverty level-))FPL(())~~. ~~((Beginning April 1, 2005, the QMB program's income standards are:))~~

((a) One person	\$798
((b) Two persons	\$1070))

(2) The ~~((special))~~ specified low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but not more than one hundred twenty percent of FPL. ~~((Beginning April 1, 2005, the SLMB program's income standards are:))~~

	((Minimum	Maximum
((a) One person	\$798.01	\$957
((b) Two persons	\$1070.01	\$1283))

(3) The qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but not more than one hundred thirty-five percent of FPL. ~~((Beginning April 1, 2005, the QI-1 program's income standards are:))~~

	((Minimum	Maximum
((a) One person	\$957.01	\$1077
((b) Two persons	\$1283.01	\$1444))

(4) The qualified disabled working individual (QDWI) program income standard is two hundred percent of FPL. ~~((Beginning April 1, 2005, the QDWI program's income standards are:))~~

((a) One person	\$1595
((b) Two persons	\$2139))

~~((5) The resource standard for the Medicare savings programs in this section is:))~~

((a) One person))	(((\$4000))
((b) Two persons))	(((\$6000))

WSR 06-16-031

**PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed July 25, 2006, 11:40 a.m., effective August 25, 2006]

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

Purpose: To comply with state statutes enacted on June 7, 2006 (E2SHB 3098, sections 301 through 335) that trans-

fers statutory authority from the Washington state board of education (SBE) to the office of superintendent of public instruction (OSPI) to adopt rules governing state assistance in providing school plant facilities to school districts. Rule changes serve only to indicate transfer of authority from SBE to OSPI and will not change existing requirements.

Citation of Existing Rules Affected by this Order: Amending chapters 180-31, 180-32, and 180-33 WAC.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 06-11-175 on May 24, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 34, Repealed 0.

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

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

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

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

Date Adopted: July 25, 2006.

Dr. Terry Bergeson
Superintendent

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 relating to authority of the ~~((state board of education))~~ superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions and disbursements of allotments to school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school plant facilities are RCW 28A.525.030, 28A.525.040, 28A.525.050, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-31-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC ~~((180-25-012))~~ 392-341-012.

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-020 Cooperative plan subject to ~~((state board))~~ the superintendent of public instruction approval. Any interdistrict financial plan for construction or modernization of school facilities utilizing state moneys in the financing of the proposed project, shall require approval

by the (~~state board of education~~) superintendent of public instruction prior to carrying into effect the provisions of such plan. (~~State board of education~~) The superintendent of public instruction approval is only required for projects utilizing state moneys.

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-025 Application provisions. For projects utilizing state moneys, the host district shall submit a written application to the superintendent of public instruction which shall include but not be limited to the following documents and data:

(1) A joint resolution by the board of directors of all participating school districts which shall:

(a) Confer contractual authority and subsequent ownership on the board of directors in which jurisdiction the school facility is to be located (host district) or, in the event of modernization, the board of directors in which jurisdiction the facility is located (host district);

(b) Designate such board of directors of the host district as the legal applicant. Evidence shall be submitted that the said resolution has been incorporated in the official record of the board of directors of each participating school district; and

(c) Certify that the facility shall be used for the purpose for which it was constructed unless an exception is granted by the (~~state board of education~~) superintendent of public instruction.

(2) Copy of contracts(s) between applicant district and participating school districts prepared in accordance with provisions in WAC (~~(180-31-030)~~) 392-345-030.

(3) A statement defining the education program or services to be offered and the number and grade level(s) by district of all students to be housed in the proposed new or modernized facility.

(4) A description of the proposed project including size in terms of square feet and the estimated cost of construction including professional services, sales tax, site acquisition and site development.

(5) An area map indicating location of schools within the participating school districts and the location of the proposed new or modernized school facility.

(6) A statement certifying that a separate account has been established into which participating districts make deposits in order to pay for all future minor repair and renovation costs.

AMENDATORY SECTION (Amending Order 13-83, filed 10/17/83)

WAC 180-31-030 Interdistrict cooperative agreements. Interdistrict agreements between applicant and participating districts shall contain and set forth a description of the following elements:

(1) Financial terms by which each cooperating district will participate in the cost of construction or modernization and operation of the school facility;

(2) Administration of the school facility and of the program or services to be offered therein and specific services to be utilized by each participating school district;

(3) Duration of the interdistrict cooperation agreement; and

(4) Procedures for dissolution of cooperative operation of the school facility including but not limited to the following:

(a) Ownership of all capital equipment and school facilities;

(b) Distribution of assets or the payments to be made to the participating districts; and

(c) Minimum period of operation prior to dissolution consideration and approval by the (~~state board of education~~) superintendent of public instruction in accordance with provisions hereinafter in WAC (~~(180-31-040)~~) 392-345-040.

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-035 Approval of program or services by superintendent of public instruction. Approval by the superintendent of public instruction of the educational program or services to be offered in the proposed new or modernized facility and the proposed administration of such program or services shall be a prerequisite for approval by the (~~state board of education~~) superintendent of public instruction of an interdistrict cooperative financial plan for construction of new or modernization of facilities when state moneys are provided.

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-040 Dissolution provisions. (1) Procedures for the dissolution of the operation of school facilities pursuant to an interdistrict cooperative agreement shall not be instituted prior to the expiration of ten years after the date of (~~state board of education~~) the superintendent of public instruction approval of the financial plan for the construction of such school facilities when such facilities were constructed with state moneys: Provided, That a request for dissolution prior to such ten-year period may be approved when, in the judgment of the (~~state board of education~~) superintendent of public instruction, there is substantiation of sufficient cause therefor.

(2) Any plan for dissolution as described in subsection (1) of this section shall be submitted to the (~~state board of education~~) superintendent of public instruction for review and approval prior to proceeding with dissolution action.

AMENDATORY SECTION (Amending WSR 98-19-144, filed 9/23/98, effective 10/24/98)

WAC 180-31-045 Interdistrict cooperation in financing school construction—Project construction approval required—Rules and regulations governing. A project to be constructed under interdistrict cooperative financing pursuant to provisions of RCW 28A.335.160 shall be subject to approval by the (~~state board of education~~) superintendent of public instruction only when state funds are involved in the

financing thereof and shall be in conformity with the applicable rules and regulations hereinafter prescribed. The applicant school district shall be responsible for compliance with said rules and regulations.

(1) Projects financed with state assistance.

(a) All rules and regulations promulgated by the ~~((state board of education))~~ superintendent of public instruction relating to school building construction shall govern the approval of an application for state assistance in financing an interdistrict cooperative project except such rules deemed by the superintendent of public instruction to be inapplicable to the said construction: Provided, That in the interest of program improvement and/or improvement in equalization of educational opportunities, the pertinent requirements relating to eligibility on the basis of number of unhoused children may be waived as shall be determined by the ~~((state board of education))~~ superintendent of public instruction.

(b) In determining the amount of state assistance, the principle to be applied shall be that each participating district, otherwise eligible for state assistance, shall receive such assistance on the basis of the computed area ratio. The amount that each participating district shall provide may be the percentage proportion that the value of its taxable property bears to the total value of taxable property of all participating districts or such other amounts as set forth in the contract submitted as are accepted and approved by the ~~((state board of education))~~ superintendent of public instruction.

(2) Application for additional state assistance. In the financing of interdistrict cooperative projects, applications for state assistance, in addition to the amount determined allocable under basic state support level provisions, shall be judged by the ~~((state board of education))~~ superintendent of public instruction on the basis of the need for said facilities for the expressed purpose of:

(a) Providing educational opportunities, including vocational skills programs not otherwise provided;

(b) Avoiding unnecessary duplication of specialized or unusually expensive educational programs or facilities; or

(c) Improving racial balance within and among participating districts.

(3) Determination of amount of additional state assistance. When in the judgment of the ~~((state board of education))~~ superintendent of public instruction an expressed need exists for an interdistrict cooperative project to achieve one or more of the expressed purposes as set forth in subsection (2) of this section and additional state assistance in financing said joint construction is necessary to meet such need, additional state assistance may be allowed in an amount to be determined by the ~~((state board))~~ superintendent of public instruction: Provided, That the total amount allotted shall not exceed ninety percent of the total project cost determined eligible for state matching purposes: Provided further, That the total funds available to the ~~((state board))~~ superintendent of public instruction for the biennial period are sufficient to meet statewide needs for state assistance in providing necessary school facilities to individual school districts as well as for this purpose.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
180-31-005	392-345-005
180-31-010	392-345-010
180-31-012	392-345-012
180-31-015	392-345-015
180-31-020	392-345-020
180-31-025	392-345-025
180-31-030	392-345-030
180-31-035	392-345-035
180-31-040	392-345-040
180-31-045	392-345-045

AMENDATORY SECTION (Amending WSR 98-19-145, filed 9/23/98, effective 10/24/98)

WAC 180-32-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 which authorizes the ~~((state board of education))~~ superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of moneys to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school facilities are RCW 28A.525.030, 28A.525.040, 28A.525.050, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending Order 15-83, filed 10/17/83)

WAC 180-32-010 Purpose. The purpose of this chapter is to set forth provisions applicable prior to a district's application for state assistance in the construction of interdistrict transportation cooperative facilities. Except as otherwise noted in this chapter, the rules and regulations which apply to state assistance in financing school facilities set forth below shall apply to the construction of interdistrict transportation cooperatives:

(1) Basic state support: WAC ~~((180-27-040, 180-27-060, and 180-27-070 through 180-27-125))~~ 392-343-040, 392-343-060, and 392-343-070 through 392-343-125.

(2) Procedural regulations: WAC ~~((180-29-055))~~ 392-344-055 through ((180-29-170)) 392-344-170.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-32-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC ~~((180-25-012))~~ 392-341-012.

AMENDATORY SECTION (Amending Order 15-83, filed 10/17/83)

WAC 180-32-015 Interdistrict transportation cooperative members—Definition. As used in this chapter:

(1) "Participating member" means a district in a cooperative which anticipates making full use of all the services offered by the cooperative and provides its agreed share of matching funds required by the ~~((state board of education))~~ superintendent of public instruction. A participating member must be a member of the cooperative for at least ten years.

(2) "Contract member" means a district which contracts to use the services of the cooperative as outlined in the initial agreement for at least three years. At a minimum, contracts for service shall include lubrication, oil and filter changes on a regular basis.

(3) "Applicant district" means the school district in which the proposed interdistrict transportation cooperative facility is to be located or in which the facility proposed for modernization is located. It shall be the responsibility of said applicant district to submit the application for financial plan approval.

AMENDATORY SECTION (Amending WSR 98-19-145, filed 9/23/98, effective 10/24/98)

WAC 180-32-020 Interdistrict transportation cooperative—Cooperative plan subject to ~~((state board of education))~~ the superintendent of public instruction approval. Any financial plan for construction of an interdistrict transportation cooperative utilizing state moneys in the financing of the proposed project, shall require approval by the ~~((state board of education))~~ superintendent of public instruction prior to implementing the provisions of such plan. ~~((State board of education))~~ The superintendent of public instruction approval is only required for projects utilizing state moneys.

AMENDATORY SECTION (Amending WSR 98-19-145, filed 9/23/98, effective 10/24/98)

WAC 180-32-025 Application provisions. For projects utilizing state moneys, the host school district shall submit a written application to the superintendent of public instruction which shall include but not be limited to the following documents and data:

(1) A joint resolution by the board of directors of all participating school districts which shall:

(a) Confer contractual authority and subsequent ownership on the board of directors in which jurisdiction the facility is to be located or, in the event of modernization, in which jurisdiction the facility is located (host district);

(b) Designate such board of directors as the legal applicant; and

(c) A copy of the official record of the board of directors of each participating school district indicating that the resolution has been formally adopted.

(2) Copy of contract(s) between districts prepared in accordance with chapter ~~((480-34))~~ 392-345 WAC.

(3) A written description of services to be offered in the proposed interdistrict transportation cooperative, including

number of districts involved and whether or not cooperating members are participating districts or contract districts; the number of buses from each participating and contract district to be serviced, and number of bus miles traveled per year for each participating and contract district.

(4) A description of the proposed project including square footage and the estimated cost of construction including professional services, sales tax, site costs, and site development.

(5) An area map indicating location of the facility in relationship to the participating and contract school districts.

(6) A statement certifying that a separate account has been established into which participating districts make deposits in order to pay for all future minor repair and renovation costs.

AMENDATORY SECTION (Amending Order 15-83, filed 10/17/83)

WAC 180-32-030 Interdistrict agreements. Interdistrict agreements between participating and contract districts shall contain and set forth descriptions of the following elements:

(1) Financial terms by each cooperating district shall participate in the cost of construction or modernization and operation of the facility.

(2) The district administering the facility and the program or services to be offered therein and specific services to be utilized by each participating school district.

(3) Duration of the interdistrict cooperation agreement.

(4) Procedures for dissolution of cooperative operation of the facility including but not limited to the following:

(a) Ownership of all capital equipment and facilities;

(b) Distribution of assets or the payments to be made to the participating districts; and

(c) Minimum period of operation prior to dissolution consideration and approval by the ~~((state board of education))~~ superintendent of public instruction in accordance with chapter ~~((480-34))~~ 392-345 WAC.

AMENDATORY SECTION (Amending WSR 98-19-145, filed 9/23/98, effective 10/24/98)

WAC 180-32-035 Approval—~~((State board of education))~~ The superintendent of public instruction. Approval by the superintendent of public instruction of services to be offered in the proposed interdistrict transportation cooperative and the proposed district administration of such program or services shall be a prerequisite for approval by the ~~((state board of education))~~ superintendent of public instruction of an interdistrict cooperative financial plan for construction of new facilities or modernization of existing facilities when state moneys are provided.

AMENDATORY SECTION (Amending WSR 98-19-145, filed 9/23/98, effective 10/24/98)

WAC 180-32-040 Dissolution provisions. (1) Procedures for the dissolution of the operation of interdistrict cooperatives under an interdistrict cooperative agreement shall not be instituted prior to the expiration of ten years after the date

of (~~the state board of education~~) the superintendent of public instruction approval of the financial plan for the construction of such school facilities when such facilities were constructed with state moneys: Provided, That a request for dissolution prior to the expiration of ten years may be approved when in the judgment of the (~~the state board of education~~) superintendent of public instruction there is substantiation of sufficient cause therefor.

(2) Any plan for dissolution as described in subsection (1) of this section shall be submitted to the (~~the state board of education~~) superintendent of public instruction for review and written approval prior to proceeding with dissolution action.

AMENDATORY SECTION (Amending Order 15-83, filed 10/17/83)

WAC 180-32-060 Design team—Architect/engineering services. Architect/engineering service fees for matching purposes shall be determined pursuant to WAC (~~180-27-070~~) 392-343-070.

AMENDATORY SECTION (Amending Order 15-83, filed 10/17/83)

WAC 180-32-070 Interdistrict transportation cooperatives—State assistance. In the financing of an approved interdistrict transportation cooperative, the (~~the state board of education~~) superintendent of public instruction shall provide ninety percent of the total approved project cost determined eligible for state matching purposes.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
180-32-005	392-346-005
180-32-010	392-346-010
180-32-012	392-346-012
180-32-015	392-346-015
180-32-020	392-346-020
180-32-025	392-346-025
180-32-030	392-346-030
180-32-035	392-346-035
180-32-040	392-346-040
180-32-045	392-346-045
180-32-050	392-346-050
180-32-060	392-346-060
180-32-065	392-346-065
180-32-070	392-346-070

AMENDATORY SECTION (Amending WSR 98-19-138, filed 9/23/98, effective 10/24/98)

WAC 180-33-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 which authorizes the (~~state~~

~~board of education~~) superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of moneys to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school facilities are RCW 28A.525.030, 28A.525.040, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-33-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC (~~180-25-012~~) 392-341-012.

AMENDATORY SECTION (Amending WSR 91-12-058, filed 6/5/91, effective 7/6/91)

WAC 180-33-013 Annually determined building replacement value. The annually determined building replacement value for any building in any year is the state determined maximum area cost allowance for July of that year times the gross square footage determined under WAC (~~180-27-040~~) 392-343-040.

AMENDATORY SECTION (Amending WSR 05-23-046, filed 11/9/05, effective 12/10/05)

WAC 180-33-015 Eligibility for state financial assistance. (1) In order to be eligible for state financial assistance, a modernization project shall have as its principal purpose one or more of the following:

- (a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;
- (b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility;
- (c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state financial assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:
 - (i) Elementary school facility—500 pupils;
 - (ii) Middle or junior high school facility—700 pupils;
 - (iii) Senior high school facility—850 pupils;

Provided, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district demonstrates the existence of unhoused students, state financial assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC (~~180-33-040~~) 392-347-040; or

- (d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the ~~((state board of education))~~ superintendent of public instruction, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter ~~((180-25))~~ 392-341 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state assistance under the authority of this chapter within the previous thirty years.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-33-020 Formula for determining the amount of state assistance. State assistance in an approved modernization project shall be derived by applying the percentage of state assistance determined pursuant to provisions of RCW 28A.525.166 and WAC ~~((180-27-025))~~ 392-343-025 to the eligible cost which shall be calculated by multiplying the approved square foot area of the modernization project by the area cost allowance for the fiscal year funded, less any deductions as set forth in WAC ~~((180-33-023))~~ 392-347-023 if applicable, by the factor in WAC ~~((180-33-040))~~ 392-347-040 set forth, any cost in excess thereof shall be financed entirely by the school district.

AMENDATORY SECTION (Amending WSR 01-09-012, filed 4/6/01, effective 5/7/01)

WAC 180-33-023 State assistance in post 1992 facilities. State assistance for modernization of school facilities accepted by the school district board of directors after January 1, 1993, shall be limited according to the following conditions:

(1) A school facility shall be ineligible for state assistance if the total expenditures for maintenance of plant and

equipment for that facility during the fifteen-year period immediately preceding the project application was below one-half of one percent of the total of the annually determined building replacement values during the same period;

(2) The allowable cost per square foot used to determine the amount of state assistance in any modernization project where the total expenditures for maintenance of plant and equipment for that facility during the fifteen-year period immediately preceding the project application was at least one-half but less than two percent of the total of the annually determined building replacement values during the same period shall be reduced as follows:

(a) The allowable cost per square foot shall be reduced by twenty-two and one-half percent where the above expenditure is at least one-half but less than one percent;

(b) The allowable cost per square foot shall be reduced by fifteen percent where the above expenditure is at least one but less than one and one-half percent;

(c) The allowable cost per square foot shall be reduced by seven and one-half percent where the above expenditure is at least one and one-half but less than two percent;

(3) No reduction in the allowable cost per square foot shall be applied to any modernization project where the total expenditures for maintenance of plant and equipment for that facility during the fifteen-year period immediately preceding the project application was two percent, or greater, of the total of the annually determined building replacement values during the same period;

(4) A district shall not be allowed to replace a school facility through new construction in lieu of modernization under WAC ~~((180-33-042))~~ 392-347-042 where the total expenditures for maintenance of plant and equipment for that facility during the fifteen-year period immediately preceding the project application was below two percent of the total of the annually determined building replacement values during the same period.

(5) For the purpose of this section "maintenance of plant and equipment" shall be general fund expenditures charged to maintenance and operations activities 61-supervision and 64-maintenance and capital projects fund expenditures charged to type code 22-remodeling and 42-capital improvements as defined in the *Accounting Manual for Public School Districts*.

AMENDATORY SECTION (Amending WSR 05-19-109, filed 9/20/05, effective 10/21/05)

WAC 180-33-025 Space eligible for state financial assistance in modernization. Space allowance and enrollment projection provision for state matching purposes.

(1) In planning for modernization in any school facility, under the provisions of WAC ~~((180-33-015))~~ 392-347-015 (1)(a) and (b), a school district shall estimate capacity needs on the basis of a cohort survival enrollment as per WAC ~~((180-27-045))~~ 392-343-045. Any space above and beyond a school district's estimated capacity needs as calculated on the basis of a five-year cohort survival or adjusted cohort survival enrollment shall not be eligible for state financial assistance in modernization.

(2) The changes to this section shall take effect January 1, 2006: Provided, That those districts having authorized bond issues and/or excess tax levies for their building funds for specific school construction projects as identified in ballot propositions on or before July 1, 2006, may, when requesting ~~((state board of education))~~ the superintendent of public instruction consideration of state assistance for such projects, determine, in computing the amount of eligible space for modernization, the state will match the entire facility of three quarters of the overall square footage of the school districts' facilities is eligible for state financial assistance: Provided further, That the provision shall not be applicable to new construction in lieu of modernization facility projects authorized by this chapter.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-33-030 Certification of continued use. Any school facilities modernized under WAC ~~((180-33-015))~~ 392-347-015 must be used for at least five years beyond the completion of modernization. School directors will pass a resolution and submit it to the ~~((state board of education))~~ superintendent of public instruction that the modernized facility will be used for instructional purposes for five years after the completion of the project. If the school facility is not used for instructional purposes during this five-year period, the amount of state money allocated and spent for the modernization project must be returned to the state school building construction fund. The five-year use requirement and the five year prohibition against additional modernization funding shall be waived in the event that a facility is rendered permanently unusable before the end of the five-year period by an unforeseen natural event. The definition of "unforeseen natural event" shall be as set forth in RCW 28A.150.290.

AMENDATORY SECTION (Amending WSR 05-19-110, filed 9/20/05, effective 10/21/05)

WAC 180-33-035 Minimum project—Forty percent of replacement costs. (1) State assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance. The estimated cost of replacement shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the area cost allowance for the fiscal year funded as in WAC ~~((180-27-045))~~ 392-343-045 set forth.

(2) The ~~((state board of education))~~ superintendent of public instruction may grant a waiver from subsection (1) of this section in the event of an unanticipated increase in the area cost allowance that might cause prior approved projects expecting state assistance to become disqualified for such assistance.

AMENDATORY SECTION (Amending WSR 05-19-111, filed 9/20/05, effective 10/21/05)

WAC 180-33-040 Maximum costs eligible for state matching purposes—One hundred percent of replacement cost. State assistance for modernization projects shall not exceed one hundred percent of the cost of new construction of a comparable school facility based on the prevailing level of state support as defined in chapter ~~((180-27))~~ 392-343 WAC. Costs exceeding one hundred percent shall be paid by the local district.

AMENDATORY SECTION (Amending WSR 01-14-019, filed 6/26/01, effective 7/27/01)

WAC 180-33-042 Replacement option. A district with space eligible for modernization pursuant to WAC ~~((180-33-015))~~ 392-347-015 and ~~((180-33-025))~~ 392-347-025 may elect to replace such space through new construction in lieu of modernization. In such case, the district shall apply for a new school facility in accordance with applicable rules and regulations pertaining to new school plant facilities and the local board shall certify that after the new construction is finally completed:

- (1) The existing building or space to be replaced will not be used for district instructional purposes; and
- (2) The existing building or space will be ineligible for any future state financial assistance.

Further, if the existing building or space is subsequently returned by the district to instructional purposes in whole or in part, the district shall become ineligible for any state construction financial assistance for a period of ten years from the date that the ~~((executive director or the chief executive officer of the state board notifies the board during the course of an open public meeting or))~~ superintendent of public instruction sends written notice to members of the local board ~~((of))~~ recognizing the return of the building in whole or in part to instructional purposes. Districts exercising this election shall be limited in state assistance to the provision of WAC ~~((180-33-040))~~ 392-347-040. In the event the district elects to replace a facility and construct a new facility with more space than the facility being replaced, the additional space, in order to be eligible for state assistance shall meet the eligibility requirements for new construction or the new construction component requirement of WAC ~~((180-33-015))~~ 392-347-015 (1)(c): Provided, That no new construction in lieu of modernization project may qualify for additional state assistance pursuant to WAC ~~((180-27-115))~~ 392-343-115 unless the facility being replaced would have qualified pursuant to such section for additional state assistance as a modernization project.

(3) The ~~((state board of education))~~ superintendent of public instruction may waive the provisions of this section for a period it determines is appropriate to the particular situation. A waiver request must be submitted in writing to the superintendent of public instruction. The superintendent of public instruction shall review the waiver request and ~~((make a written recommendation to the state board of education to))~~ approve or deny the request. The waiver request shall include, but not be limited to, the following information:

- (a) Description of the district's planning process;

- (b) Rationale why the need for the waiver request was not anticipated;
- (c) The requested length of time of the waiver;
- (d) The availability of funding for proposed projects;
- (e) List of specific projects and timelines;
- (f) List of the specific student groups that will use the facility;
- (g) Rationale why this is the best use of facilities and public funds;
- (h) Assurance that the facility meets health and safety standards for occupancy.

AMENDATORY SECTION (Amending Order 16-83, filed 10/17/83)

WAC 180-33-045 Architect and engineering services. In the allocation of state funds for an approved modernization project, architectural and engineering services eligible for state matching purposes shall not exceed one and one-half times the architectural and engineering services as in chapter ~~((180-27))~~ 392-343 WAC set forth.

AMENDATORY SECTION (Amending Order 16-83, filed 10/17/83)

WAC 180-33-050 Study and survey of school district as prerequisite. A survey of facilities proposed for modernization conducted under the direction of the superintendent of public instruction as per chapter ~~((180-25))~~ 392-341 WAC shall be a prerequisite for consideration of an application for state participation in financing of a modernization project.

AMENDATORY SECTION (Amending Order 16-83, filed 10/17/83)

WAC 180-33-055 Regulations governing. In addition to the regulations hereinbefore in chapter ~~((180-33))~~ 392-347 WAC prescribed; all regulations governing the basic assistance program prescribed in chapters ~~((180-25, 180-26, 180-27, and 180-29))~~ 392-341, 392-342, 392-343, and 392-344 WAC shall govern administration of state participation in financing modernization of school facilities: Provided, That compliance with those regulations not pertinent to modernization projects as determined by the superintendent of public instruction shall not be required.

AMENDATORY SECTION (Amending Order 16-83, filed 10/17/83)

WAC 180-33-060 Procedural requirements. The superintendent of public instruction shall determine procedures and forms for the administration of state participation in financing modernization of school facilities, such procedures and forms to be in addition to or in lieu of procedural requirements prescribed in chapter ~~((180-29))~~ 392-344 WAC.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
WAC 180-33-005	WAC 392-347-005
WAC 180-33-007	WAC 392-347-007
WAC 180-33-010	WAC 392-347-010
WAC 180-33-012	WAC 392-347-012
WAC 180-33-013	WAC 392-347-013
WAC 180-33-015	WAC 392-347-015
WAC 180-33-020	WAC 392-347-020
WAC 180-33-023	WAC 392-347-023
WAC 180-33-025	WAC 392-347-025
WAC 180-33-030	WAC 392-347-030
WAC 180-33-035	WAC 392-347-035
WAC 180-33-040	WAC 392-347-040
WAC 180-33-042	WAC 392-347-042
WAC 180-33-045	WAC 392-347-045
WAC 180-33-050	WAC 392-347-050
WAC 180-33-055	WAC 392-347-055
WAC 180-33-060	WAC 392-347-060

**WSR 06-16-032
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed July 25, 2006, 11:42 a.m., effective August 25, 2006]

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

Purpose: To comply with the state statutes enacted on June 7, 2006 (E2SHB 3098, sections 301 through 335) that transfers statutory authority from the Washington state board of education (SBE) to the office of superintendent of public instruction (OSPI) to adopt rules governing state assistance in providing school plant facilities to school districts. Rule changes serve only to indicate transfer of authority from SBE to OSPI and will not change existing requirements.

Citation of Existing Rules Affected by this Order: Amending chapters 180-25, 180-26, 180-27, and 180-29 WAC.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 06-11-176 on May 24, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 95, Repealed 0.

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

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

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

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

Date Adopted: July 25, 2006.

Dr. Terry Bergeson
Superintendent

AMENDATORY SECTION (Amending WSR 98-19-139, filed 9/23/98, effective 10/24/98)

WAC 180-25-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 which authorizes the ~~((state board of education))~~ superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of moneys to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school facilities are RCW 28A.525.030, 28A.525.-040, 28A.525.050, 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-25-012 Waiver of rules to facilitate alternative public works contracting procedures. (1) Subject to factual determinations by the superintendent of public instruction, the provisions of chapters ~~((180-25))~~ 392-341 through ~~((180-33))~~ 392-347 WAC which supplement statutory requirements are hereby deemed waived to the extent any provision would prevent or delay the implementation of alternative public works contracting procedures pursuant to chapter 39.10 RCW.

(2) At the request of school district officials, the superintendent of public instruction or her/his designee shall factually determine on a case-by-case basis which provisions would prevent or delay the implementation of alternative public works contracting procedures, and advise officials in writing of the extent to which one or more provisions of chapters ~~((180-25))~~ 392-341 through ~~((180-33))~~ 392-347 WAC are hereby deemed to have been waived.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-25-015 Definition—School facilities. As used in this chapter, and in chapters ~~((180-26))~~ 392-342 through ~~((180-33))~~ 392-347 WAC, the term "school facilities" means school plant facilities, school plant projects, school buildings, common school facilities and the grounds as those terms are utilized in chapter 28A.525 RCW. Any structure not placed on a permanent foundation shall be excluded from this definition.

AMENDATORY SECTION (Amending Order 9-83, filed 10/17/83)

WAC 180-25-020 District application—Study and survey. Prior to ~~((state board of education))~~ the superintendent of public instruction consideration of state assistance in providing school facilities, the board of directors of a school district shall file with the superintendent of public instruction an application for each school facility project, whether new construction or modernization of an existing facility, and shall request the superintendent of public instruction to study and survey existing and proposed school facilities within the district.

AMENDATORY SECTION (Amending WSR 98-19-139, filed 9/23/98, effective 10/24/98)

WAC 180-25-025 State study and survey—Content. The study and survey to be conducted by the superintendent of public instruction with the cooperation of the local school district shall include the following:

(1) An inventory and area analysis of existing school facilities within the district, a description of the types and kinds of systems and subsystems used in those facilities and their physical condition;

(2) A long-range (i.e., minimum of six years) educational and facilities plan setting forth the projected facility needs and priorities of the district based on the educational plan;

(3) Demographic data including population projections and projected economic growth and development;

(4) The ability of such district to provide capital funds by local effort;

(5) The existence of a school housing emergency;

(6) The need to improve racial balance and/or to avoid creation or aggravation of racial imbalance;

(7) The type and extent of new and/or additions to existing school facilities required and the urgency of need for such facilities;

(8) A cost/benefit analysis on the need to modernize and/or replace existing school facilities in order to meet current educational needs and the current state building code;

(9) The need and the estimated capital cost to restore, to design specifications, the major systems and subsystems in the facilities that have deteriorated due to deferred maintenance.

(10) A determination of the district's time line for completion of the school facilities project;

(11) An inventory of accessible unused or underutilized school facilities in neighboring school districts and the physical condition of such school facilities;

(12) The need for adjustments of school attendance areas among or within such districts; and

(13) Such other matters as the superintendent of public instruction deems pertinent to ~~((a))~~ decision ~~((by the state board of education))~~ making in the allocation of funds for school facilities. Cooperation by the applicant school district in conducting the study and survey is a requisite for the superintendent of public instruction to complete the study and survey and to establish the eligibility of the district for state assistance in school facility construction.

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92, effective 9/3/92)

WAC 180-25-030 State study and survey—Local involvement. When in the judgment of the superintendent of public instruction information is not readily available to complete the state study and survey or the superintendent of public instruction determines that an existing study and survey, although completed within the previous six years, is out of date, the superintendent of public instruction shall ~~((request the state board of education to))~~ approve a district's request for state assistance to offset all or a portion of the cost of acquiring such information ~~((If the state board of education concurs that such information is incomplete or the state study and survey is out of date, the state board of education shall approve such request unless the state board of education determines))~~ unless it is determined that there is no possibility that the district will be eligible for state assistance within the next seventy-two months. Such assistance shall be based on a minimum flat grant for each enrollment category plus a variable allocation based on the district's estimated gross square footage of existing school facilities and in accordance with the following schedule:

Headcount Enrollment Categories

Enrollment of 1 to 500—Minimum grant plus square footage allocation

Enrollment of 501 to 3,000—Minimum grant plus square footage allocation

Enrollment of 3,001 to 10,000—Minimum grant plus square footage allocation

Enrollment of above 10,000—Minimum grant plus square footage allocation

The dollar amount for the minimum grants and the square footage allocations for these categories shall be established annually by the ~~((state board of education))~~ superintendent of public instruction.

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-25-035 State study and survey—~~((State board of education review))~~ Superintendent of public instruction. The state study and survey, together with recommendations prepared by the superintendent of public instruction, if any, shall be transmitted to the board of directors of the affected school district(s) ~~((affected))~~ for written comment by such district or districts ~~((prior to transmittal of such study and survey to the state board of education))~~. Once the superintendent of public instruction has received the written comments of the district(s) affected, including a request for one or more project approvals pursuant to WAC ~~((180-25-040))~~ 392-341-040, the state study and survey and the preliminary recommendations of the superintendent of public instruction, together with any written comments by the school district board of directors, shall ~~((be transmitted to the state board of education for review and))~~ undergo a final review by the superintendent of public instruction prior to action pursuant to WAC ~~((180-25-040))~~ 392-341-040.

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-25-037 Out of date state study and survey. The state board of education, commencing January 1, 1985, or the superintendent of public instruction, commencing June 7, 2006, shall not grant approval of state assistance pursuant to WAC ~~((180-25-040))~~ 392-341-040 to a district without consideration of a state study and survey conducted within the preceding six years that addresses such project.

AMENDATORY SECTION (Amending WSR 98-19-139, filed 9/23/98, effective 10/24/98)

WAC 180-25-040 State study and survey—~~((State board of education))~~ Superintendent of public instruction approval or denial. Upon receipt of a request for one or more project approvals and after review of the state study and survey, together with recommendations and comments, the ~~((state board of education))~~ superintendent of public instruction shall in accordance with WAC ~~((180-25-045))~~ 392-341-045 take one of the following actions:

(1) Deny approval of state assistance for the construction and/or modernization of school facilities; or

(2) Grant approval of state assistance for the construction and/or modernization of school facilities by authorizing the maximum area allowance eligible for state financial assistance for each school plant project approved and for which the superintendent of public instruction shall issue an appropriate SPI form and state any conditions that may or may not be applicable including whether ~~((the state board of education has approved or denied))~~ eligibility was approved or denied for additional state assistance pursuant to WAC ~~((180-27-115))~~ 392-343-115 for one or more approved school plant projects or whether such decision ~~((by the state board of education))~~ for any approved school plant project has been deferred due to insufficient factual information for a determination or due to a request by the district to present the necessary factual information ~~((at a subsequent state board of education meeting))~~ to the superintendent of public instruction. Upon receipt of the ~~((state board of education))~~ superintendent of public instruction approval, the school district is authorized to prepare educational specifications pursuant to chapter ~~((180-26))~~ 392-342 WAC. Project approval shall become null and void one year from the date of ~~((state board))~~ the superintendent of public instruction action unless the district:

(a) Obtains local capital funds to provide the districts share of the estimated cost;

(b) Completes the educational specifications pursuant to chapter ~~((180-26))~~ 392-342 WAC; and

(c) Selects a site pursuant to chapter ~~((180-26))~~ 392-342 WAC.

AMENDATORY SECTION (Amending Order 1-86, filed 2/4/86)

WAC 180-25-043 ~~((State board of education))~~ Superintendent of public instruction commitment at project approval. ~~((State board of education))~~ The superintendent of public instruction project approval pursuant to WAC ~~((180-~~

~~25-040~~) 392-341-040 defines the type of project and the maximum allowable square footage in which the state conditionally agrees to participate. There is no commitment whatsoever by the ~~((state board of education))~~ superintendent of public instruction or the state to any project or to any amount of state assistance. The ~~((state board of education))~~ superintendent of public instruction reserves the right to amend and/or repeal any rule(s) respecting state assistance in school building construction. Such rule changes may be made regardless of the negative and/or positive impact of such changes upon the eligibility of any project for state assistance and/or the extent of eligibility of any project for state assistance.

AMENDATORY SECTION (Amending WSR 98-19-139, filed 9/23/98, effective 10/24/98)

WAC 180-25-045 Approval criteria for state assistance. The ~~((state board of education))~~ superintendent of public instruction shall conditionally agree to state assistance for a school facility or facilities for a school district that demonstrates the following:

(1) The existence of unhoused students which for the purpose of this section shall mean current or projected enrolled students who are in excess of the capacity calculated for existing facilities within the district pursuant to chapter ~~((180-27))~~ 392-343 WAC: Provided, That current or projected enrolled students shall not be designated as unhoused for a high school district of application which has a student enrollment of four hundred or less in grades nine through twelve, if the students involved or affected can be served without undue inconvenience in a neighboring school, or schools of larger size and the neighboring school district has indicated a willingness to serve, and has the capacity to house the applying district high school students; and

(2) The ability of the district to provide any necessary capital funds by local effort: Provided, That the existence of unhoused students provision of subsection (1) of this section shall not be required for approval of the following school facilities projects: Interdistrict cooperative centers authorized by chapter ~~((180-31))~~ 392-345 WAC, interdistrict transportation cooperatives authorized by chapter ~~((180-32))~~ 392-346 WAC, and modernization and new construction authorized by chapter ~~((180-33))~~ 392-347 WAC.

AMENDATORY SECTION (Amending WSR 98-19-139, filed 9/23/98, effective 10/24/98)

WAC 180-25-055 Conditions applicable to district's authority to proceed. The authorization by the ~~((state board of education))~~ superintendent of public instruction pursuant to WAC ~~((180-25-040))~~ 392-341-040 for the district to proceed for particular school facilities is subject to the conditions of WAC ~~((180-29-107))~~ 392-344-107. Therefore, districts receiving approval by the ~~((state board of education))~~ superintendent of public instruction pursuant to WAC ~~((180-25-040))~~ 392-341-040 are on notice that until approval is granted pursuant to WAC ~~((180-29-107))~~ 392-344-107 (i.e., the issuance of an appropriate SPI form by the superintendent of public instruction) the particular school facilities do not have secured funding status.

AMENDATORY SECTION (Amending WSR 90-01-075, filed 12/19/89, effective 12/19/89)

WAC 180-25-075 Eligibility for state assistance for new construction—Contents of survey. The survey required in WAC ~~((180-25-070))~~ 392-341-070 shall include at a minimum:

- (1) A listing of contiguous school districts.
- (2) Name and title of each person contacted regarding availability of facilities.
- (3) A listing of available facilities including location.

AMENDATORY SECTION (Amending WSR 90-01-075, filed 12/19/89, effective 12/19/89)

WAC 180-25-080 Eligibility for state assistance for new construction—Application to superintendent of public instruction—Necessary documentation. As part of the application submitted to the superintendent of public instruction, the district applying for state assistance for new construction shall include:

(1) A copy of the survey conducted pursuant to WAC ~~((180-25-070))~~ 392-341-070.

(2) A board resolution certifying one of the following:

- (a) No suitable space is available in any contiguous district;

(b) Space is available in a contiguous district but the facilities do not meet needs of the applicant district. The applicant district shall provide substantial evidence to support the unsuitability of the available facility;

(c) Space is available in a contiguous district but good faith negotiations did not lead to an agreement between the applicant district and the district containing the available facility. The applicant district shall provide substantial evidence to support the lack of lease agreement including a history of the negotiations and proposed offers by each district.

(3) Other information deemed pertinent by the applicant district.

AMENDATORY SECTION (Amending WSR 90-01-075, filed 12/19/89, effective 12/19/89)

WAC 180-25-085 Eligibility for state assistance for new construction—Review of survey of available and suitable school plant facilities in contiguous school districts. The superintendent of public instruction shall review and approve the applicant school boards certification and supporting documentation submitted pursuant to WAC ~~((180-25-080))~~ 392-341-080, if the certification is complete, technically accurate, and complies with all applicable rules and regulations. Until this certification and supporting documentation is approved by the superintendent of public instruction, the school district's application for state assistance will not be ~~((forwarded to the state board of education))~~ given further consideration.

AMENDATORY SECTION (Amending WSR 90-01-075, filed 12/19/89, effective 12/19/89)

WAC 180-25-090 Eligibility for state assistance for new construction—Approval by ((state board of education)) the superintendent of public instruction of applicant's school district certification. ((Upon presentation by)) The superintendent of public instruction((, the state board of education)) shall approve an applicant school district's certification of the unavailability of suitable school plant facilities in contiguous school districts if it is established to the ((state board of education's)) superintendent of public instruction's satisfaction that vacant, available, and suitable school plant facilities neither exist nor are scheduled to exist within the foreseeable future in a contiguous school district.

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-25-200 Forms. Commencing January 1, 1986, forms applicable to provisions of this chapter for school facilities requested after such date shall be as follows:

(1) Applications for a state study and survey by a district pursuant to WAC ((180-25-020)) 392-341-020 shall be designated as SPI Form D-1.

(2) Planning grants to districts pursuant to WAC ((180-25-030)) 392-341-030 shall be awarded to such districts through SPI Form D-2.

(3) Applications for approval of a school project by a district pursuant to WAC ((180-25-040)) 392-341-040 shall be designated as SPI Form D-3.

(4) Project approval for districts pursuant to WAC ((180-25-040)) 392-341-040 shall be awarded to such district through SPI Form D-4.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
WAC 180-25-005	WAC 392-341-005
WAC 180-25-010	WAC 392-341-010
WAC 180-25-012	WAC 392-341-012
WAC 180-25-015	WAC 392-341-015
WAC 180-25-020	WAC 392-341-020
WAC 180-25-025	WAC 392-341-025
WAC 180-25-030	WAC 392-341-030
WAC 180-25-035	WAC 392-341-035
WAC 180-25-037	WAC 392-341-037
WAC 180-25-040	WAC 392-341-040
WAC 180-25-043	WAC 392-341-043
WAC 180-25-045	WAC 392-341-045
WAC 180-25-055	WAC 392-341-055
WAC 180-25-060	WAC 392-341-060
WAC 180-25-065	WAC 392-341-065
WAC 180-25-070	WAC 392-341-070

Old WAC Number	New WAC Number
WAC 180-25-075	WAC 392-341-075
WAC 180-25-080	WAC 392-341-080
WAC 180-25-085	WAC 392-341-085
WAC 180-25-090	WAC 392-341-090
WAC 180-25-200	WAC 392-341-200

AMENDATORY SECTION (Amending WSR 98-19-140, filed 9/23/98, effective 10/24/98)

WAC 180-26-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 relating to authority of the ((state board of education)) superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allocations to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school facilities are RCW 28A.525.030, 28A.525.040, 28A.525.050, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-26-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC ((180-25-012)) 392-341-012.

AMENDATORY SECTION (Amending WSR 99-24-046, filed 11/24/99, effective 12/25/99)

WAC 180-26-040 District authority to proceed. Upon completion of the educational specifications and the site review by the superintendent of public instruction as provided for in WAC ((180-26-020)) 392-342-020, the school district is authorized to proceed as follows:

(1) Commence with the design of the school facility in accordance with the district's educational specifications.

(2) Complete the energy conservation report pursuant to WAC ((180-27-075)) 392-343-075.

(3) Complete a value engineering study and constructability review pursuant to WAC ((180-27-080)) 392-343-080.

(4) Contract for building commissioning pursuant to WAC ((180-27-080)) 392-343-080.

(5) Contract for construction management pursuant to WAC ((180-27-102)) 392-343-102.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-26-050 Option to request preliminary funding status prior to proceeding pursuant to WAC ((180-26-040)) 392-342-040. As used in chapters ((180-26, 180-27,)) 392-342, 392-343, and ((180-29)) 392-344 WAC, the term "preliminary funding status" shall mean the project shall be considered for approval pursuant to WAC ((180-29-107)) 392-344-107 prior to projects without such preliminary

funding status and shall be eligible for state assistance pursuant to the ((state board of education)) superintendent of public instruction rules pertaining to eligible square footage, area cost allowance for the fiscal year funded, and priorities in effect at the time such status is granted. Any district may request the superintendent of public instruction to grant preliminary funding status for any project with secured local capital funds and authority to proceed pursuant to WAC ((180-26-040)) 392-342-040. The superintendent of public instruction shall grant such approval if in the judgment of the superintendent of public instruction such project will receive approval pursuant to WAC ((180-29-107)) 392-344-107 within one year.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-26-057 ((State board of education)) The superintendent of public instruction project commitment at preliminary funded status. When preliminary funding status for a project is requested and granted pursuant to WAC ((180-26-050)) 392-342-050, the ((state board of education)) superintendent of public instruction commitment is limited to the eligibility of the project for state assistance, the eligible square footage, the area cost allowance for the fiscal year funded and the priority standing of the project as determined pursuant to the state building assistance rules in effect at that time. This commitment is effective only for the initial one-year period set forth at WAC ((180-26-060)) 392-342-060. The ((state board of education)) superintendent of public instruction reserves the right to amend and/or repeal any rule(s) respecting state assistance in school building construction. Such rule changes may be made regardless of the impact upon the eligibility of any project and/or the extent of eligibility of any project for state assistance.

AMENDATORY SECTION (Amending WSR 91-12-055, filed 6/5/91, effective 7/6/91)

WAC 180-26-060 Loss of preliminary funding status. All districts granted preliminary funding status for a project pursuant to WAC ((180-26-050)) 392-342-050 shall request approval to bid such project pursuant to WAC ((180-29-107)) 392-344-107 within one year of receiving preliminary funding status or shall have such status withdrawn. A district with a project so withdrawn may reapply pursuant to WAC ((180-26-050)) 392-342-050 for such status.

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-26-200 Forms. Commencing January 1, 1986, forms applicable to the provisions of this chapter for school facilities projects after such date shall be as follows:

(1) Applications for preliminary funding status pursuant to WAC ((180-26-050)) 392-342-050 shall be designated as SPI Form D-5.

(2) Grants of preliminary funding status pursuant to WAC ((180-26-050)) 392-342-050 shall be given to districts through SPI Form D-6.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
WAC 180-26-005	WAC 392-342-005
WAC 180-26-010	WAC 392-342-010
WAC 180-26-012	WAC 392-342-012
WAC 180-26-015	WAC 392-342-015
WAC 180-26-020	WAC 392-342-020
WAC 180-26-025	WAC 392-342-025
WAC 180-26-040	WAC 392-342-040
WAC 180-26-050	WAC 392-342-050
WAC 180-26-057	WAC 392-342-057
WAC 180-26-060	WAC 392-342-060
WAC 180-26-200	WAC 392-342-200

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 relating to authority of the ((state board of education)) superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provisions of chapter 28A.525 RCW currently applicable to state assistance for school plant facilities are RCW 28A.525.030, 28A.525.040, 28A.525.050, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending Order 11-83, filed 10/17/83)

WAC 180-27-010 Purpose. The purpose of this chapter is to set forth provisions applicable to basic state support and assistance in the construction of school facilities, including ((state board of education)) the superintendent of public instruction approval criteria. The limitations set forth represent the level of state support within moneys available and are not to be interpreted as maximum criteria to meet the educational requirements of all school districts, the determination of such criteria being the prerogative of respective school districts.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-27-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC ((180-25-012)) 392-341-012.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-016 Rules determining eligibility and timing of state assistance. The eligibility for and the amount of state assistance shall be determined as outlined in WAC ((180-27-020)) 392-343-020. The prioritization and timing for receipt of state assistance for eligible projects shall be determined by WAC ((180-27-500)) 392-343-500.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-020 Related factors and formula for determining amount of state assistance. (1) The amount of state assistance to a school district to provide school facilities shall be determined on the basis of component factors, as hereinafter set forth in this chapter, relating to:

- (a) The number of unhoused students;
- (b) Space allocations;
- (c) Reduction of the number of operating schools as per chapter ((180-33)) 392-347 WAC;
- (d) Area cost allowance for the fiscal year funded;
- (e) Allowances for furniture and equipment purchases;
- (f) The amount of insurance, federal, or other nontax source local moneys applied to a school facilities project;
- (g) Certain specified costs which must be financed directly by the school district; and
- (h) The amount of fees for professional services.

(2) State assistance for an approved project shall be derived by multiplying the percentage of state assistance determined pursuant to RCW 28A.525.166 by the following:

(a) The eligible construction cost which shall be calculated by multiplying the approved square foot area of the project as set forth in WAC ((180-27-035)) 392-343-035 by the area cost allowance as set forth in WAC ((180-27-060)) 392-343-060;

(b) The cost of preparing educational specifications as set forth in WAC ((180-27-065)) 392-343-065;

(c) The cost of architectural and engineering services as set forth in WAC ((180-27-070)) 392-343-070;

(d) The cost of preparing and reviewing the energy conservation report as set forth in WAC ((180-27-075)) 392-343-075;

(e) The cost of a value engineering study, a constructability review, and building commissioning as set forth in WAC ((180-27-080)) 392-343-080;

(f) The construction cost savings—sharing incentive as set forth in WAC ((180-27-085)) 392-343-085;

(g) The cost of furniture and equipment as set forth in WAC ((180-27-095)) 392-343-095;

(h) The cost of special inspections and testing as set forth in WAC ((180-27-100)) 392-343-100; and

(i) The cost of construction management as set forth in WAC ((180-27-102)) 392-343-102.

Any cost in excess of the maximum allowable shall be financed entirely by the school district.

AMENDATORY SECTION (Amending WSR 90-01-076, filed 12/19/89, effective 12/19/89)

WAC 180-27-023 Emerging high school district eligibility. If a new secondary program is being established in a nonhigh district pursuant to chapter ((180-56)) 392-348 WAC, the district shall make application and be eligible for state funding assistance of new construction for school facilities to serve the projected high school enrollment.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-27-025 State matching percentage—General. (1) The percentage of state assistance for which a school district is eligible, if otherwise qualified under prevailing statutory provisions and rules and regulations of the ((state board of education)) superintendent of public instruction, shall be determined in accordance with the matching formula set forth in RCW 28A.525.166.

(2) In the event the percentage of state assistance to any school district computed in accordance with RCW 28A.525.166(2) is less than twenty percent and such school district otherwise is eligible for state assistance under statutory provisions and ((state board of education)) the superintendent of public instruction regulations, the percentage for such district shall be twenty percent of the matchable cost of the project.

(3) In addition to the computed percent of state assistance as stated above, a school district as provided in RCW 28A.525.166(3), shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each average percent of student growth for the past three years, with a maximum addition of twenty percent. In no case shall the state dollars matched exceed one hundred percent of the maximum allowable cost of the project.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-030 Applicable state matching percentage for project. Pursuant to provisions of RCW 28A.525.168, the percentage of state assistance used for the allocation of state moneys shall be the highest amount prevailing at the time of:

(1) Passage of bonds and/or levies by the voters of the school district to meet the requirement for local funding;

(2) ((State board of education)) The superintendent of public instruction project approval; or

(3) Superintendent of public instruction approval to bid.

In the event that a district is otherwise eligible to receive approval to bid one or more projects but a lack of state matching funds precludes the issuance of such approval(s), the district shall retain the higher percentage of state assistance as provided for in this section for such approval(s). This provision shall apply to all projects having received project approval by the state board of education after September 1, 1997, or by the superintendent of public instruction after June 6, 2006.

AMENDATORY SECTION (Amending WSR 00-04-007, filed 1/20/00, effective 2/20/00)

WAC 180-27-032 Growth impact fees and mitigation payments. Notwithstanding the financial requirements of WAC ((180-27-030)) 392-343-030, districts may use growth impact fees as provided for in RCW 82.02.020, 82.02.050 through 82.02.100, 58.17.060 and 58.17.110 to assist in capital construction projects. The impact fees collected pursuant to the above cited statutes, may be used by the district as local match funding for state assisted capital projects and may not be substituted for the amount of state assistance that would otherwise be provided for school capital projects. Mitigation payments as provided for in RCW 43.21C.060 of the State Environmental Policy Act may be used by the district as local match funding and may not be substituted for the amount of state assistance that would otherwise be provided for school capital projects.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-045 Space allocations—Enrollment projection provisions. In planning for construction of all school facilities, a school district shall estimate capacity needs on the basis of the following:

- (1) A three or five-year cohort survival enrollment projection for growth districts, whichever is greater;
- (2) A three or five-year cohort survival enrollment projection for a declining district, whichever is lesser;
- (3) Actual enrollment of preschool students with disabilities; and
- (4) Supplemental information regarding district growth factors which may include but not be limited to the following types of information:
 - (a) County live birth rates;
 - (b) New housing starts;
 - (c) Utility/telephone hookups; and
 - (d) Economic/industrial expansion.

For the purpose of this section, kindergarten students and students with disabilities shall be counted as provided under WAC ((180-27-035)) 392-343-035 and all other grade one through twelve students shall be counted as October count day full-time equivalent students as reported to the superintendent of public instruction: Provided, That a school district which has or has had an annual average full-time equivalent enrollment of over five hundred, and which applied for and received additional state basic education allocation moneys based upon an enrollment increase after the first of the month enrollment count, may use the average of the two highest monthly full-time equivalent enrollment counts during the school year.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-050 Space allocations—Computing building capacity. The net total area of a school facility eligible for state matching purposes shall be calculated as follows:

(1) The capacity of existing buildings within the district based on the school district's assigned grade spans shall be computed in accordance with the tables set forth in WAC ((180-27-035)) 392-343-035 and the square foot area analysis set forth in WAC ((180-27-040)) 392-343-040.

(2) The number of students projected at each grade span shall be multiplied by appropriate numbers of square feet as set forth in WAC ((180-27-035)) 392-343-035. (Note: The area generated at each grade level determines district eligibility, if any.)

(3) The amount of housing the district is eligible to construct at each grade span is determined by subtracting the area computed in subsection (2) of this section from the existing housing capacity at each grade span in the school district. Using this formula, over housing at the secondary grade level, grades nine through twelve, or elementary grade level, kindergarten through eight, will not negatively affect unhoused eligibility at the elementary grade level or secondary grade level respectively.

(4) Appropriate grade assignment is a local determination.

AMENDATORY SECTION (Amending Order 2-85, filed 1/25/85)

WAC 180-27-053 State moneys for studies and surveys. State moneys for school district studies and surveys conducted pursuant to chapter ((180-25)) 392-341 WAC shall be available even though the ((state board of education)) superintendent of public instruction deems it necessary to order a priority approval process pursuant to WAC ((180-27-054)) 392-343-054. At the beginning of each biennium, the superintendent of public instruction shall estimate the amount of moneys necessary for allocation to districts for studies and surveys and not make such moneys available for any other purpose. In the event the estimated amount proves to be insufficient, the superintendent shall set aside additional moneys.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-054 Implementation of priority approval process. In the event the ((state board of education)) superintendent of public instruction determines that projected revenues, as calculated by the ceiling established in WAC ((180-27-056)) 392-343-056(2), are insufficient to meet school construction needs of school districts for the ensuing state fiscal year, the ((state board of education)) superintendent of public instruction shall by order ((the implementation of)) implement a priority approval process on final approval ((by the superintendent of public instruction)) of additional school construction projects pursuant to WAC ((180-29-107)) 392-344-107. Such priority approval process shall remain in effect until the order is rescinded by the ((state board of education)) superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-056 Funding during the period of a priority approval process order by ~~((state board of education))~~ the superintendent of public instruction. During the period of a priority approval process imposed by order of the ~~((state board of education))~~ superintendent of public instruction school construction projects shall receive final approval pursuant to WAC ~~((180-29-107))~~ 392-344-107 as follows:

(1) On or after July 1 following the ~~((state board of education))~~ superintendent of public instruction order for the implementation of a priority approval process the superintendent of public instruction shall rank all projects for which final approval has been requested pursuant to WAC ~~((180-29-107))~~ 392-344-107 as per the applicable priority list in WAC ~~((180-27-500))~~ 392-343-500. Only school construction projects with ~~((state board of education))~~ the superintendent of public instruction approval under WAC ~~((180-25-045))~~ 392-341-045 and secured local capital funds by January 31 of the previous state fiscal year and eligible for final approval pursuant to WAC ~~((180-29-107))~~ 392-344-107 by June 30 of the previous state fiscal year shall be placed on the priority list.

(2) Each fiscal year the superintendent of public instruction shall give final approval to school construction projects on the priority list pursuant to WAC ~~((180-29-107))~~ 392-344-107 based on the level and conditions of legislative appropriations. For the purpose of this subsection the term "estimated revenue available for the state fiscal year" shall mean the estimated revenue from the common school construction fund for the current state fiscal year and the subsequent state fiscal year, the result of which is divided by two.

(3) In the event the ~~((state board of education))~~ superintendent of public instruction does not rescind the order for the implementation of a priority approval process by the close of the state fiscal year, school construction projects remaining on the priority list without final approval and, therefore, without secured funding status pursuant to WAC ~~((180-29-107))~~ 392-344-107 shall be combined with new school construction projects that have secured local capital funds by January 31 of the state fiscal year and that are eligible, pursuant to WAC ~~((180-29-107))~~ 392-344-107, for final approval by the close of the state fiscal year, and a new priority list shall be established on or after July 1 of the next state fiscal year and such remaining and new school construction projects shall be eligible for final approval pursuant to the provisions of subsections (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 95-16-076, filed 7/28/95, effective 8/28/95)

WAC 180-27-05605 Additional funding during a period of a priority approval process. Notwithstanding the provisions of WAC ~~((180-27-056))~~ 392-343-056, if within any state fiscal year, that is the second year of a biennium, there is funding authority and revenue in excess of what is required for the priority list established pursuant to WAC ~~((180-27-056))~~ 392-343-056, then there may be a subsequent priority list established in the same state fiscal year for the purpose of funding or encumbering funding only for those

projects for which preliminary funded status had been granted prior to July 1 of that state fiscal year. The priority order shall be as per WAC ~~((180-27-500))~~ 392-343-500 through ~~((180-27-535))~~ 392-343-535.

AMENDATORY SECTION (Amending WSR 90-24-068, filed 12/5/90, effective 1/5/91)

WAC 180-27-05607 Funding for specifically appropriated projects during a period of a priority approval process. Notwithstanding the provisions of WAC ~~((180-27-056))~~ 392-343-056, if the State Capital Appropriations Act for any biennium makes a special, specific appropriation for a particular project or priority category, such projects, or projects within the priority category, shall be exempt from the time lines established by WAC ~~((180-27-056))~~ 392-343-056 and may receive final approval pursuant to WAC ~~((180-29-107))~~ 392-344-107 at any time, provided that the requirements of chapter ~~((180-29))~~ 392-344 WAC have been complied with.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-057 State assistance—Deferred payment. In the event state moneys are not sufficient for a school district project, a school district may proceed at its own financial risk. At such time state moneys become available, reimbursement may be made for the project provided the provisions of chapter ~~((180-29))~~ 392-344 WAC have been complied with.

AMENDATORY SECTION (Amending WSR 90-24-068, filed 12/5/90, effective 1/5/91)

WAC 180-27-059 Application of priority system to projects with and without preliminary funding status. All projects with preliminary funding status pursuant to WAC ~~((180-26-050))~~ 392-342-050 shall be approved pursuant to WAC ~~((180-29-107))~~ 392-344-107 prior to projects without such status.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-060 Determining the area cost allowance. (1) The area cost allowance for state assistance shall apply to the cost of construction of the total facility and grounds, including state sales and use taxes generally levied throughout the state of Washington and excluding those local option sales and use taxes levied by political subdivisions.

(2) The area cost allowance used in calculating state financial assistance for construction of school facilities shall be determined by the superintendent of public instruction using the prior year's area cost allowance, plus a construction inflation factor.

(3) The superintendent of public instruction's office shall work with ~~((the state board of education and other))~~ appropriate parties to develop ~~((and recommend to the state board for approval))~~ a method for determining the annual construction inflation factor. ~~((This recommendation shall be presented to~~

the state board of education for approval at its October 2001 meeting, or as soon thereafter as is practical.)

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-063 Annual review ~~((and report by the superintendent of public instruction to the state board of education))~~ **of actual construction costs of school projects.** The superintendent of public instruction on an annual basis shall review actual construction costs of school projects ~~((and report findings to the state board of education))~~ for consideration and possible action.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-065 Educational specifications. (1) Only school facility projects which are complete new facilities or modernization projects pursuant to chapter ~~((180-33))~~ 392-347 WAC are eligible for state assistance in the preparation of education specifications.

(2) The construction of interdistrict transportation cooperatives, or additions of less than fifteen thousand square feet to existing facilities, unless combined with modernization, are not eligible.

(3) The amount of state assistance for which a district is eligible for the preparation of educational specifications shall be the state matching percentage multiplied by the greater of the following:

(a) One quarter of one percent of the area cost allowance multiplied by the square foot area for the fiscal year funded; or

(b) Ten thousand dollars.

AMENDATORY SECTION (Amending WSR 01-09-011, filed 4/6/01, effective 5/7/01)

WAC 180-27-070 Architectural and engineering services. School districts shall select their architectural and engineering consultants in accordance with chapter 39.80 RCW. As required by RCW 39.80.050, the district shall negotiate a contract with the most qualified consultants at a price which the school district determines is fair and reasonable. In making its determination, the district shall take into account the estimated value of the services to be rendered based upon the scope and complexity of the project.

The allocation of state moneys for matching purposes for a school facility project shall be based on architectural and engineering services as defined by the latest edition of the *American Institute of Architects Handbook of Professional Practice* and calculated by the percentage(s) in relation to the square foot area of construction as calculated in WAC ~~((180-27-040))~~ 392-343-040 and project type, as set forth below:

(1) **New construction projects:**

Architectural and Engineering Team Fee Matching Limitations

Square Feet of Construction	Percent of Construction Cost
0 - 3,699	10.0
3,700 - 7,349	9.0
7,350 - 10,999	8.75
11,000 - 14,649	8.5
14,650 - 18,299	8.25
18,300 - 25,699	8.0
25,700 - 36,699	7.75
36,700 - 54,999	7.5
55,000 - 73,399	7.25
73,400 - 100,999	7.0
101,000 - 128,449	6.75
128,450 - 155,999	6.5
156,000 - 183,499	6.25
183,500 & above	6.0

(2) **Modernization projects:**

For modernization projects, the limits of state participation shall be one and one-half times the amount calculated for new construction.

(3) **Combination projects:**

For those projects which include a combination of new construction and modernization, the limits of state participation shall be prorated as set forth in subsection (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-080 Value engineering studies, constructability reviews, and building commissioning—Requirements and definition. At the appropriate time in the design process for a school facility approved by the ~~((state board of education))~~ superintendent of public instruction, the district shall prepare a value engineering study, complete a constructability review, and perform building commissioning for all projects greater than fifty thousand square feet. Value engineering studies, constructability reviews, and building commissioning shall be optional for projects larger than fifteen thousand square feet but less than fifty thousand square feet. Any project which includes fifteen thousand square feet or less shall be exempt from this requirement. For the purpose of this section, a value engineering study is defined as a cost control technique which is based on the use of a systematic, creative analysis of the functions of the facility with the objective of identifying unnecessary high costs or functions and/or identifying cost savings that may result in high maintenance and operation costs. The study shall consist of a forty-hour workshop involving a minimum of a five-person team pursuant to WAC ~~((180-29-065))~~ 392-344-065. A constructability review is defined as a cost control technique

which is based on the review of project documents by mechanical, electrical, structural, construction, and design professionals prior to a request for bids. The purpose of a constructability review is to identify potential claim or problem areas and deficiencies that may occur as a result of errors, ambiguities, omissions, discrepancies, and conflicts in design documents. The study shall consist of a forty-hour workshop involving a minimum of a five-person team pursuant to WAC ((~~480-29-066~~)) 392-344-066. Building commissioning is defined as the process of verifying that the installation and performance of selected building systems meet or exceed the specified design criteria and therefore satisfy the design intent. Building commissioning shall include a physical inspection, functional performance testing, listing of noted deficiencies, and a final commissioning report. Building commissioning shall be performed by a professional agent or authority not contractually or otherwise financially associated with the project design team or contractor. A district shall be eligible for state assistance for a value engineering study, a constructability review, and building commissioning for each qualifying project. The maximum amount of assistance for each component of the study package shall be the state matching percentage multiplied by the greater of the following:

- (1) Two-fifths of one percent of the area cost allowance multiplied by the square foot area for the fiscal year funded; or
- (2) Twenty thousand dollars.

AMENDATORY SECTION (Amending Order 25-85, filed 11/27/85)

WAC 180-27-085 Construction cost savings—Sharing incentive. The purpose of this section is to set forth provisions designed to further enhance cost effectiveness in the construction of exclusively new school facilities.

(1) Districts become eligible for a cost saving incentive equal to sixty percent of the state share of the construction cost savings if the cost of new construction at bid is less than the approved state matchable construction cost, as set forth in WAC ((~~480-27-020~~)) 392-343-020 (2)(a).

(2) The state matched fee for basic architectural and engineering services shall not be reduced if the project is bid and is awarded below the approved state matchable construction cost (WAC ((~~480-27-070~~)) 392-343-070) or the cost contracted for between the school district and architect/engineer, whichever is less.

(3) Any project attached to or adjacent to or otherwise designed to operate in conjunction with an existing facility and which contains additional area equal to or less than fifty percent of the area in the existing facility shall be classified as an addition and shall not be eligible for the cost saving incentive option authorized in this section.

(4) Districts shall not be eligible for a cost-saving incentive where the entire project, or any part of the project, qualifies for state support under chapter ((~~480-33~~)) 392-347 WAC.

(5) Receipt of a portion of the state share of construction cost savings shall not reduce the district's future eligibility and entitlement to state assistance in providing school facili-

ties and shall not result in the district receiving more than one hundred percent of the cost of construction.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-095 Support level—Furniture and equipment allowances. (1) A matchable allowance for furniture and equipment purchases shall be added to total construction cost of an approved school facilities project. The amount of state assistance for which a district is eligible shall be the eligible square foot area of the project multiplied by the area cost allowance for the fiscal year funded and that product multiplied by:

- (a) Two percent for elementary schools;
- (b) Three percent for middle and junior high schools;
- (c) Four percent for high schools;
- (d) Five percent for facilities for students with disabilities;
- (e) Five percent for interdistrict cooperative occupational skill centers; and
- (f) Seven percent for interdistrict transportation cooperatives.

(2) For those projects where the eligible square footage is allocated to grade spans which do not conform to those listed above, the equipment allowance shall be allocated based on eligibility as established in WAC ((~~480-27-035~~)) 392-343-035.

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-27-115 Support level—Additional assistance. State assistance in addition to the amount determined pursuant to WAC ((~~480-27-020~~)) 392-343-020 may be allowed for the purposes and in accordance with the requirements set forth in this section: Provided, That in no case shall the state assistance exceed one hundred percent of the amount calculated for matching purposes: In each of the following exceptions, either at the time the project is approved pursuant to WAC ((~~480-25-040~~)) 392-341-040 or at any time prior to receiving secured funding status pursuant to WAC ((~~480-29-107~~)) 392-344-107, written school district application for additional assistance and ((~~state board of education~~)) the superintendent of public instruction approval is required:

(1) A school facility subject to abatement and an order to vacate.

A school district required to replace a school facility determined to be hazardous to the safety and health of school children and staff—as evidenced by reports of architects or engineers licensed to practice in the state of Washington, the health agency having jurisdiction, and/or the fire marshal and building official having jurisdiction—shall be eligible for additional assistance if the voters of the school district authorize the issuance of bonds and/or the levying of excess taxes to meet the statutory limits. If the ((~~state board of education~~)) superintendent of public instruction determines that the voters of the school district have authorized the issuance of bonds to its legal limit, the ((~~board~~)) superintendent of public instruction shall provide state financial assistance for the remaining cost of the building to a level not exceeding the

area cost allowance for the fiscal year funded: Provided, That at any time thereafter when the ~~((state board of education))~~ superintendent of public instruction finds that the capital financial position of such district has improved, the amount of the additional allocation provided pursuant to this subsection shall be recovered by deducting an amount equal to all or a portion of such additional allocation from any future state school facility construction funds which might otherwise be provided to such district.

(2) Interdistrict cooperative centers.

In the financing of interdistrict cooperative projects as set forth in chapter ~~((180-31))~~ 392-345 WAC, the ~~((state board of education))~~ superintendent of public instruction shall allocate at seventy-five percent of the total approved project cost determined eligible for state matching purposes if the planned school facility meets the following criteria:

(a) Provides educational opportunities, including vocational skills programs, not otherwise provided; or

(b) Avoids unnecessary duplication of specialized or unusually expensive educational programs or facilities.

(3) School housing emergency.

A school district found by the ~~((state board of education))~~ superintendent of public instruction to have a school housing emergency requiring an allocation of state moneys in excess of the amount allocable under the statutory formula may be considered for an additional allocation of moneys: Provided, That the school district must have authorized the issuance of bonds to its legal capacity to meet the statutory and ~~((state board of education))~~ the superintendent of public instruction fiscal requirements for state assistance in providing school facilities.

The total amount of state moneys allocated shall be the total approved project cost determined eligible for state matching purposes multiplied by the districts' regular match rate as calculated pursuant to RCW 28A.525.166 plus twenty percent and not to exceed ninety percent in total: Provided further, That at any time thereafter when the ~~((state board of education))~~ superintendent of public instruction finds that the capital financial position of such district has improved, the amount of the additional allocation provided pursuant to this subsection shall be recovered by deducting an amount equal to all or a portion of such additional allocation from any future state school facility construction funds which might otherwise be provided to such district.

(4) Improved school district organization.

If two or more school districts reorganize into a single school district and the construction of new school facilities results in the elimination of a small high school with a full-time equivalent enrollment in grades 9-12 of less than four hundred students and/or an elementary school with a full-time equivalent enrollment of less than one hundred students, the ~~((state board of education))~~ superintendent of public instruction shall match the total approved cost of the project at seventy-five percent.

(5) Racial imbalance.

Any school district that contains a school facility which is racially imbalanced as defined in WAC ~~((180-26-025))~~ 392-342-025 shall receive state assistance under this subsection in the amount of an additional ten percentage points above the matching percentage as calculated pursuant to

RCW 28A.525.116 (b) and (c) which will not exceed a total of ninety percent of the total approved cost of construction: Provided, school construction projects for racial balance that meet the following conditions shall be provided state assistance at seventy-five percent of the square foot cost allowance for the fiscal year funded under the provisions of this subsection as they existed prior to the amendment of this subsection in 1993:

(a) Voter approved local matching funds were authorized before December 31, 1992;

(b) The superintendent of public instruction approved a comprehensive desegregation plan with specific construction and modernization projects under additional state assistance criterion in effect at that time, which will be identified on or before September 15, 1993; and

(c) The superintendent of public instruction confirms at the time of project approval pursuant to WAC ~~((180-25-040))~~ 392-341-040 the continued existence of racial balance needs.

In the case of a school district which contains a racially imbalanced school facility the district must demonstrate that, as a result of new construction or modernization, the particular school facility will no longer be racially imbalanced, that the combined minority enrollment in the particular school facility will be reduced by more than ten percentage points, and that the above stated results will be obtained as a direct result of increased enrollment of nonminority students in the particular school facility: Provided, That the particular school facility shall remain racially balanced for a period of at least five years after the date of actual building occupancy: Provided further, That if the ~~((state board of education))~~ superintendent of public instruction finds that the school facility does not remain racially balanced for five years then the amount of additional state assistance provided pursuant to this subsection shall be recovered by deducting an amount equal to all of the additional allocation from any future state school facility construction funds which might otherwise be provided to such district.

(6) Any project that has received approval for additional state assistance under provisions of this section as they existed prior to the amendment of this section in 1993 shall retain authorization for additional assistance under the provisions in effect at the time of such approval.

AMENDATORY SECTION (Amending WSR 04-23-009, filed 11/4/04, effective 12/5/04)

WAC 180-27-120 Costs to be financed entirely with school district funds. The cost of the following areas, facilities, and items shall not be eligible for the state matching purposes:

(1) The cost of area in excess of the space allocations as set forth in WAC ~~((180-27-035))~~ 392-343-035;

(2) Acquisition cost of site;

(3) Maintenance and operation;

(4) Alterations, repair, and demolitions, except alterations necessary to connect new construction to an existing building;

(5) Central administration buildings;

(6) Stadia/grandstands;

(7) Costs incidental to advertising for bids, site surveys, soil testing for site purchase, and costs other than those connected directly with the construction of facilities;

(8) Bus garages, except interdistrict cooperatives;

(9) Sales and/or use taxes levied by local governmental agencies other than those sales and/or use taxes levied by the state of Washington;

(10) All costs in excess of state support level factors established by the ~~((state board of education))~~ superintendent of public instruction for state participation in financing school construction; and/or

(11) All costs associated with the purchase, installation, and relocation of portable classrooms.

AMENDATORY SECTION (Amending Order 11-83, filed 10/17/83)

WAC 180-27-125 Unforeseen costs. The ~~((state board of education))~~ superintendent of public instruction shall not provide additional assistance for unforeseen circumstances related to the construction project after the filing of construction contract(s) with the superintendent of public instruction except those required by change to the state building code as set forth in chapter 19.27 RCW.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-425 Removal from instructional space inventory—Replacement. A school facility shall be removed from the superintendent of public instruction's instructional space inventory after it has been replaced with a school facility accepted by the school district board of directors on a square footage basis through one of the following actions:

(1) The replacement school facility is wholly financed with local district funds; or

(2) The replacement school facility is constructed with state funding assistance authorized under the authority of chapter ~~((180-33))~~ 392-347 WAC.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-500 State assistance—Priorities after June 30, 1992. The priority system for the funding of school construction projects after June 30, 1992, shall be as follows: For all new construction and modernization projects for school districts, there will be a unique priority score determined by the elements and formulas contained in WAC ~~((180-27-505))~~ 392-343-505 through ~~((180-27-520))~~ 392-343-520. The total score shall be used to rank all projects that have secured local funding and state board of education approval after January 26, 1991, or the superintendent of public instruction approval after June 6, 2006, and are otherwise eligible for state funding assistance. The elements are divided into three groups:

(1) Common elements;

(2) New construction for growth elements; and

(3) Modernization or new-in-lieu of modernization elements.

In the case of a combined project (i.e., new construction for growth and modernization), the respective scores in each group will be prorated on the basis of each group's related gross square footage in the total project.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-505 State assistance—Common priority elements. The four priority elements that are common to all projects are as follows:

(1) Type of space - Ten possible points. In this element the net assignable square feet (NASF) of a project are identified by planned space inventory category. Category One is space used for scheduled instruction and libraries (classrooms, laboratories, PE teaching space, libraries, and learning resource centers). Category Two is space used in support of instruction (assembly, student services, office space, and classroom/lab service and support). Category Three space is cafeteria/food service, spectator seating, covered play areas, and general support space. The formula for determining points prorates the NASF with weightings of ten for Category One, seven for Category Two, and four for Category Three as shown below.

NASF of Category One	X	10 points = X
NASF of Category Two	X	7 points = X
NASF of Category Three	X	4 points = X

Then: The sum of X divided by the sum of NASF equals points.

(2) Local priority - Five points. For this element, five maximum points are awarded to the district's first priority project. Each priority from there has one point deducted from it, to a minimum of zero points awarded.

(3) Joint funding - Five possible points. A binding agreement between the school district and another governmental entity for the joint financing of new construction or modernization of space which is not otherwise eligible for state assistance.

Total Project Cost	Required Joint Funding
Up to \$1,000,000	25% of total project cost
Between \$1,000,000 and \$2,000,000	\$275,000
Between \$2,000,000 and \$3,000,000	\$300,000
Between \$3,000,000 and \$4,000,000	\$325,000
Between \$4,000,000 and \$5,000,000	\$350,000
Between \$5,000,000 and \$6,000,000	\$375,000
Between \$6,000,000 and \$7,000,000	\$400,000
Between \$7,000,000 and \$8,000,000	\$425,000
Between \$8,000,000 and \$9,000,000	\$450,000
Between \$9,000,000 and \$10,000,000	\$475,000
\$10,000,000 and over	\$500,000

(4) Modified calendar or schedule - Five possible points. For this element, up to five points utilizing the table below will be awarded to a project in a district which has adopted a modified school calendar or schedule that enables more students to use school buildings each year over what current

state capacity standards at WAC ((180-27-035)) 392-343-035 recognize for state assistance purposes. The modified calendar or schedule shall utilize either extended school day or additional days for instruction in the year. The enrollment percentage shall be calculated on the same grade span groupings as for eligibility in WAC ((180-27-050)) 392-343-050. For the purpose of this subsection, the enrollment shall include all students enrolled at the facility as opposed to only those students in attendance.

Enrollment Percentage Increase Over Capacity	Priority Points
20 to above	5
16 to 19.9	4
12 to 15.9	3
8 to 11.9	2
4 to 7.9	1
Below 4	0

The scores for this group of elements will be determined after district compliance with the requirements of WAC ((180-29-107)) 392-344-107.

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92, effective 9/3/92)

WAC 180-27-510 State assistance—New construction for growth priority factors. The three factors that are related to new construction for growth are as follows:

(1) Projected percent unhoused - Fifty-five possible points. The district percent unhoused five years in the future is based on the projection of enrollment per WAC ((180-27-045)) 392-343-045 for two grade categories, including pre-school special education, compared to the formula capacity of existing space based on WAC ((180-27-035)) 392-343-035 as computed per WAC ((180-27-050)) 392-343-050.

If the projected district percent unhoused for the applicable grade category is equal to or greater than forty percent, full points are awarded. If the projected district percent unhoused is less than five percent but greater than zero percent, then a minimum of fifteen points are awarded. If the projected percent unhoused is between five percent and forty percent, then the forty remaining points (55-15) are proportionately awarded.

(2) Mid-range projection - Five possible points. This factor is to recognize the degree of immediacy of a district's capacity problem. The district's point score in subsection (1) of this section is first multiplied by .091 to reflect the relationship between the fifty-five possible points in subsection (1) of this section and the five points in this subsection. This produces the maximum points a project can be awarded in this factor. The actual points are determined by the relationship between the district's unhoused percentage three years in the future divided by the unhoused percentage five years in the future. For example, if a district received 43.57 points in subsection (1) of this section due to a projected thirty percent unhoused condition and its three-year projection is that it will be twenty-four percent unhoused, it will receive 3.17 points (i.e., ((42.57 x .091) x (24 percent/30 percent)) = 3.17).

(3) Number of years unhoused - Five possible points. This factor is to recognize the duration of an unhoused problem. One point is awarded for each year the district has had an unhoused condition in the applicable grade category during the past five years, up to the five points maximum.

The scores shall be determined at the time of project approval per WAC ((180-25-045)) 392-341-045. These scores shall be carried for a period of twenty-four months, at which time new scores shall be determined utilizing the then most current enrollment projections and facts. A district may request a redetermination of scores at any time.

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-515 Modernization or new-in-lieu of modernization priority elements. The three priority elements that are related to modernization or new-in-lieu projects are as follows:

(1) Health & safety - Twenty possible points. A maximum of sixteen points are awarded based on the evaluation contained in the Building Condition Evaluation Form (BCEF) (WAC ((180-27-535)) 392-343-535) and are awarded as follows:

15 - 19 percent = 16 points, 20 - 24 percent = 15 points, 25 - 29 percent = 14 points, etc., until 95 percent at which no points are awarded.

The health and safety condition points are combined with an additional:

- Two points if school does not meet seismic code requirements.
- Two points if school is not asbestos free.

(2) Condition of building - Thirty possible points. The score is based on the Building Condition Evaluation Form (WAC ((180-27-535)) 392-343-535) analysis for all categories other than access for persons with disabilities. If the building condition score is thirty-one or less, then the maximum thirty points are awarded to the project. If the condition score is ninety-one or more, then no points are awarded. If the condition score is from thirty-two to ninety, the condition score is subtracted from ninety-one and multiplied by fifty percent to determine the points. In cases where projects affect multiple buildings, the BCEF score is weighted by the proportion of gross square feet (GSF) affected.

(3) Cost/benefit factor - Ten minus points possible. If the proposed project is a modernization and the BCEF score is less than forty, one point is deducted for each point the BCEF score is less than forty up to a total possible deduction of ten points.

If the proposed project is a new-in-lieu of modernization and the BCEF score is greater than sixty, one point is deducted for each point the BCEF score is higher than sixty to a total possible deduction of ten points.

The scores shall be determined at the time of project approval per WAC ((180-25-045)) 392-341-045. These scores shall be carried until the district requests a redetermination.

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92, effective 9/3/92)

WAC 180-27-525 State assistance—Priorities for co-ops. For cooperative projects approved by the ~~((state board of education))~~ superintendent of public instruction under the authority of chapters ~~((180-31))~~ 392-345 and ~~((180-32))~~ 392-346 WAC, the following priority scores shall be assigned with similar projects ranked in order of date of approval with the earliest date ranked highest:

Type of Interdistrict Cooperative Facility	Priority Score
Vocational Skill Centers	25
Transportation Centers	10
Other Cooperative Facilities	20

AMENDATORY SECTION (Amending WSR 98-19-143, filed 9/23/98, effective 10/24/98)

WAC 180-27-530 Type of school space—Determination. In order to determine the inventory space category of net assignable square feet for priority scoring purposes in WAC ~~((180-27-505))~~ 392-343-505, the category use for which the space is designated by the district shall be the assigned category. When inventory space has been designated and scheduled for multiple purposes, the category for priority scoring purposes shall be the primary scheduled use.

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92, effective 9/3/92)

WAC 180-27-535 Existing building condition—Evaluation. Building condition and health and safety evaluations for purposes of determining priority scores and completing building inventories shall be conducted and reported to the superintendent of public instruction, utilizing an evaluation model and reporting forms for building type, history, equi-
page, condition, health and safety factors, and portables on site that shall be adopted and subject to revision from time to time by the ~~((state board of education))~~ superintendent of public instruction. The information provided by the district on these forms shall be subject to review by ~~((the state board of education,))~~ the staff or agents of the superintendent of public instruction, or to audit by the state auditor. Compliance with this requirement for all schools in a district is a requirement for the receipt of any state construction assistance for projects approved after January 26, 1991.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-600 Emergency repair grant applications—Definitions—"Emergency repair," "imminent health and safety hazards," and "local funding." As used in WAC ~~((180-27-605))~~ 392-343-605 through ~~((180-27-615))~~ 392-343-615:

(1) The term "emergency repair" means a repair to a school building necessitated by causes specified in any current biennial appropriation.

(2) The term "imminent health and safety hazard" means a threat of immediate physical injury to the occupants of a building.

(3) The term "local funding" means insurance settlements, litigation proceeds in excess of costs, any unreserved general fund balance in excess of \$200/FTE student for first class districts or \$500/FTE student for second class districts as reported in the most recently available annual fiscal report (F196), any unobligated, unreserved capital fund balance, any capital funds reserved for uninsured risk, and any unused voter-approved bond capacity. Districts shall not be required to pass bond or levy issues or incur nonvoted debt in order to qualify for these funds.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-605 Emergency repair grant applications—Contents of applications. The ~~((state board of education))~~ superintendent of public instruction may allocate any funds specifically appropriated for this purpose by the legislature to school districts for emergency repair projects for school buildings which present imminent health and safety hazards for building occupants in accordance with the following process and eligibility criteria:

(1) A school district board of directors shall approve and present to the superintendent of public instruction a written application for emergency repair funding on a form provided by the superintendent of public instruction.

(2) The application and accompanying documentation shall include, but not be limited to:

(a) Certification of the unrestricted balance, if any, of the district's general fund and capital projects fund and that all avenues of local funding have been exhausted;

(b) A determination and description of available alternative housing options for occupants of the building;

(c) A detailed description of the nature of the emergency repair;

(d) A detailed description of the nature and extent of the imminent health and safety hazards that exist, and the extent they would be alleviated by the emergency repair;

(e) Evidence that the district is aggressively pursuing civil remedies against the responsible party or parties as appropriate;

(f) Certification by a health official, fire official, building official, labor and industries official or other independent and competent authority that an imminent health and safety hazard to building occupants of a specified nature and extent exists unless the emergency repairs are made; and

(g) The estimated cost of the emergency repairs based upon an estimate made by two or more independent, qualified cost estimators.

(h) A plan for repayment of the grant.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-610 Emergency repair grant applications—~~((State board of education))~~ The superintendent of public instruction approval/disapproval. The superintendent of public instruction shall ~~((recommend to the state~~

~~board of education~~) determine whether or not an application shall be funded and, if so, the amount to be funded. The ~~((state board of education))~~ superintendent of public instruction shall make the final decisions respecting emergency repair applications and grants.

AMENDATORY SECTION (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

WAC 180-27-615 Emergency repair grant applications—Repayment conditions. Grants of emergency repair moneys shall be conditioned upon the written commitment and plan of the school district board of directors to repay the grant by waiving the school district's current or future eligibility for state building assistance under chapters ~~((180-25))~~ 392-341 through ~~((180-33))~~ 392-347 WAC, or with insurance payments, or with any judgment(s) that have been awarded, or with other means and sources of repayment. Any such written commitment and plan for repayment may subsequently be modified by mutual agreement between the school district board of directors and the ~~((state board of education))~~ superintendent of public instruction.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
180-27-005	392-343-005
180-27-010	392-343-010
180-27-012	392-343-012
180-27-015	392-343-015
180-27-016	392-343-016
180-27-017	392-343-017
180-27-018	392-343-018
180-27-019	392-343-019
180-27-020	392-343-020
180-27-023	392-343-023
180-27-025	392-343-025
180-27-030	392-343-030
180-27-032	392-343-032
180-27-035	392-343-035
180-27-040	392-343-040
180-27-045	392-343-045
180-27-050	392-343-050
180-27-053	392-343-053
180-27-054	392-343-054
180-27-056	392-343-056
180-27-05605	392-343-05605
180-27-05607	392-343-05607
180-27-057	392-343-057
180-27-059	392-343-059
180-27-060	392-343-060

Old WAC Number	New WAC Number
180-27-063	392-343-063
180-27-065	392-343-065
180-27-070	392-343-070
180-27-075	392-343-075
180-27-080	392-343-080
180-27-085	392-343-085
180-27-095	392-343-095
180-27-100	392-343-100
180-27-102	392-343-102
180-27-105	392-343-105
180-27-110	392-343-110
180-27-115	392-343-115
180-27-120	392-343-120
180-27-125	392-343-125
180-27-405	392-343-405
180-27-410	392-343-410
180-27-415	392-343-415
180-27-420	392-343-420
180-27-425	392-343-425
180-27-500	392-343-500
180-27-505	392-343-505
180-27-510	392-343-510
180-27-515	392-343-515
180-27-525	392-343-525
180-27-530	392-343-530
180-27-535	392-343-535
180-27-600	392-343-600
180-27-605	392-343-605
180-27-610	392-343-610
180-27-615	392-343-615

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-005 Authority. This chapter is adopted pursuant to RCW 28A.525.020 relating to authority of the ~~((state board of education))~~ superintendent of public instruction to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school facilities. In accordance with RCW 28A.525.200, the only provision of chapter 28A.525 RCW currently applicable to state assistance for school plant facilities are RCW 28A.525.030, 28A.525.040, 28A.525.050, and 28A.525.162 through 28A.525.178.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-010 Purpose. The purpose of this chapter is to set forth the procedures governing all applications for state assistance, allocations of state funds, and disbursements

by school districts and the superintendent of public instruction for school facility projects approved for state assistance by the ~~((state board of education))~~ superintendent of public instruction. The superintendent of public instruction shall prescribe and furnish forms for the purposes set forth in this chapter.

AMENDATORY SECTION (Amending WSR 01-08-040, filed 3/30/01, effective 4/30/01)

WAC 180-29-012 Waiver of rules to facilitate alternative public works contracting procedures. The provisions of this chapter may be deemed waived in accordance with WAC ~~((180-25-012))~~ 392-341-012.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-021 Deadline for submission of agenda items. All items related to the approval of school facilities and requiring action by the ~~((state board of education))~~ superintendent of public instruction shall be submitted to the superintendent of public instruction no later than sixty days prior to the date of any regular ~~((state board of education))~~ superintendent of public instruction meeting at which action is expected.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-025 ~~((State board of education))~~ Superintendent of public instruction review. Upon completion of the study and survey by the superintendent of public instruction and review by district board of directors, the study and survey ~~((shall be submitted to the state board of education, accompanied by recommendations from the superintendent of public instruction))~~ and an application for state assistance from the district for the project(s) to be considered ~~((by the board))~~ shall be reviewed by the superintendent of public instruction. ~~((State board of education))~~ Superintendent of public instruction approval of a proposed project(s) shall establish the maximum matchable area and estimated amount of state financial assistance based upon the information furnished in the study and survey.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-035 Site. (1) The district shall provide the superintendent of public instruction with certification from the district board of directors that the site will not create or aggravate racial imbalance.

(2) Review of the site by the superintendent of public instruction as required by chapter ~~((180-26))~~ 392-342 WAC shall be completed prior to issuance of preliminary funding status.

AMENDATORY SECTION (Amending WSR 99-24-126, filed 12/1/99, effective 1/1/00)

WAC 180-29-040 Educational specifications. Prior to the commencement of the design of the proposed school facility, the school district shall cause to be prepared the educational specifications pursuant to chapter ~~((180-26))~~ 392-342 WAC.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-045 Notice to proceed with design. After completion of the educational specifications review process as set forth in WAC ~~((180-29-040))~~ 392-344-040 and after approval of the site, the superintendent of public instruction shall transmit to the school district a notice to proceed with the design of the school facility.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-050 Educational specifications contracts. Contracts between the school district and the educational specifications consultant, if any, shall stipulate the amount of fee and the consultant's duties, i.e., scope of work, to be performed as required in chapter ~~((180-26))~~ 392-342 WAC set forth.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-055 Architect-engineer contracts. Architects and engineers employed on approved school facility projects involving state school building moneys shall be licensed to practice in the state of Washington. Contract(s) between the school district and the architects and engineers shall stipulate the maximum amount of the fee and the duties, i.e., scope of work, to be performed as required in chapter ~~((180-27))~~ 392-343 WAC.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-060 Energy conservation report contracts. Contracts between the school district and the energy conservation consultant, if not included in the architect-engineer contract for professional services, shall stipulate the amount of fee and the consultant's duties, i.e., scope of work, to be performed as required by chapter ~~((180-27))~~ 392-343 WAC set forth.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-065 Value engineering contracts. Value engineering consultants employed on approved school facilities projects shall include a value engineering team coordinator/leader qualified by the Society of American Value Engineers to manage and coordinate a value engineering study. Contracts between the school district and the value engineering consultant shall stipulate the amount of the fee and the

consultant's duties, i.e., scope of work, to be performed as in chapter ~~((180-27))~~ 392-343 WAC set forth.

AMENDATORY SECTION (Amending WSR 99-24-126, filed 12/1/99, effective 1/1/00)

WAC 180-29-066 Constructability review contracts. Consultants performing constructability reviews on approved school facilities shall utilize an independent multidiscipline team and shall have a minimum of five years of experience providing constructability reviews of equivalent size projects. Contracts between the school district and the consultant shall stipulate the amount of the fee and the consultant's duties to be performed as in chapter ~~((180-27))~~ 392-343 WAC.

AMENDATORY SECTION (Amending WSR 99-24-126, filed 12/1/99, effective 1/1/00)

WAC 180-29-067 Building commissioning contracts. Consultants performing building commissioning on approved school facilities shall incorporate the attributes of the building commissioning association in their commissioning program. Contracts between the school district and the consultant shall stipulate the amount of the fee and the consultant's duties to be performed as in chapter ~~((180-27))~~ 392-343 WAC.

AMENDATORY SECTION (Amending WSR 00-04-008, filed 1/20/00, effective 2/20/00)

WAC 180-29-068 Construction management. A school district shall employ or contract for professional construction management pursuant to chapter ~~((180-27))~~ 392-343 WAC. Construction managers shall have recent demonstrable experience on projects of similar size and type. Construction managers hired as employees of the district shall have employment agreements clearly stipulating the duties and responsibilities of the employee. Contracts between the school district and outside consultants shall stipulate the amount of the fee and the consultant's duties to be performed as in chapter ~~((180-27))~~ 392-343 WAC.

AMENDATORY SECTION (Amending WSR 99-24-126, filed 12/1/99, effective 1/1/00)

WAC 180-29-075 Contracts—Filing. The school district shall submit to the superintendent of public instruction one copy of the following contracts for projects approved by the ~~((state board of education))~~ superintendent of public instruction for state assistance:

- (1) Educational specifications (WAC ~~((180-29-050))~~ 392-344-050)
- (2) Architect-engineer (WAC ~~((180-29-055))~~ 392-344-055)
- (3) Energy conservation report (WAC ~~((180-29-060))~~ 392-344-060)
- (4) Value engineering (WAC ~~((180-29-065))~~ 392-344-065)
- (5) Constructability review (WAC ~~((180-29-066))~~ 392-344-066)

(6) Building commissioning (WAC ~~((180-29-067))~~ 392-344-067)

(7) Construction management (WAC ~~((180-29-068))~~ 392-344-068).

AMENDATORY SECTION (Amending WSR 00-18-060, filed 9/1/00, effective 10/2/00)

WAC 180-29-085 Construction and other documents—Submittal. (1) For the purpose of determining that the provisions set forth in chapters ~~((180-25))~~ 392-341 through ~~((180-29))~~ 392-344 WAC have been complied with prior to the opening of bids of any project to be financed with state moneys, the school district shall have on file with the superintendent of public instruction the following:

(a) One copy of the construction documents forwarded by others;

(b) Cost estimate of construction on a form approved by the superintendent of public instruction, completed and signed by the architect-engineer;

(c) Signed copy or photocopy of letters of approval by other governmental agencies in accordance with WAC ~~((180-29-090))~~ 392-344-090;

(d) Area analysis on a form approved by the superintendent of public instruction in accordance with chapter ~~((180-27))~~ 392-343 WAC;

(e) Complete listing of construction special inspections and/or testing to be performed by independent sources that are included in the project pursuant to WAC ~~((180-27-100))~~ 392-343-100;

(f) One copy of the value engineering and constructability review reports as accepted by the school district board of directors. The reports shall include the following:

(i) A brief description of the original design;

(ii) A brief description of the value engineering or constructability review methodology used;

(iii) The areas analyzed;

(iv) The design alternatives proposed;

(v) The cost changes proposed;

(vi) The alternates accepted; and

(vii) A brief statement explaining why each alternate not accepted was rejected;

(g) Completed Building Condition Evaluation Forms (BCEF) as required by WAC ~~((180-27-535))~~ 392-343-535 for every school facility in the district.

(2) If the above documents reflect an increase in square foot size from the application approved by the ~~((state board of education))~~ superintendent of public instruction as per WAC ~~((180-29-030))~~ 392-344-030 which will result in an increase in state support, a new application must be submitted to the ~~((state board of education))~~ superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 98-23-035, filed 11/10/98, effective 12/11/98)

WAC 180-29-090 Construction documents—Other governmental agency approval. The construction documents shall be submitted for the approval of the following other governmental agencies:

- (1) Fire marshal or fire chief having jurisdiction when permitted by the state fire marshal;
- (2) Department of labor and industries or local jurisdiction when permitted by the department of labor and industries (electrical);
- (3) Health agency having jurisdiction;
- (4) Department of ecology or the local agency having jurisdiction for environmental approvals (when applicable); and
- (5) Building official having jurisdiction.

Approvals shall be in respect to compliance with pertinent rules and regulations established by said agencies.

Written approvals of the construction documents by the agencies shall be submitted to the superintendent of public instruction in accordance with WAC ((180-29-085)) 392-344-085.

AMENDATORY SECTION (Amending WSR 91-12-055, filed 6/5/91, effective 7/6/91)

WAC 180-29-107 Bid opening—Superintendent of public instruction approval. (1) A school district shall not open bids until receiving written approval of the superintendent of public instruction. Such approval shall not be granted if more than one year has passed since the project received preliminary funding status pursuant to WAC ((180-26-050)) 392-342-050.

(2) The superintendent of public instruction shall grant approval if moneys are available for state assistance and the required documents pursuant to WAC ((180-29-075, 180-29-080, 180-29-085, 180-29-090, 180-29-095, and 180-29-100)) 392-344-075, 392-344-080, 392-344-085, 392-344-090, 392-344-095, and 392-344-100 are complete.

(3) If the superintendent of public instruction determines that the required documents are incomplete, the superintendent of public instruction shall hold the project and notify the school district in writing as to the incomplete items.

(4) If moneys are not available for state assistance in construction, the school district shall notify the superintendent of public instruction that they are proceeding with their own moneys with the expectation that they will be reimbursed as per WAC ((180-27-057)) 392-343-057.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-1075 ((State board of education)) Superintendent of public instruction commitment when district is authorized to open bids. When a district is granted approval to open bids pursuant to WAC ((180-29-107)) 392-344-107, the ((state board of education)) superintendent of public instruction is committed as provided at WAC ((180-29-107)) 392-344-107 as well as to all other state building assistance determinations including but not limited to additional state assistance and professional fees determined pursuant to state building assistance rules and regulations in effect at the time such approval to open bids is granted. This commitment is subject to the district's compliance with the time limitation for requesting an authorization for contract award as set forth in WAC ((180-29-108)) 392-344-108.

AMENDATORY SECTION (Amending WSR 89-22-008, filed 10/20/89, effective 11/20/89)

WAC 180-29-108 Condition precedent to approval to bid. Any project for which the superintendent of public instruction authorizes a district to open bids pursuant to WAC ((180-29-107)) 392-344-107 shall request an authorization for contract award pursuant to WAC ((180-29-110)) 392-344-110 within ninety calendar days of receipt of approval pursuant to WAC ((180-29-107)) 392-344-107: Provided, That the ninety-day period shall be automatically extended for an additional ninety calendar days if:

(1) The lowest legally acceptable base bid, exclusive of alternates, received by a district exceeds the cost estimate submitted to the superintendent of public instruction pursuant to WAC ((180-29-085)) 392-344-085 by ten percent or more; and

(2) Prior to the expiration on or after June 15, 1989, of the initial ninety-day period the district has rejected, or hereafter rejects, all bids in order to solicit new bids.

A district which fails to request an authorization for contract award pursuant to WAC ((180-29-110)) 392-344-110 within the time period allowed by this section shall have its authority to proceed withdrawn. Districts with such projects withdrawn may reinitiate an application for state assistance by first reapplying for project approval pursuant to WAC ((180-25-040)) 392-341-040.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-115 Authorization for contract award. (1) Upon receipt of the items as per WAC ((180-29-110)) 392-344-110, the superintendent of public instruction shall:

- (a) Analyze the bids;
 - (b) Determine the amount of state moneys allocable; and
 - (c) Make an allocation of state moneys for construction and other items as per chapter ((180-27)) 392-343 WAC.
- (2) Authorization for contract award and allocation of state moneys shall be contingent upon the following:
- (a) The contract price for the construction has been established by competitive bid(s); and
 - (b) The school district has available sufficient local funds pursuant to chapter ((180-25)) 392-341 WAC.

AMENDATORY SECTION (Amending WSR 95-08-030, filed 3/29/95, effective 4/29/95)

WAC 180-29-125 Award of contract(s). Upon receipt of authorization to award contract(s) from the superintendent of public instruction, the board of directors of the school district shall award contract(s) for construction of the school facility project no later than the expiration of the time period permitted by the terms and conditions of the bid(s) for the award of contract(s). Immediately following the awarding of contract(s), the board of directors of the school district shall forward to the superintendent of public instruction one copy of each properly executed contract, one copy of the contractor's cost breakdown, and one copy of the contract(s) payment schedule. Such cost breakdown and payment schedule shall be displayed on a form issued and approved by the

superintendent of public instruction in accordance with WAC ((180-29-085)) 392-344-085 (1)(b). All state assistance-related approvals granted by the ((state board of education and the)) superintendent of public instruction under this chapter shall lapse and be null and void if a school district fails to award contract(s) within the time period permitted by the terms and conditions of the bid(s), unless noncompliance is waived for extraordinary reasons by the ((state board of education)) superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 94-13-019, filed 6/3/94, effective 7/4/94)

WAC 180-29-130 Disbursement of moneys—Sequence of payments. The order in which funds shall be disbursed for school facility construction shall be as follows:

(1) Prior to payment from state moneys, the school district shall make payments on all claims submitted until such time as the total amount of school district moneys obligated by the district have been expended.

(2) When local moneys have been expended as in subsection (1) of this section, payments from state moneys shall then be made: Provided, That for projects authorized for state funding pursuant to WAC ((180-29-115)) 392-344-115(2) after June 30, 1993, payment shall be made after receipt of written certification by the school district board of directors that the school facility project authorized for state matching funds has been or will be completed according to the purposes for which the state matching funds are being provided.

AMENDATORY SECTION (Amending WSR 94-14-028, filed 6/28/94, effective 7/29/94)

WAC 180-29-135 Disbursement of moneys—General provisions applicable to payments. Disbursement of moneys shall be in accordance with the following provisions:

(1) Payments to contractor(s) by school district. Payments to contractors shall be on the basis of work completed. Contractors shall submit to the school district monthly estimates of work completed which shall be supported by the architect/engineer's certificate for payment. No payments shall be made without certification from the architect/engineer that such work has been completed.

(2) Payments to others. Payments to others as per chapter ((180-27)) 392-343 WAC shall be made in accordance with the contract provisions for those services.

(3) Retainage. The provisions of chapter 60.28 RCW relating to public works contracts and of WAC ((180-29-147)) 392-344-147 shall govern retainage on contract payments.

AMENDATORY SECTION (Amending WSR 94-14-028, filed 6/28/94, effective 7/29/94)

WAC 180-29-147 Retained percentage law related requirements. (1) State school building assistance is conditioned upon a school district's compliance with the cash, or bond in lieu of cash, retained percentage requirements of chapter 60.28 RCW and this section. A school district may elect to administer compliance with all requirements of chap-

ter 60.28 RCW or, in part, designate the ((state board of education acting through the)) superintendent of public instruction as agent of the school district for purposes of administering retained percentage moneys reserved under RCW 60.28.011.

(2) Under RCW 60.28.011, a school district either:

(a) Must provide for the reservation of five percent of all moneys earned by a contractor either by the district, deposited by the district in an interest-bearing account or placed in escrow as provided in RCW 60.28.011(4); or

(b) Must accept a bond submitted by the contractor from any portion of the retainage in a form acceptable to the superintendent of public instruction and the school district and from a bonding company which meets the standards established at subsection (4)(b) of this section and by the school district, unless the school district can demonstrate good cause for refusing to accept the bond.

As a general rule, the ((state board of education)) superintendent of public instruction prefers and recommends the cash retainage option for reasons which include the security and ease of enforcement which the cash option affords.

(3) Cash retainage.

(a) If the school district reserves five percent of all moneys earned by the contractor in a retainage trust fund administered by the school district in accordance with RCW 60.28.011(1), moneys deposited in that trust fund (whether retained by the district, deposited by the district in an interest-bearing account, or placed in escrow), may be paid to the contractor without prior written consent by the superintendent of public instruction. The superintendent of public instruction shall make available to the school district model procedures and forms for setting up the trust fund selected by the contractor under RCW 60.28.011(4).

(b) At the request of the school district, the ((state board of education acting through the)) superintendent of public instruction may be designated as agent of the school district for cash retainage and will:

(i) Administer the retained percentage trust fund in accordance with RCW 60.28.011, inclusive of depositing, releasing and accounting for such moneys;

(ii) Establish and administer the retained percentage trust fund in accordance with the terms of chapter 60.28 RCW, and such terms as may be established by the superintendent of public instruction to ensure compliance with chapter 60.28 RCW, the security of trust fund moneys and efficient administration; and

(iii) Ensure that no moneys lawfully deposited in the retained percentage trust fund shall be paid to the contractor without the prior written consent of the superintendent of public instruction, except for the payment of interest earnings as may be required by law.

(4) If at the request of the contractor the bond in lieu of cash retained percentage option is implemented the following conditions apply:

(a) The bond shall be in terms and of a form approved and established by the superintendent of public instruction to ensure that the bond adequately addresses the purposes of chapter 60.28 RCW; and

(b) The bond shall be signed by a surety that is:

(i) Registered with the Washington state insurance commissioner; and

(ii) On the currently authorized insurance list published by the Washington state insurance commissioner.

(c) Whatever additional requirements for the bonding company as may be established by the school district.

(5) The release of retainage, whether cash or bond-in-lieu, shall be conditioned upon satisfactory compliance with the provisions of WAC ((180-29-165)) 392-344-165.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-155 Final acceptance of project by architect/engineer. Upon final completion of the project by contractor(s), the architect/engineer shall inspect the project to determine compliance with the construction documents. The architect/engineer, upon determining that the project has been completed satisfactorily, shall make such recommendation through the issuance of a certificate of completion to the school district board of directors. Separate certificates of completion shall be written for each contract awarded. Certificates of completion shall provide a statement of work completed including the gross square footage of new and/or modernized construction per WAC ((180-27-019)) 392-343-019.

AMENDATORY SECTION (Amending WSR 99-24-126, filed 12/1/99, effective 1/1/00)

WAC 180-29-160 Acceptance of project by school district. Based upon board acceptance of a building commissioning report when required and an inspection of the project and the certificate(s) of completion signed by the architect/engineer, the school district board of directors shall accept the project as complete or reject the project as incomplete. Until the superintendent of public instruction receives a school district board resolution officially accepting the project as complete and a copy of the commissioning report with board acceptance, no release of retainage shall be made in accordance with WAC ((180-29-165)) 392-344-165.

AMENDATORY SECTION (Amending WSR 92-24-027, filed 11/24/92, effective 12/25/92)

WAC 180-29-165 Documents required for release of retainage by school district. Release of retainage on contracts shall be subject to receipt by the superintendent of public instruction of the following documents:

(1) These documents shall be required no later than thirty days after official acceptance:

(a) Properly executed state invoice voucher as per the requirements of WAC ((180-29-145)) 392-344-145;

(b) Architect/engineer certificate(s) of completion;

(c) School district board of directors' resolution of final acceptance signed by the authorized agent of the school district.

(2) These documents shall be required no later than sixty days after official acceptance:

(a) Certification by the authorized agent of the school district that the district has on file all affidavits of wages paid in compliance with RCW 39.12.040;

(b) After expiration of forty-five days following acceptance of the project by the school district, a signed statement by the authorized agent of the school district that no lien(s) is on file with the school district or a certified list of each lien is on file with the school district. A copy of each lien shall be forwarded to the superintendent of public instruction;

(c) Either a permanent or temporary occupancy permit by building official of the jurisdiction. Also required are release documents as defined in chapter 60.28 RCW, RCW 50.24.130, and 51.12.050.

AMENDATORY SECTION (Amending WSR 94-14-028, filed 6/28/94, effective 7/29/94)

WAC 180-29-170 Liens. In the event that liens are filed with the school district, the provisions of RCW 60.28.010 through 60.28.060 shall apply. If the district holds a cash retainage under WAC ((180-29-147)) 392-344-147 (2)(a), the amount of each lien plus three thousand dollars or twenty-five percent of the claim, whichever is greater, for potential attorney fees, plus ten percent of the lien claim for court costs, shall be withheld from the retainage until any lien has been removed.

AMENDATORY SECTION (Amending WSR 98-19-141, filed 9/23/98, effective 10/24/98)

WAC 180-29-200 Forms. In addition to forms prescribed in WAC ((180-25-200 and 180-26-200)) 392-341-200 and 392-342-200, commencing January 1, 1986, forms applicable to the provisions of this chapter for school facility projects shall be as follows:

(1) Applications for secured funding status pursuant to WAC ((180-29-107)) 392-344-107 shall be designated as SPI Form D-7.

(2) Grants of secured funding status pursuant to WAC ((180-29-107)) 392-344-107 shall be given to districts through SPI Form D-8.

(3) Grants of authority for school districts to proceed without secured funding status pursuant to WAC ((180-29-107)) 392-344-107 shall be given to districts through SPI Form D-8-1.

(4) Applications for authority to enter into contracts pursuant to WAC ((180-29-110)) 392-344-110 shall be designated as SPI Form D-9.

(5) Grants of authority to enter into contracts pursuant to WAC ((180-29-115)) 392-344-115 shall be given to districts through SPI Form D-10.

(6) Grants of authority for school districts to enter into contracts without secured funding status pursuant to WAC ((180-29-115)) 392-344-115 shall be given to districts through SPI Form D-10-1.

(7) Applications for SPI to release retainage pursuant to WAC ((180-29-165)) 392-344-165 shall be designated as SPI Form D-11.

(8) Grants of release of final retainage pursuant to WAC ((180-29-165)) 392-344-165 shall be given through SPI Form D-12.

NEW SECTION

The following chapter of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
180-29-005	392-344-005
180-29-010	392-344-010
180-29-012	392-344-012
180-29-021	392-344-021
180-29-025	392-344-025
180-29-035	392-344-035
180-29-040	392-344-040
180-29-045	392-344-045
180-29-050	392-344-050
180-29-055	392-344-055
180-29-060	392-344-060
180-29-065	392-344-065
180-29-066	392-344-066
180-29-067	392-344-067
180-29-068	392-344-068
180-29-075	392-344-075
180-29-080	392-344-080
180-29-085	392-344-085
180-29-090	392-344-090
180-29-095	392-344-095
180-29-100	392-344-100
180-29-105	392-344-105
180-29-107	392-344-107
180-29-1075	392-344-1075
180-29-108	392-344-108
180-29-110	392-344-110
180-29-115	392-344-115
180-29-120	392-344-120
180-29-125	392-344-125
180-29-130	392-344-130
180-29-135	392-344-135
180-29-140	392-344-140
180-29-145	392-344-145
180-29-147	392-344-147
180-29-150	392-344-150
180-29-155	392-344-155
180-29-160	392-344-160
180-29-165	392-344-165
180-29-170	392-344-170
180-29-200	392-344-200

WSR 06-16-035

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed July 25, 2006, 2:07 p.m., effective August 25, 2006]

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

Purpose: The aging and disability services administration will be offering new freedom consumer directed services (NFCDS). Rules on this program are needed to provide a description of the program, eligibility criteria, types of services, the enrollment/disenrollment process, and additional information.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0010, 388-106-0015, 388-106-0040, 388-106-0055, and 388-106-0130.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.030.

Adopted under notice filed as WSR 06-11-018 on May 4, 2006.

A final cost-benefit analysis is available by contacting Tiffany Sevruck, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 16, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 16, Amended 5, Repealed 0.

Date Adopted: July 25, 2006.

Robin Arnold-Williams
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-17 issue of the Register.

WSR 06-16-037

**PERMANENT RULES
SPOKANE COUNTY AIR**

POLLUTION CONTROL AUTHORITY

[Filed July 25, 2006, 3:27 p.m., effective August 25, 2006]

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

Purpose: Revise Section 2.12 by adding the title "Restraining Orders—Injunctions" to clarify the purpose of the section.

Revise Section 2.13 by changing the federal rules and regulations effective date to July 1, 2006, from March 4, 2004, for those federal rules and regulations that SCAPCA implements and enforces. These rules and regulations are listed in SCAPCA Regulation 1 [I], Article IV, "Exhibit R items #7, #8.a., and #8.b."

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 06-15-032 on July 10, 2006.

Changes Other than Editing from Proposed to Adopted Version: Article II, Sections 2.12 and 2.13 were adopted by the board.

Post CR-102 nonsubstantive revisions Article II, Section 2.14 - the SCAPCA board postponed adoption of this section to August 3, 2006, pending nonsubstantive revisions to the structure and further additions of language to clarify that SCAPCA has regulations that cover the excepted sections to chapter 173-400 WAC.

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

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

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

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

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

Date Adopted: July 13, 2006.

July 7, 2006

Charles E. Studer

Environmental Engineer

AMENDATORY SECTION (Amending Order Res. 04-01, Filed 03/04/2004)

SECTION 2.12 RESTRAINING ORDERS—INJUNCTIONS (SEE RCW 70.94.425)

The Authority implements and enforces RCW 70.94.425.

SECTION 2.13 FEDERAL REGULATION REFERENCE DATE

AMENDATORY SECTION (Amending Order Res. 04-01, Filed 03/04/2004)

Whenever federal laws or regulations are referenced in this Regulation, the effective date shall be ~~((March 04, 2004))~~ July 1, 2006, unless otherwise noted.

WSR 06-16-039

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 26, 2006, 8:25 a.m., effective August 26, 2006]

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

Purpose: Rule making is to establish the procedures the department of licensing will follow in order to provide full access to public records.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-10-035; and amending WAC 308-10-005, 308-10-010, 308-10-020, 308-10-025, 308-10-030, 308-10-040, 308-10-045, 308-10-050, 308-10-067, and 308-10-070.

Statutory Authority for Adoption: RCW 42.17.260.

Other Authority: RCW 42.17.250 and 46.01.110.

Adopted under notice filed as WSR 06-13-016 on June 12, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 11, Repealed 1.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 11, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 11, Repealed 1.

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

Date Adopted: July 26, 2006.

Walt Fahrer

Finance and Administration

AMENDATORY SECTION (Amending WSR 92-09-107, filed 4/20/92, effective 5/21/92)

WAC 308-10-005 Authority and purpose. ~~((The purpose of this chapter shall be to ensure compliance by the department of licensing with the provisions of RCW 42.17.250-42.17.320, dealing with public records.))~~ (1) RCW 42.17.260(1)/42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency.

(2) The purpose of these rules is to establish the procedures the department of licensing will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the department of licensing and establish processes for both requestors and the department of licensing staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the department of licensing will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending WSR 99-17-031, filed 8/11/99, effective 9/11/99)

WAC 308-10-010 Definitions. (1) The definitions set forth in RCW 42.17.020/42.56.010 shall apply to this chapter.

~~((2) The "department of licensing" is the agency created pursuant to chapter 46.01 RCW. The department of licensing shall hereinafter be referred to as the department. Where appropriate, the term department also refers to the staff and employees of the department of licensing.~~

~~(3) "Director" means the director of the department of licensing as appointed by the governor pursuant to RCW 46.01.090.~~

~~(4) "Raw data" means facts, symbols, or observations which have all of the following characteristics:~~

~~(a) They have not been processed, edited or interpreted.~~

~~(b) They are unevaluated and unorganized.~~

~~(c) The fact, symbol, or observation does not, of itself, impart meaning to a potential user or fulfill a recognized need.~~

~~(d) To be useable the fact, symbol, or observation must go through some transformation process.~~

~~(5) "Information" means raw data that are organized, evaluated and interpreted to impart meaning to potential users and fulfill a recognized need.~~

~~(6) "Listing (list)" means an item by item series of names, figures, words or numbers written or printed one after the other.~~

~~(7) "Tabulation" means the systematic arrangement of facts, statistics, and similar information, except the names of individuals, in column or table format.~~

~~(8) "Individual" means a natural person.~~

~~(9) "Commercial purpose" means using or intending to use information for the purpose of facilitating a profit expecting business activity.~~

~~(10) "Profession," when applied to department records, or the release of department record information, means any state regulated business, profession or occupation administered by the assistant director, business and professions division.)~~ (2) "Designee" is a department employee authorized by the public records officer to receive and respond to a public records request.

(3) The "department of licensing" is the agency created pursuant to chapter 46.01 RCW. The department of licensing shall hereinafter be referred to as the department. Where appropriate, the term department also refers to the staff and employees of the department of licensing.

(4) "Director" means the director of the department of licensing as appointed by the governor pursuant to RCW 46.01.090.

(5) "Listing (list)" means an item-by-item series of names, figures, words or numbers written or printed one after the other.

(6) "Individual" means a natural person.

(7) "Commercial purpose" means using or intending to use information for the purpose of facilitating a profit expecting business activity.

(8) "Profession" when applied to department records, or the release of department record information, means any state regulated business, profession or occupation administered by the assistant director, business and professions division.

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-020 Operations and procedures. (1) The department is organized under a director, deputy director, chief financial officer, chief information officer and ~~((five))~~ three assistant directors. Each assistant director and officer is delegated authority to act in a specific functional area. The five major functional components are: Vehicle services, driver services, ~~((administrative services))~~ finance and administration division, information services, and business and professions division.

(2) The director of the department is appointed by the governor, with consent of the senate, and holds office at the pleasure of the governor.

(a) Subject to statutory limitations the director has complete charge of the department. The director may delegate any power or duty vested in the office to any assistant or subordinate, but remains responsible for the official acts of the officers and employees.

(b) By the specific powers of legislation and delegation the director is charged with the responsibility and authority to act and direct in the following areas:

(i) Efficiently administer the laws pertaining to licensing of vehicles, vehicle operators, professions, occupations, real estate, vessels, and businesses.

(ii) Adopt and enforce rules consistent with, and necessary to carry out, the provisions of existing laws.

(c) Each assistant director and officer reports directly to the deputy director, unless otherwise prescribed.

(d) Unless specifically delegated the director shall establish and maintain relationships with the state's executive offices, legislature, and other state agencies, other states and other states' agencies, agencies of the federal government, state and national associations, local and municipal governments, boards and commissions, and the press.

(e) The director shall have direct authority over matters pertaining to public information, research, and legal issues.

(3) The assistant director, vehicle services, has authority to act in the following areas:

(a) Administer laws pertaining to:

(i) Vehicle and vessel licensing and excise tax programs;

(ii) Fuel tax programs;

(iii) Proration and reciprocity programs;

(iv) Vehicle and vessel dealer, manufacturer licensing and inspection programs; and

(v) Miscellaneous vehicle licensing programs including: Transporters, wreckers, hulk haulers, abandoned vehicles,

tow truck operators, scrap processors, snowmobile and ORV vehicle dealers.

(b) Adopt and enforce rules and standards to carry out the provisions of existing law.

(c) Administer the licensing functions of county auditors, and licensing agents who have been appointed to act on behalf of the department.

(4) The assistant director, driver services, has authority to act in the following areas:

(a) Administer the laws pertaining to driver licensing, financial responsibility, driver improvement, and examining;

(b) Adopt and enforce rules and standards to carry out the provisions of existing law; and

(c) Determine field office locations and initiate property acquisition.

(5) The assistant director, business and professions division, has authority to act in the following areas:

(a) Administer the laws in conjunction with appointed boards pertaining to the following professions, occupations, and businesses:

Appraisers
Architects
~~((Athlete agents))~~
Auctioneers
Bail bonds ~~((agencies))~~
~~((Barbers))~~ Boxing
Camping resorts
Cemeteries
Collection agencies
Cosmetologists
~~((Debt adjusters~~
~~Embalmers))~~ Court reporters
Employment agencies
Engineers
~~((Estheticians))~~
Firearms ~~((dealers))~~
Funeral directors
Geologists
Land surveyors
Landscape architects
~~((Manicurists))~~ Limousines
Martial arts
Notaries public
On-site wastewater treatment
Real estate ~~((brokers and salespersons))~~
Private investigators
Security guards
~~((Court reporters))~~ Sellers of travel
Timeshares
Vehicle for hire (includes taxis)
Wrestling
Uniform commercial code (UCC)

(i) The assistant director of the business and professions division helps administer the laws in conjunction with appointed boards, who exercise administrative and regulatory functions. Those boards are as follows:

~~((Appraiser advisory committee))~~ Real Estate Appraiser Commission

Board of registration for architects ~~((registration board))~~

Board of funeral directors and embalmers

Cemetery licensing board

Collection agency board

Cosmetology, barbering, esthetics, and manicuring advisory ~~((committee))~~ board

Professional engineers ((&)) and land surveyors ((registration)) board

Landscape architect~~((s-examining))~~ board

Real estate commission

~~((Shorthand court reporters advisory committee))~~ On-site wastewater design advisory committee

Geologist licensing board

(ii) Correspondence to these boards should be directed to the program units for the boards.

(b) Adopt and enforce the rules, regulations and standards in conjunction with appointed boards to carry out the provisions of existing laws.

(c) Establish and maintain relationships with commissions, boards, societies, associations, and agencies both external and internal to this state in order to enhance the department's capability for recommending improvements in legislation, rules, or regulations relative to professions, occupations, or businesses.

(d) Administer the laws pertaining to Uniform Commercial Code, business licensing and registration.

(6) The ~~((assistant director, administrative services))~~ chief financial officer, finance and administration division, has authority to act in the following areas:

(a) Develop, promote, and direct department activities and programs which relate to:

- (i) Budget and management systems;
- (ii) Supply and equipment procurement;
- (iii) ~~((Forms and))~~ Records management;
- (iv) Fiscal and revenue accounting;
- (v) Contracts;
- (vi) Safety and risk management;
- (vii) Facilities;
- (viii) Mail operations;

(b) Organize, provide, and manage integrated staff services to best serve the overall interests of the department.

(7) The ~~((assistant director))~~ chief information officer, information services, has the authority to act in the following areas:

(a) Develop, promote, coordinate, and direct department activities which relate to the automated processing of data.

(b) Consult and work with other state agencies in structuring and phase-in of inter-agency related programs.

(c) Develop and implement a formal problem reporting system.

(8) The department conducts informal and formal proceedings in areas of its statutory authority as related in WAC 308-10-020. These proceedings are governed by chapters 34.05, 42.30 and 43.24 RCW, except that the denial, suspension, or revocation of drivers' licenses are not subject to provisions of chapter 34.05 RCW, the Administrative Procedure Act, other than those actions taken pursuant to chapter 46.29 RCW. The department has adopted rules in Title 308 WAC.

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-025 Public records available. All public records of the department are deemed to be available for public inspection and copying during ~~((customary office))~~ normal business hours pursuant to these rules, except as otherwise provided by chapters 42.17/42.56 and 46.12 RCW, WAC 308-10-050 and 308-93-087. For the purposes of this chapter, the normal business hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-030 Public ~~((disclosure))~~ records officer. The department's public ~~((disclosure))~~ records officer shall be designated by the director. The person so designated shall be located in the main administrative offices of the department. The public ~~((disclosure))~~ records officer shall be responsible for the following: The implementation of the department's rules regarding release of public records, coordinating the staff of the department in this regard, maintaining, keeping current, and publishing an index of all agency records and ensuring compliance with the public records disclosure act requirements.

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-040 Requests for public records. In accordance with requirements of chapter 42.17/42.56 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon ~~((a))~~ the department's public records request form ~~((prescribed by the department which shall be available at its administrative office. The form shall be presented to any member of the department staff designated by the responsible assistant director to receive requests, at the administrative office of the department during customary office hours))~~ or by letter, fax, or e-mail addressed to the public records officer or designee where the record is held. The request shall include the following information:

- (a) The name and address of the person requesting the record.
- (b) The calendar date on which the request is made.
- (c) The nature of the request.
- (d) A reference to the requested record as it is described in the current department record index.

Note: If the material is not identifiable by reference to the department's current index, an accurate description of the record is requested.

(e) The signature and other ~~((identifying information of the requester))~~ contact information including telephone number and any e-mail address.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

(3) Persons authorized by law to obtain lists of names of individuals from public records will be required to complete a statement agreeing not to release or use the information for commercial purposes.

(4) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 308-10-045, standard photocopies will be provided at fifteen cents per page.

(5) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm, in writing, receipt of the information and the substance of the request.

NEW SECTION

WAC 308-10-041 Processing of public records requests—General. (1) Providing "fullest assistance." The department is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
- (e) Deny the request.

(3) Consequences of failure to respond. If the department does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him

or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) Inspection of records.

(a) Consistent with other demands, the department shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the department's notification to him or her that the records are available for inspection or copying. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the department may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(7) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set or records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the department has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee will close the request and indicate to the requestor that the department has closed the request.

(10) Later discovered documents. If, after the department has informed the requestor that it has provided all available records, the department becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

AMENDATORY SECTION (Amending WSR 99-09-045, filed 4/19/99, effective 5/20/99)

WAC 308-10-045 ((Copying-)) Costs of providing copies of public records. (1) No fee shall be charged for the inspection of public records. The department shall charge a

fee in the amount necessary to reimburse the department for its actual costs incident to providing copies of public records. The schedule of charges is:

ITEM	FEE
Copies produced on copying and duplicating equipment	15 cents per page
Computer generated listing, magnetic tapes or labels	Cost of services
Microfilm copies	75 cents per page
Postal charges	May be added to any copy of a public record if applicable

(2) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The department will not charge sales tax when it makes copies of public records.

(3) Payment may be made by check or money order to the department.

AMENDATORY SECTION (Amending WSR 97-17-009, filed 8/7/97, effective 9/13/97)

WAC 308-10-050 Exemptions. (1) The department may determine that a public record requested is exempt under the provisions of chapter 42.17/42.56 RCW ((42.17.310 or other law)). In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure.

(2) Under RCW 42.17.260/42.56.210, the department may delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17/42.56 RCW.

(3) The department will not release personal information, as defined in 18 USC 2725(3), from records pertaining to motor vehicle operator's licenses and permits, motor vehicle titles, motor vehicle registrations, and identification cards, unless the release both is considered a permissible use under 18 USC 2721 and is otherwise permitted by state law. In construing 18 USC 2721 (b)(2), the release of personal information for use in connection with matters of motor vehicle safety or driver safety shall be deemed to include the physical safety of persons as drivers, passengers or pedestrians and their motor vehicles or property.

(4) All denials of requests for public records will be accompanied by a written statement specifying the reason for the deletion or denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(5) The department is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending WSR 92-09-107, filed 4/20/92, effective 5/21/92)

WAC 308-10-055 Review of denials of public records ((requests)). (1) ~~((Upon any denial of a request for a public record, the public disclosure officer or staff member who denied the record shall initiate a prompt review of the decision by referring the request and denial to the director of the department or designee. The director or designee shall immediately consider the matter and either affirm or reverse such denial or call a specific meeting of the department as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the original denial.~~

~~(2) Administrative remedies shall not be considered exhausted until the department has returned the review of a denial with a decision or until the close of the second business day following denial of inspection, whichever occurs first.)~~ Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the manager of administration, finance and administration division. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the department's receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(3) Review by the attorney general's office. Pursuant to RCW 42.17.325/42.56.530, if the department denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.17.340/42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-067 Public records indexing system. (1) The department ~~((of licensing))~~ has implemented a system of indexing for identification and location of the following records:

(a) All records issued before July 1, 1990, for which the ~~((agency))~~ department has maintained an index.

(b) Final orders from adjudicative proceedings as defined in RCW 34.05.010(1) entered after June 30, 1990,

that contain an analysis or decision of substantial importance to the ~~((agency))~~ department in carrying out its duties.

(c) Declaratory orders entered after June 30, 1990, that contain an analysis or decision of substantial importance to the ~~((agency))~~ department in carrying out its duties.

(d) Interpretive statements entered after June 30, 1990.

(e) Policy statements entered after June 30, 1990.

(2) The department ~~((of licensing))~~ shall maintain a general index of all its records available to the public for inspection and copying, including those records mentioned above.

(3) The general index of public records will be maintained and updated ~~((yearly))~~ by the ~~((agency))~~ department. The index of records is available during regular business hours for public inspection at the ~~((agency's))~~ department's main office located at the Department of Licensing, 1125 Washington Street S.E., Olympia, Washington 98504. The public ~~((disclosure))~~ records officer is responsible for updating the general index ~~((yearly))~~.

AMENDATORY SECTION (Amending WSR 92-09-107, filed 4/20/92, effective 5/21/92)

WAC 308-10-070 Communications with department.

All written communications with the department pertaining to the administration or enforcement of chapter 42.17/42.56 RCW and these rules shall be addressed as follows: Department of Licensing, c/o Public ~~((Disclosure))~~ Records Officer, ~~((Office of Budget and Program Support))~~ Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA 98504-8001.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-10-035 Office hours.

WSR 06-16-042

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed July 26, 2006, 10:25 a.m., effective August 26, 2006]

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

Purpose: This rule provides the current adjusted compensation threshold set in RCW 41.40.023 for elected officials who wish to retire from PERS and continue to serve in their elected positions.

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-575.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.40.023.

Adopted under notice filed as WSR 06-13-094 on June 21, 2006.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 26, 2006.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 05-12-109, filed 5/27/05, effective 6/27/05)

WAC 415-108-575 ((How is the compensation adjustment for elected officials computed?)) May I retire from PERS while holding an elective position? ~~((1) This section provides the department's inflation adjustment under RCW 41.40.023 (3)(b) regarding elected officials.~~

~~(2) The department uses the criteria in RCW 41.26.240, in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.40.023 (3)(b).~~

~~(3) The department adjusts the compensation threshold on April 1st of each year.²~~

~~(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.~~

Footnotes to section:

¹ The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

² In 2001, the threshold was \$19,263. In 2002, the threshold was \$19,948. In 2003, the threshold was \$20,595. The 2004 threshold, effective April 2005, is \$20,919.)

(1) If you are holding an elective position and accruing PERS service credit for your service in that position, you may retire from PERS and continue to work in your elective position provided:

(a) You are eligible to retire under RCW 41.40.180, 41.40.630, or 41.40.820;

(b) You submit a written statement to the department, waiving the right to earn PERS service credit for any future period of service in an elective position; and

(c) Your compensation in the elective position is fifteen thousand dollars or less per year, adjusted annually for inflation by the director. See subsection (2) of this section.

(2) The compensation threshold in subsection (1)(c) of this section is adjusted on April 1 of each year, based on the average consumer price index for Seattle for the previous calendar year. Effective April 2006, the threshold is \$21,551. You may contact the department for the threshold in effect for previous or subsequent years.

WSR 06-16-043

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed July 26, 2006, 10:26 a.m., effective August 26, 2006]

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

Purpose: To implement new legislation giving LEOFF, PERS, PSERS, SERS, TRS and WSPRS members and opportunity to purchase up to sixty months of additional service credit at the time of retirement.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: Chapter 214, Laws of 2006, and RCW 41.26.432.

Adopted under notice filed as WSR 06-13-095 on June 21, 2006.

Changes Other than Editing from Proposed to Adopted Version: Changed "or" to "and" in subsection (1)(g) to be consistent with (1)(a) through (f).

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

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

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

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

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

Date Adopted: July 26, 2006.

Sandra J. Matheson
Director

NEW SECTION

WAC 415-02-177 May I purchase additional service credit? (1) What is the option for purchasing additional service credit? The following statutes provide an option for eligible members to purchase additional service credit that provides a guaranteed, lifetime increase to their monthly retirement allowance:

(a) Section 5, chapter 214, Laws of 2006 for LEOFF Plan 1 members;

(b) RCW 41.26.432 for LEOFF Plan 2 members;

(c) Section 1, chapter 214, Laws of 2006 for PERS Plan 1, 2, and 3 members;

(d) Section 4, chapter 214, Laws of 2006 for PSERS Plan 2 members;

(e) Section 3, chapter 214, Laws of 2006 for SERS Plan 2 and 3 members;

(f) Section 2, chapter 214, Laws of 2006 for TRS Plan 1, 2, and 3 members; and

(g) Section 6, chapter 214, Laws of 2006 for WSPRS Plan 1 and 2 members.

(2) Am I eligible to purchase additional service credit?

(a) You may purchase additional service credit if you are eligible to retire from one or more of the following plans and you take your benefit as a monthly allowance rather than a lump sum payment:

- (i) LEOFF Plan 1 or 2 under RCW 41.26.090 or 41.26.430;
- (ii) PERS Plan 1, 2 or 3 under RCW 41.40.180, 41.40.630, or 41.40.820;
- (iii) PSERS Plan 2 under RCW 41.37.210;
- (iv) SERS Plan 2 or 3 under RCW 41.35.420 or 41.35.680;
- (v) TRS Plan 1, 2, or 3 under RCW 41.32.480, 41.32.765, or 41.32.875; or
- (vi) WSPRS Plan 1 or 2 under RCW 43.43.250.

(b) If you retire as a result of a disability, you may purchase additional service credit if you meet the requirements in (a) of this section.

(3) How much additional service credit may I purchase? If you are eligible, you may purchase from one to sixty months of additional service credit in whole month increments.

(4) May I use the additional purchased service credit to qualify for retirement, or to qualify for the three percent reduction instead of the actuarial reduction for early

retirement? No. You may not use the purchased service credit to qualify for retirement or to qualify for a three percent reduction factor instead of an actuarial reduction for early retirement.

(5) When must I apply to purchase additional service credit? You must submit your request to purchase additional service credit to the department at the same time you submit your application for retirement.

(6) How much will my monthly retirement allowance increase if I purchase additional service credit? The increase in your monthly retirement allowance will be calculated using the benefit formula for your system and plan, with a reduction for early retirement, if applicable. If your monthly allowance will be reduced for early retirement, the same early reduction factor will be used to calculate the increase due to the additional service credit.

PERS Plan 2 example 1: John is a member of PERS Plan 2. He applies for retirement, effective the first month after his 62nd birthday. His AFC is \$4000 per month. If he purchases sixty months of additional service credit, his monthly retirement allowance will increase by \$292 per month, calculated as follows:

$$\begin{aligned} \text{Additional service credit: } & 60 \text{ months} \div 12 = 5 \text{ years} \\ \text{Early retirement factor: } & .7300000 \end{aligned}$$

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\ &= 2\% \times 5 \text{ years} \times \$4000 \times .7300000 \\ &= \$292 \end{aligned}$$

TRS Plan 3 example 2: Jane is a member of TRS Plan 3. She applies for retirement, effective the first month after her 62nd birthday. Her AFC is \$4000 per month. If she purchases sixty months of additional service credit, her monthly

retirement allowance will increase by \$146 per month, calculated as follows:

$$\begin{aligned} \text{Additional service credit: } & 60 \text{ months} \div 12 = 5 \text{ years} \\ \text{Early retirement factor: } & .7300000 \end{aligned}$$

$$\begin{aligned} \text{Amount of increase} &= 1\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\ &= 1\% \times 5 \text{ years} \times \$4000 \times .7300000 \\ &= \$146 \end{aligned}$$

LEOFF Plan 2 example 3: Jim is a member of LEOFF Plan 2. He applies for retirement, effective the first month after his 53rd birthday. His FAS is \$4000 per month. If he purchases sixty months of additional service credit, his

monthly retirement allowance will increase by \$400 per month, calculated as follows:

$$\text{Additional service credit: } 60 \text{ months} \div 12 = 5 \text{ years}$$

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{FAS} \\ &= 2\% \times 5 \text{ years} \times \$4000 \\ &= \$400 \end{aligned}$$

(7) How is the cost of the additional purchased service credit calculated? The cost to purchase additional service credit is calculated by dividing the amount of the increase in subsection (6) of this section by the age-based annuity factor in WAC 415-02-340.

Example. In subsection (6) of this section, Example 1, it was determined that John's retirement allowance would increase by \$292 per month. The cost to purchase the five years of additional service credit would be \$43,558.68, calculated as follows:

$$\begin{aligned} \text{Cost} &= \text{Amount of increase} \div \text{age-based annuity factor} \\ &= \$292 \div .0067036 \\ &= \$43,558.68 \end{aligned}$$

(8) How and when do I pay for the additional service credit?

(a) Payment may be made with an eligible rollover, a direct rollover or a trustee-to-trustee transfer. You may also use after-tax dollars, such as those from a personal savings account; however, IRS regulations limit the amount of after-tax dollars you can use for this type of purchase.

(b) Payment must be made in full ninety days after the bill issue date.

(9) If I choose a benefit option with a survivor feature, will my survivor beneficiary's monthly allowance reflect the additional purchased service credit? Yes. Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your survivor beneficiary's monthly allowance will be a percentage of the gross monthly retirement allowance you were receiving at the time of your death. If you choose a benefit option with a survivor feature and your survivor beneficiary dies before you, your monthly retirement allowance will increase to the amount it would have been had you not selected a survivor option.

(10) Will I receive a cost of living adjustment (COLA) on the portion of my allowance that is based on the additional purchased service credit?

(a) For all systems and plans except PERS Plan 1 and TRS Plan 1, your COLA will be based on your gross monthly retirement allowance, including the increase due to the purchased service credit.

(b) If you retired from PERS Plan 1 or TRS Plan 1 and you did not elect the COLA option, you will not receive a COLA on the additional purchased service credit amount.

(11) If I purchase additional service credit and then return to work, how will my retirement allowance be affected? If you return to work and your retirement allowance is suspended, the portion of your retirement allowance attributable to service credit purchased under this section will also be suspended. When your retirement allowance resumes, the portion attributable to service credit purchased under this section will also resume.

(12) If I retire and purchase less than sixty months of additional service credit, may I purchase more at a later time? If you retire and purchase less than sixty months of additional service credit, you may not purchase additional months of service credit from the same plan unless you return to membership and reretire from the same system and plan. You must meet the eligibility requirements provided in subsection (2) of this section at the time you reretire. You may not purchase more than a total of sixty months of service credit regardless of how many times you reretire from the same system and plan.

(13) May I purchase service credit from more than one retirement plan?

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and combine service credit to retire from two retirement plans, you may purchase up to sixty months of additional service credit from each plan.

(b) If you retire from more than one plan, but are not a dual member under chapter 415-113 WAC, you may purchase up to sixty months of additional service credit from

each plan in which you meet the eligibility requirements in subsection (2) of this section.

(14) Will the money I paid to purchase the additional service credit be distributed to my beneficiary or estate if I die?

(a) If you have a survivor beneficiary at the time of your death, your survivor beneficiary will receive a monthly allowance according to subsection (9) of this section.

(b) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement (including the money you paid for additional service credit):

(i) **Plan 1 members:** The balance will be distributed according to RCW 41.26.160 and 41.26.161 (LEOFF), 41.40.188 (PERS), 41.32.530 (TRS), or WAC 415-103-215 (WSPRS).

(ii) **Plan 2 members and PSERS:** The balance will be distributed according to RCW 41.26.460 (LEOFF), 41.40.660 (PERS), 41.35.220 (SERS), 41.37.170 (PSERS), 41.32.785 or 41.32.790 (TRS), or 43.43.271 (WSPRS).

(iii) **Plan 3 members:** The balance will be retained by the Plan 3 trust fund. Money paid for additional service credit is posted directly to the Plan 3 trust fund to cover the increased cost of defined benefits, and is not distributable.

WSR 06-16-045**PERMANENT RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 06-173—Filed July 26, 2006, 3:39 p.m., effective August 26, 2006]

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

Purpose: Amend commercial rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-302, 220-47-311, 220-47-325, 220-47-401, and 220-47-411.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 06-11-130 on May 22, 2006.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

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

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

Date Adopted: July 25, 2006.

J. P. Koenings
for Ron Ozment, Chair
Fish and Wildlife Commission
by Larry Peck

AMENDATORY SECTION (Amending Order 05-166, filed 8/3/05, effective 9/3/05)

WAC 220-47-302 Puget Sound—Lawful gear—Gill net. (1) It is unlawful to use drift gill net salmon gear in Puget Sound that exceeds 1,800 feet in length or contains meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 mesh deep, or contain mesh size less than 5 inches.

(2) It is unlawful to use skiff gill net salmon nets in Puget Sound that exceed 300 feet in length or 90 meshes in depth, or contain meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 meshes deep, or contain mesh size less than 5 inches. It is unlawful to retrieve skiff gill nets by any means except hand (no hydraulics may be used). It is unlawful to fail to attend skiff gill nets at all times.

(3) Drift gill nets and skiff gill nets shall be operated substantially in a straight line. ~~((Circle setting or setting))~~ It is unlawful to set in a circle or to set other than substantially in a straight line ~~((shall be unlawful))~~.

(4) It is unlawful to take or fish for salmon with gill net gear in Areas 7 or 7A sockeye or pink fisheries unless said gill net gear is constructed so that the first 20 meshes below the corkline are composed of five-inch mesh white opaque minimum 210/30d (#12) diameter nylon twine.

(5) It is unlawful to take or fish for salmon with gill net gear in Areas 7 or 7A between the dates of September 30 and October ~~((46))~~ 14 unless the gill net vessel has aboard and uses operable recovery boxes as described in this subsection.

(a) Dimensions and capacities of required recovery boxes:

(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box.

(ii) Each recovery box chamber must have an inside length measurement of 48 inches, an inside width measurement of 10 inches, and an inside height measurement of 16 inches.

(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber.

(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber.

(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute.

(b) Each box and chamber must be operating during any time that the net is being retrieved or picked.

(c) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber.

(d) All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.

(e) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

(f) All fish placed in the recovery boxes must be released within the same catch area as the area of capture, and the release must occur prior to landing or docking.

(6) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

AMENDATORY SECTION (Amending Order 05-166, filed 8/3/05, effective 9/3/05)

WAC 220-47-311 Purse seine—Open periods. It is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

AREA	TIME	DATE
((7, 7A:	7AM—6PM with use of recovery box	10/12, 10/13, 10/19, 10/20, 10/26, 10/27
	7AM—3:15PM without use of recovery box	
	7AM—5PM with use of recovery box	11/2, 11/3
	7AM—2:30PM without use of recovery box	
7B, 7C:	6AM—8PM	8/17, 8/24, 8/31
	7AM—7PM	9/7
7B:	7AM—7PM	- 9/12, 9/13, 9/14
	7AM-9/18	- 8PM-10/29
	7AM-10/31	- 4PM-11/4
	7AM-11/7	- 4PM-11/11
	7AM-11/14	- 4PM-11/18
	7AM-11/21	- 4PM-11/25
	8AM-11/28	- 4PM-12/2

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then southeastward along that line to Fish Point is closed 9/1-9/30.

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.

8A:	7AM—7PM	Limited participation—two boats (9/26, 10/3).
	7AM—6PM	10/10, 10/17, 10/24, 10/26
	7AM—5PM	11/2, 11/7, 11/9, 11/16
	7AM—4PM	11/21, 11/23

8D:	7AM - 7PM	9/22, 9/26, 10/3
	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	11/2, 11/7, 11/9, 11/16
	7AM - 4PM	11/21, 11/23
10, 11:	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
	7AM - 4PM	11/21
12, 12B:	7AM - 6PM	10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
12C:	7AM - 5PM	11/8, 11/15
	7AM - 4PM	11/22
7, 7A:	7AM - 6PM with use of recovery box	10/11, 10/12, 10/13, 10/18, 10/19, 10/20, 10/25, 10/26, 10/27
	7AM - 5PM with use of recovery box	11/1, 11/2, 11/3, 11/8, 11/9, 11/10
	7AM - 2:30PM without use of recovery box	
7B, 7C:	6AM - 8PM	8/16, 8/23, 8/30
	7AM - 8PM	9/6
7B:	7AM 9/11	= 7PM 9/13
	7AM 9/17	= 6PM 10/28
	7AM 10/30	= 4PM 11/3
	7AM 11/6	= 4PM 11/10
	7AM 11/13	= 4PM 11/17
	7AM 11/20	= 4PM 11/24
	8AM 11/27	= 4PM 12/1

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squaticum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.

8A:	7AM - 7PM	Limited participation - two boats (9/25, 10/2).
	7AM - 6PM	10/9, 10/16, 10/24, 10/26
	7AM - 5PM	11/1, 11/6, 11/8, 11/15
	7AM - 4PM	11/20, 11/22
8D:	7AM - 7PM	9/25, 10/2
	7AM - 6PM	10/9, 10/16, 10/24, 10/26
	7AM - 5PM	11/1, 11/6, 11/8, 11/15
	7AM - 4PM	11/20, 11/22
10, 11:	7AM - 6PM	10/16, 10/23, 10/25
	7AM - 5PM	10/30, 11/6, 11/8, 11/13
	7AM - 4PM	11/20
12, 12B:	7AM - 6PM	10/16, 10/23, 10/25
	7AM - 5PM	10/30, 11/6, 11/13
12C:	7AM - 5PM	11/7, 11/14
	7AM - 4PM	11/21

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

Chinook salmon - at all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C and after October ((30)) 29 in Area 7B

Coho salmon - at all times in Areas 7, 7A, 10, and 11, and prior to September 11 in Area 7B

((Sockeye salmon - prior to September 24 in Areas 7B and 7C))
 Chum salmon - prior to October 1 in Areas 7 and 7A.
 All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 05-166, filed 8/3/05, effective 9/3/05)

WAC 220-47-325 Purse seine—Release of incidentally caught fish. (1) It is unlawful for any purse seine vessel operator landing salmon to land salmon directly into the hold. All salmon must be landed to the deck, or sorting tray or table, of the harvesting vessel with the hold hatch cover(s) closed until release of salmon that may not be retained is complete, and additionally:

(2) In Areas 7 and 7A and prior to September ((5)) 11 in Areas 7B and 7C, it is unlawful for any purse seine vessel operator to bring salmon aboard a vessel unless all salmon captured in the seine net are removed from the seine net using a brailer or dip net meeting the specifications in this section prior to the seine net being removed from the water, unless otherwise provided for in this section.

(3) The brailer shall be constructed in the following manner and with the following specifications:

(a) A bag of web hung on a rigid hoop attached to a handle;

(b) The bag shall be opened by releasing a line running through rings attached to the bottom of the bag; and

(c) The web shall be of soft knotless construction and the mesh size may not exceed 57 mm (2.25 inches) measured along two contiguous sides of a single mesh.

(4) Hand held dip nets shall be constructed of a shallow bag of soft, knotless web attached to a handle.

(5) Fish may be brought on board without using a brailer or dip net as specified in this section if the number of fish in the net is small enough that the crew can hand pull the bunt onto the vessel without the use of hydraulic or mechanical assistance.

(6) Fishers using a recovery box must have and operate the box in compliance with the provisions of WAC 220-47-302 (5)(a) through (f), and it is unlawful to fail to do so.

AMENDATORY SECTION (Amending Order 05-166, filed 8/3/05, effective 9/3/05)

WAC 220-47-401 Reef net open periods. (1) It is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for hereinafter in each respective area:

AREA	TIME	-	DATE(S)
7, 7A	7AM - 7PM Daily		((9/25-11/12)) 9/16 - 11/11

(2) It is unlawful to retain chinook salmon taken with reef net gear at all times, and it is unlawful to retain chum or wild coho salmon taken with reef net gear prior to October 1.

(3) All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 05-166, filed 8/3/05, effective 9/3/05)

WAC 220-47-411 Gill net—Open periods. It is unlawful to take, fish for or possess salmon taken with gill net gear

for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

(AREA	TIME		DATE(S)	MINIMUM MESH	
6D: Skiff gill net only.	7 AM	-	7 PM	9/21, 9/22, 9/23, 9/26, 9/27, 9/28, 9/29, 9/30, 10/3, 10/4, 10/5, 10/6, 10/7, 10/10, 10/11, 10/12, 10/13, 10/14, 10/17, 10/18, 10/19, 10/20, 10/21, 10/24, 10/25, 10/26, 10/27, 10/28	5"

Note: In Area 6D it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7 AM	-	8 PM Use of recovery box required	10/12, 10/13	6 1/4"
	8 AM	-	8 PM	10/19, 10/20, 10/26, 10/27	6 1/4"
	7 AM	-	7 PM	11/2, 11/3	6 1/4"

Note: In Areas 7 and 7A after September 30 but prior to October 16, coho and chinook salmon must be released and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f).

7B/7C:	7 PM	-	7 AM	NIGHTLY 8/15, 8/21, 8/23, 8/25, 8/28, 8/30, 9/1	7"
	6 PM	-	8 AM	NIGHTLY 9/5, 9/6, 9/8	7"
7B:	6 PM	-	8 AM	NIGHTLY 9/11, 9/13, 9/15	5"
	7 AM 9/18	-	8 PM 10/29		5"
	7 AM 10/31	-	4 PM 11/4		6 1/4"
	7 AM 11/7	-	4 PM 11/11		6 1/4"
	7 AM 11/14	-	4 PM 11/18		6 1/4"
	7 AM 11/21	-	4 PM 11/25		6 1/4"
	8 AM 11/28	-	4 PM 12/2		6 1/4"

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then southeastward along that line to Fish Point is closed 9/1-9/30.

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squaticum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and is open until 6:00 PM on the first Friday in December.

8A:	6 PM	-	8 AM	NIGHTLY 10/4	5"
	5 PM	-	8 AM	NIGHTLY 10/11, 10/13, 10/14	5"
	8 AM	-	8 PM	10/18, 10/20, 10/21	5"
	8 AM	-	8 PM	10/24, 10/25, 10/26, 10/27	6 1/4"
	7 AM	-	7 PM	11/1, 11/3, 11/4, 11/8, 11/10, 11/11, 11/15, 11/17, 11/18	6 1/4"
	7 AM	-	6 PM	11/22, 11/24, 11/25	6 1/4"
8D:	6 PM	-	8 AM	NIGHTLY 9/18, 9/20, 9/22, 9/25, 9/27, 9/29, 10/2, 10/4, 10/6	5"
	5 PM	-	8 AM	NIGHTLY 10/9, 10/11, 10/13, 10/16, 10/18, 10/20	5"
	8 AM	-	8 PM	10/27, 10/28	5"
	7 AM	-	7 PM	11/3, 11/4	5"
	7 AM	-	7 PM	11/10, 11/11, 11/17, 11/18	6 1/4"
	7 AM	-	6 PM	11/24, 11/25	6 1/4"
9A:	7 PM	-	7 AM	NIGHTLY 8/23, 8/25	5"
	7 AM 8/28	-	8 PM 10/29		5"

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

10, 11:	4 PM	-	7 AM	NIGHTLY 10/9	6 1/4"
	5 PM	-	8 AM	NIGHTLY 10/11, 10/12	6 1/4"
	4 PM	-	7 AM	NIGHTLY 10/16	6 1/4"

((AREA	TIME		DATE(S)	MINIMUM MESH
	5PM	-	8AM NIGHTLY 10/18, 10/19, 10/23, 10/25, 10/26	6 1/4"
	4PM	-	7AM NIGHTLY 10/30	6 1/4"
	4PM	-	8AM NIGHTLY 11/1, 11/2	6 1/4"
	4PM	-	7AM NIGHTLY 11/6	6 1/4"
	4PM	-	8AM NIGHTLY 11/8, 11/9	6 1/4"
	4PM	-	7AM NIGHTLY 11/13	6 1/4"
	4PM	-	8AM NIGHTLY 11/15, 11/16	6 1/4"
	4PM	-	7AM NIGHTLY 11/20	6 1/4"
	3PM	-	8AM NIGHTLY 11/22, 11/23	6 1/4"
12A: Skiff gill net only.	7AM	-	7PM 8/22, 8/31, 9/7, 9/14, 9/21, 9/28	5"

Note: In Area 12A it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 12A at any time, any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

12, 12B:	8AM	-	8PM 10/18, 10/19, 10/20, 10/25, 10/27, 10/28	6 1/4"
	7AM	-	7PM 11/1, 11/2, 11/3, 11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
12C:	7AM	-	7PM 11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
	7AM	-	6PM 11/22, 11/23, 11/24	6 1/4"

All other saltwater and freshwater areas—closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.))

AREA	TIME		DATE(S)	MINIMUM MESH
6D: Skiff gill net only.	7 AM	=	7 PM 9/21, 9/22, 9/25, 9/26, 9/27, 9/28, 9/29, 10/2, 10/3, 10/4, 10/5, 10/6, 10/9, 10/10, 10/11, 10/12, 10/13, 10/16, 10/17, 10/18, 10/19, 10/20, 10/23, 10/24, 10/25, 10/26, 10/27	5"

Note: In Area 6D it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook or chum salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	Noon	=	Midnight, Use of recovery box required 10/11, 10/12, 10/13	6 1/4"
	Noon	=	Midnight 10/18, 10/19, 10/20, 10/25, 10/26, 10/27, 11/1, 11/2, 11/3, 11/8, 11/9, 11/10	6 1/4"

Note: In Areas 7 and 7A after September 30 but prior to October 16, coho and chinook salmon must be released and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f).

7B/7C:	7PM	=	7AM NIGHTLY 8/14, 8/20, 8/22, 8/24, 8/27, 8/29, 8/31	7"
	7PM	=	8AM NIGHTLY 9/4, 9/5, 9/7	7"
7B:	6PM	=	8AM NIGHTLY 9/10, 9/12, 9/14	5"
	7AM 9/17	=	8PM 10/28	5"
	7AM 10/30	=	4PM 11/3	6 1/4"
	7AM 11/6	=	4PM 11/10	6 1/4"
	7AM 11/13	=	4PM 11/17	6 1/4"
	7AM 11/20	=	4PM 11/24	6 1/4"
	8AM 11/27	=	4PM 12/1	6 1/4"

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and is open until 6:00 PM on the first Friday in December.

8:	7AM	=	7PM 10/30, 11/1, 11/3, 11/6, 11/8, 11/10, 11/13, 11/15, 11/17	6 1/4"
	7AM	=	6PM 11/20, 11/22, 11/24	6 1/4"
8A:	6PM	=	8AM NIGHTLY 10/3	5"
	5PM	=	8AM NIGHTLY 10/10, 10/12, 10/13	5"
	8AM	=	8PM 10/17, 10/19, 10/20	5"
	8AM	=	8PM 10/23, 10/25, 10/27	6 1/4"

AREA	TIME		DATE(S)	MINIMUM MESH	
	7AM	=	7PM	10/31, 11/2, 11/3, 11/7, 11/9, 11/10, 11/14, 11/16, 11/17	6 1/4"
	7AM	=	6PM	11/21, 11/23, 11/24	6 1/4"
8D:	6PM	=	8AM	NIGHTLY 9/24, 9/26, 9/28, 10/1, 10/3, 10/5	5"
	5PM	=	8AM	NIGHTLY 10/8, 10/10, 10/12	5"
	8AM	=	8PM	10/19, 10/20, 10/26, 10/27	5"
	7AM	=	7PM	11/2, 11/3	5"
	7AM	=	7PM	11/9, 11/10, 11/16, 11/17	6 1/4"
	7AM	=	6PM	11/23, 11/24	6 1/4"
9A:	7PM	=	7AM	NIGHTLY 8/22, 8/24	5"
	6AM 8/27	=	8PM 10/28		5"
<u>Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.</u>					
10, 11:	4PM	=	7AM	NIGHTLY 10/15	6 1/4"
	5PM	=	8AM	NIGHTLY 10/17, 10/18	6 1/4"
	4PM	=	7AM	NIGHTLY 10/22, 10/24	6 1/4"
	5PM	=	8AM	NIGHTLY 10/25	6 1/4"
	3PM	=	7AM	NIGHTLY 10/29	6 1/4"
	4PM	=	8AM	NIGHTLY 10/31, 11/1	6 1/4"
	3PM	=	7AM	NIGHTLY 11/5, 11/7	6 1/4"
	4PM	=	8AM	NIGHTLY 11/8	6 1/4"
	3PM	=	7AM	NIGHTLY 11/12	6 1/4"
	4PM	=	8AM	NIGHTLY 11/14, 11/15	6 1/4"
	2PM	=	7AM	NIGHTLY 11/19	6 1/4"
	3PM	=	8AM	NIGHTLY 11/21, 11/22	6 1/4"
12A: Skiff gill net only.	7AM	=	7PM	9/5, 9/12, 9/19, 9/26, 10/3, 10/10	5"
<u>Note: In Area 12A it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or chum salmon taken in Area 12A at any time and any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.</u>					
12, 12B:	8AM	=	8PM	10/17, 10/19, 10/24, 10/26	6 1/4"
	7AM	=	7PM	10/31, 11/2, 11/7, 11/9, 11/14, 11/16	6 1/4"
12C:	7AM	=	7PM	11/7, 11/9, 11/14, 11/16	6 1/4"
	7AM	=	6PM	11/21, 11/22	6 1/4"

All other saltwater and freshwater areas - closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

WSR 06-16-052

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 04-10—Filed July 26, 2006, 4:01 p.m., effective August 26, 2006]

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

Purpose: The purpose of the adoption is to update the agricultural burning rule to: (1) Incorporate legislative changes and corrections, (2) clarify technical issues and definitions, (3) integrate agreed upon concepts identified in the 9th Circuit Court of Appeals Settlement Agreement, (4) describe the procedures ecology or a local air authority with jurisdiction will use to grant specific permission to burn, (5) specify additional permit and permit application requirements, (6) describe changes to and clarify permitting authority responsibilities, and (7) further spell out the criteria ecol-

ogy or a local air authority with jurisdiction will use to delegate all or part of the agricultural burning permit program.

Citation of Existing Rules Affected by this Order: Amending chapter 173-430 WAC.

Statutory Authority for Adoption: RCW 70.94.650, 70.94.743, and 70.94.745.

Adopted under notice filed as WSR 06-09-081 on April 18, 2006.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 173-430-020(5), replace "grower" with "agricultural operation."

2. WAC 173-430-020(5), add term "agricultural" to ["]commercial activities.["]

3. WAC 173-430-040(2), replace "and" with "or" and delete "pollution control" from local air pollution control authority.

4. WAC 173-430-040 (3)(a), add phrase "local air authorities with jurisdiction."

5. WAC 173-430-040 (3)(f), add "in whole or in part" and replace agency with "authority."

6. WAC 173-430-040 (4)(a)(i), add term "calendar."

7. WAC 173-430-040 (4)(a)(i), replace "farm" with "agricultural operation."

8. WAC 173-430-040 (4)(a)(ii), replace "farm" with "agricultural operation" and add "calendar."

9. WAC 173-430-040 (4)(a)(ii), add "debris from."

10. WAC 173-430-040 (4)(c)(i), add "calendar."

11. WAC 173-430-040 (4)(c)(i), replace "farm" with "agricultural operation."

12. WAC 173-430-040 (4)(c)(iv), add a column to the chart entitled "section" to correlate the fee level with the actual WAC section.

13. WAC 173-430-040 (4)(d), replace "prior to receiving a permit" with "when submitting the application."

14. WAC 173-430-080 (2)(a), create two sentences. Use "templates" as a modifier to refer to the type applications and permits local air authorities are required to use.

15. WAC 173-430-080(3), replace the word "agreement" with the term "order."

16. WAC 173-430-080(6), insert a comma and remove the word "and."

17. WAC 173-430-080 (6)(a), rewrite the first sentence. Delete "when a farmer decides to burn fewer acres than identified in the" and replace it with "for permitted acres not burned."

18. WAC 173-430-090(2), replace "Delegation criteria include:" with "The delegated permitting authority must, at a minimum, meet all of the following criteria:"

A final cost-benefit analysis is available by contacting Cathy Carruthers, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6465, fax (360) 407-6989, e-mail CACA461@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 8, Repealed 0.

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

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

Date Adopted: July 26, 2006.

Polly Zehm
for Jay J. Manning
Director

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-010 Purpose of the regulation. (~~This chapter, promulgated under chapter 70.94 RCW, the Washington Clean Air Act,~~) Chapter 70.94 RCW, the Washington Clean Air Act, declares it is the intent of the state to protect public health and it is the policy of the state that the responsibilities and costs of protecting the air resource and operating state and local air pollution control programs be shared as equitably as possible among all sources whose emissions cause air pollution. Some of the sources whose emissions contribute to air pollution in the state include industrial sources (large and small), mobile sources such as vehicles, and area sources such as woodstoves, general outdoor burning, and agricultural burning. A variety of strategies to control and reduce the impact of emissions are described throughout chapter 70.94 RCW, including controls on emissions created from agricultural burning. The act intends that public health be protected and also allows for agricultural burning that is reasonably necessary. The act also requires that burning be restricted and regulated to address the potentially competing goals of both limiting air pollution and allowing agricultural burning. Chapter 70.94 RCW authorizes the department of ecology and local air authorities to implement the provisions of that act related to agricultural burning. This rule establishes controls for agricultural burning in the state in order to minimize adverse health and the environment effects from agricultural burning in accord with the most reasonable procedures to follow in safeguarding life and property under all circumstances or is reasonably necessary to carry out the enterprise or both. The control strategies include:

(1) Establishing a permit program with minimum state-wide requirements and specific burn authorizations.

(2) Providing for implementation of a research program to explore and identify economical and practical alternatives to agricultural burning.

(3) Encouraging and developing economically feasible alternative methods to agricultural burning.

(4) Limiting the scope of the rule to agricultural burning and distinguishing between agricultural burning and other types of burning.

(5) Providing for local administration of the permitting program through delegation.

(6) Assessing air quality within a region and incorporating this data into an evaluation tailored to emissions from agricultural burning.

(7) Making use of metering as a component of the agricultural burning permit program. Metering is a technique of limiting emissions from agricultural burning at specific times and places by taking into account potential emission rates, forecasted weather (dispersion), and current and projected air quality.

(8) Using improved and proven technology in evaluating the conditions under which burning is authorized, including those related to meteorology, emissions, and air pollution.

(9) Providing for education and communication.

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-020 General applicability and conditions. (1) This regulation applies to burning related to agricultural activities (~~(and includes the burning of fields, prunings, weeds, and irrigation ditches, drainage ditches, fence rows or other essential pathways)~~). It does not apply to silvicultural burning or (~~(open)~~) other outdoor burning (chapter 173-425 WAC).

(2) Burning of organic debris related to agricultural activities is allowed when it is reasonably necessary to carry out the enterprise. Agricultural burning is reasonably necessary to carry out the enterprise when it meets the criteria of the best management practices and no practical alternative is reasonably available (RCW 70.94.650).

(3) Anyone conducting burning related to agricultural activities must comply with local fire safety laws and regulations, and burn when wind takes the smoke away from roads, homes, population centers, or other public areas.

(4) Burning related to agricultural activities must not occur during an air pollution episode or any stage of impaired air quality. Definitions of air pollution episode and impaired air quality are found in WAC 173-430-030.

(5) Burning of organic debris related to agricultural activities requires a permit and fee, except for agricultural burning that is incidental to commercial agricultural activities (RCW 70.94.745). An agricultural operation burning under the incidental agricultural burning exception must still notify the local fire department within the area and not burn during an air pollution episode or any stage of impaired air quality. The specific types of burning that qualify as exceptions to the permit requirement are:

(a) Orchard prunings. An orchard pruning is a routine and periodic operation to remove overly vigorous or nonfruiting tree limbs or branches to improve fruit quality, facilitate tree canopy training and improve the management of plant and disease, and pest infestations;

(b) Organic debris along fencelines. A fenceline or fencerow is the area bordering a commercial agricultural field that is or would be unworkable by equipment used to cultivate the adjacent field;

(c) Organic debris along or in irrigation or drainage ditches. An irrigation or drainage ditch is a waterway which predictably carries water (not necessarily continuously) and is unworkable by equipment used to cultivate the adjacent field;

(d) Organic debris blown by wind. The primary example is tumbleweeds.

AMENDATORY SECTION (Amending Order 97-45, filed 5/26/98, effective 6/26/98)

WAC 173-430-030 Definition of terms. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the meanings of the following words and phrases used in this chapter are listed below.

(1) **Agricultural burning:** Means the burning of vegetative debris from an agricultural operation necessary for dis-

ease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices. Propane flaming for the purpose of vegetative debris removal is considered commercial agricultural burning.

(2) **Agricultural operation:** Means a farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or (~~(proof that the land is designated in a classification for agricultural use)~~) its corporate equivalent. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.

(3) **Ag task force:** Means the agricultural burning practices and research task force.

(4) **Air pollution episode:** Means a period when a forecast, alert, warning, or emergency air pollution stage is declared as described in RCW 70.94.715.

(5) **Best management practice:** Means the criteria established by the agricultural burning practices and research task force (Ag task force).

(~~(5)~~) (6) **Certify:** Means to declare in writing, based on belief after reasonable inquiry, that the statements and information provided are true, accurate, and complete.

(~~(6)~~) (7) **Department:** Means the department of ecology.

(~~(7)~~) (8) **Farmer:** Means any person engaged in the business of growing or producing for sale any agricultural product upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons (~~(using such products as ingredients in a manufacturing process, or persons)~~) growing or producing such products primarily for their own consumption.

(~~(8)~~) (9) **Impaired air quality:** Means a first or second stage impaired air quality condition declared by ecology or a local air authority with jurisdiction in accordance with RCW 70.94.715, 70.94.775, and 70.94.473.

(a) A first stage of impaired air quality is reached when:

(i) Fine particulates are at an ambient level of thirty-five micrograms per cubic meter measured on a twenty-four-hour average; and

(ii) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below thirty-five micrograms per cubic meter for a period of forty-eight hours or more from the time that the fine particulates are measured at the trigger level.

(b) A second stage of impaired air quality is reached when:

(i) A first stage of impaired air quality has been in force and not been sufficient to reduce the increasing fine particle pollution trend;

(ii) Fine particulates are at an ambient level of sixty micrograms per cubic meter measured on a twenty-four-hour average; and

(iii) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below sixty micrograms per cubic meter for a period of forty-eight

hours or more from the time that the fine particulates are measured at the trigger level.

(10) **Outdoor burning:** Means all forms of burning except those listed as exempt in WAC 173-425-020.

~~((9))~~ (11) **Permitting authority:** Means ecology or its delegate or a local air authority ((and the department where no local air authority exists)) with jurisdiction or ((their)) its delegate. Conservation districts, counties, fire districts, or fire protection agencies may receive delegation for all or portions of the agricultural burning permit program as identified in a delegation agreement. The permitting authority will issue agricultural burning permits for a given locale.

~~((10))~~ (12) **Silvicultural burning:** Means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.660, 70.94.690, and pursuant to chapter 76.04 RCW.

AMENDATORY SECTION (Amending Order 97-45, filed 5/26/98, effective 6/26/98)

WAC 173-430-040 Agricultural burning requirements. (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available. In certain circumstances, ecology may certify an alternative to burning. Where the certified alternative is reasonably available, burning is not allowed. Certified alternatives are described in WAC 173-430-045.

(2) For allowed agricultural burning, the department of ecology or local air authorities with jurisdiction will make daily or specific fire burn calls (during times of anticipated burning) and use metering when necessary to minimize the potential for adverse air quality impacts. Metering is a technique of limiting emission from burning at specific times and places by taking into account potential emission rates, forecasted weather (dispersion), and current and projected air quality. The burn decision process will consider: The potential number of burns and their expected size(s) and duration(s); recent and current ambient concentrations of pollutants; other potential emissions sources; and evaluations and judgments about how foreseeable meteorological conditions will affect concentrations of pollutants in the air sheds.

(a) For the purposes of this section: The smoke management index is a set of conditions that guide the production of certain reports as described in (c) of this subsection and evaluations as described in (d) of this subsection. The smoke management index is not an air quality standard as defined in RCW 70.94.030(4) and further identified in RCW 70.94.331. The smoke management index is not an emission standard as defined in RCW 70.94.030(9) and further identified in RCW 70.94.331. The smoke management index is not an air pollution episode as described in RCW 70.94.710.

(b) Ecology and local air authorities making daily or specific fire burn calls in areas where PM2.5 concentrations are regularly monitored will follow the procedures in (c) of this subsection at the time of making the burn decision whenever either of the following smoke management index conditions exist:

(i) A most recent daily average (twenty-four-hour) PM2.5 concentration was equal to or greater than 16 micrograms per cubic meter. This is division between "good" and "moderate" classifications of the U.S. Environmental Protection Agency's Air Quality Index (AQI) for particulate matter based on the National Ambient Air Quality Standard of 65 micrograms per cubic meter.

(ii) A two-hour rolling average PM2.5 concentration, during the most recent twenty-four to thirty hours was equal to or greater than the regional seasonal average PM2.5 concentration plus 15 micrograms per cubic meter.

(c) In authorizing additional burning, a determination will be documented explaining that the decision to allow additional burning is not expected to result in a further significant deterioration of air quality. The determination will be entered on a standard form noting the date, time, the location of the additional burning, the size of the burn(s), and a brief explanation of the opinion as to why the additional burning is not expected to result in a further, significant reduction of air quality. The purpose of the determination and recordkeeping requirements of this section is to enhance agency and public understanding of the effectiveness of the daily burn and metering decision-making process, and to improve its application over time. A notice of such determinations will be made by ecology or a local air authority with jurisdiction at the time the daily burn decision is communicated. Ecology or a local air authority with jurisdiction will also periodically make the determination forms conveniently available to the public.

(d) Following a determination described in (c) of this subsection and a deterioration of air quality to levels equal to or greater than a two-hour rolling average concentration of the regional seasonal average PM2.5 concentration plus 25 micrograms per cubic meter in the specific area during the twenty hours following such determination, ecology or the local air authority with jurisdiction will evaluate the deterioration and document any findings and opinions regarding why the deterioration occurred. Ecology or the local air authority with jurisdiction will make evaluations under this subsection conveniently available to the public.

(e) Ecology or a local air authority with jurisdiction may evaluate emission dispersion impacts in the regular course of business. In addition, ecology or the local air authority with jurisdiction will produce an annual report summarizing determinations and evaluations pursuant to the smoke management index.

(f) Pursuant to RCW 70.94.473 and 70.94.775, no burning shall be authorized when an air quality alert, warning, emergency or impaired air quality condition has been issued.

(g) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis as provided by RCW 70.94.656 and/or by RCW 70.94.650.

(3) Except as described in WAC 173-430-020(5), all agricultural burning requires a permit.

(a) Ecology or local air authorities with jurisdiction will provide agricultural burning application forms for agricultural burning.

(b) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

~~((b))~~ (c) A farmer must fill out the information requested on a permit application ~~((or the permit) and return)), pay the permitting fee, and submit it to the permitting authority for review and approval prior to burning.~~

(i) ~~((The permitting authority may require the farmer to fill out an application prior to issuing a permit.~~

~~((ii))~~ The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: ~~((Range,))~~ Section, township, range, block and unit number), the crop type, the type or size of the burn, driving directions to the burn, specific reason for the burn, the target date for burning, a map, signature of the responsible party, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

~~((iii))~~ (ii) All applications must comply with other state or local regulations.

~~((e))~~ (d) The permitting authority must evaluate the application, ~~((if there is one,))~~ and approve the permit prior to burning.

~~((d))~~ (e) Permit decisions including the issuance, denial, or conditioning must be based on consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the type and amount of vegetative material to be burned, the applicant's need to carry out such burning, existence of extreme burning conditions, risk of escape onto property owned by another, and the public's interest in the environment.

(f) Ecology or its delegate, or a local air authority with jurisdiction, or its delegate must approve or deny the permit in part or in whole based on information in the application.

(g) Ecology and its delegate or a local air ~~((agencies (and the department where no local air agency exists))~~ agency with jurisdiction or its delegate may issue permits for appropriate agricultural burning activities in nonattainment areas, maintenance areas, and urban growth areas as described in RCW 70.94.743.

~~((3))~~ (4) All agricultural burning permits require a fee. ~~((After January 1, 1995, the fee is the greater of:~~

~~((a) A minimum fee of))~~ Maximum fee level is set by statute at two dollars and fifty cents per acre (RCW 70.94.650(2)) and is established by the agricultural burning practices and research task force (RCW 70.94.650(4)). The fee is the greater of a minimum fee level or a variable fee level.

(a) Minimum fee levels:

(i) Twenty-five dollars per calendar year per ~~((farm))~~ agricultural operation based on burning up to ten acres or equivalent ~~((which will be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund and the remainder will be kept by the permitting authority to cover the costs of administering and enforcing this regulation; or))~~:

(ii) Fifty dollars for orchard tear-out burning per calendar year per agricultural operation based on burning debris from up to twenty acres or equivalent.

(b) ~~((A))~~ The variable fee level (based on the acreage or equivalent ~~((of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and up to one dollar and twenty-five cents per acre for local permit program))~~:

(i) Through the calendar year 2007, the fee is two dollars per acre.

(ii) Beginning in calendar year 2008, the fee is two dollars and twenty-five cents per acre.

(c) Permit fee uses. The permit fee is used to off-set the cost of administering and enforcing the agricultural burning permit program. There are three components: Local administration, research, and ecology administration.

(i) Local permitting program administration. ~~((One portion of the fee shall cover the permitting authority's costs of administering and enforcing the program.))~~ The permitting authority may set the fee as an amount per ~~((farm))~~ agricultural operation per calendar year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution. In areas of the state where the department ~~((is the))~~ has not delegated permitting authority, this portion of the fee shall be one dollar and twenty-five cents per acre burned.

(ii) Ecology administration. ~~((Another))~~ This portion of the fee shall be ~~((twenty-five cents per acre burned and cover))~~ used to off-set the statewide administrative, education, and oversight costs of the department for the agricultural burning program. ~~((The amount (if any) by which the annual total, of this portion of the fee, exceeds the annual statewide administrative, education, and oversight costs shall be deposited in the agricultural burning research fund of the air pollution control account.))~~

(iii) Research fund. ~~((A final portion,))~~ The agricultural burning applied research portion~~((s))~~ of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the ~~((Ag))~~ agricultural burning practices and research task force based on applied research needs, regional needs and the research fund budget. ~~((The research portion of the fee assessed shall be fifty cents per acre burned starting in calendar year 1995.))~~ The ~~((Ag))~~ agricultural burning practices and research task force may also establish discounted assessment rates based on the use of best management practices.

~~((e))~~ (iv) The chart below shows the permit fee break-out per category:

<u>Fee Level</u>	<u>Section</u>	<u>Local Administration</u>	<u>Research</u>	<u>Ecology Administration</u>
<u>\$25.00</u>	<u>WAC 173-430-040</u> <u>(4)(a)(i)</u>	<u>\$12.50</u>	<u>\$12.50</u>	<u>-0-</u>
<u>\$50.00</u>	<u>WAC 173-430-040</u> <u>(4)(a)(ii)</u>	<u>\$12.50</u>	<u>\$12.50</u>	<u>\$25.00</u>
<u>2006 - \$2.00 per acre</u>	<u>WAC 173-430-040</u> <u>(4)(b)(i)</u>	<u>Up to \$1.25 per acre</u>	<u>50 cents per acre</u>	<u>25 cents per acre</u>
<u>2007 - \$2.00 per acre</u>	<u>WAC 173-430-040</u> <u>(4)(b)(i)</u>	<u>Up to \$1.25 per acre</u>	<u>25 cents per acre</u>	<u>50 cents per acre</u>
<u>2008 and beyond -</u> <u>\$2.25 per acre</u>	<u>WAC 173-430-040</u> <u>(4)(b)(ii)</u>	<u>Up to \$1.25 per acre</u>	<u>50 cents per acre</u>	<u>50 cents per acre</u>

(d) A farmer must pay the fee (~~(prior to receiving a permit)~~) when submitting the application. Refunds are allowed for portions not burned provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

~~((e))~~ (e) The agricultural burning practices and research task force may set acreage equivalents, for nonfield style agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

~~((4))~~ (5) All agricultural burning permits must ~~((be conditioned))~~ include conditions intended to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

(b) ~~((For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro-rata basis, or as provided by RCW 70.94.656.~~

~~((e))~~ Permits must be conditioned to minimize emissions and impacts insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions. When necessary as determined by ecology or the local air authorities to ensure compliance with the act, permit conditions will include the use of a daily burn decision, permit specific decisions and/or metering.

(c) The permitting authority must act on a complete application (as determined by the agency) within seven days of receipt.

(i) The permitting authority must evaluate the application and approve or deny all or part of it.

(ii) The permitting authority must evaluate the application to determine if the requested burning is within the general or crop-specific best management practices.

(iii) If the application is denied, the reason must be stated.

(6) Additional requirements for burning of field and turf grasses grown for seed.

The department of ecology will proceed with the process to certify alternatives to burning as identified in RCW 70.94.656(3). In addition to the certification process, ecology is also limiting the number of acres allowed to be burned as specified in RCW 70.94.656(4).

(a) Beginning in 1997 and until approved alternatives become available, each farmer shall be limited to burning no more than one-third of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

Without regard to any previous burn permit history, in 1996, each farmer shall be limited to burning the greater of:

(i) Two-thirds of the number of acres the farmer burned under a valid permit issued in 1995; or

(ii) Two-thirds of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

~~((d))~~ ~~Additional requirements for burning of field and turf grasses grown for seed. Beginning in 1997 and until approved alternatives become available, each farmer shall be limited to burning no more than one-third of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.~~

~~((e))~~ (b) Exemptions to ~~((additional))~~ the requirements for burning of field and turf grasses grown for seed ~~((d))~~ (a) of this subsection). A farmer may request an exemption for extraordinary circumstances, such as property where a portion(s) of the field is oddly shaped or where the slope is extremely steep. This provision does not apply to WAC 173-430-045 Alternatives to burning field and/or turf grasses grown for seed. Under this subsection, relief from the acreage/emissions reduction requirements of ~~((d))~~ (a) of this subsection shall be limited to no more than five percent of the acreage in production on May 1, 1996, and is also subject to the following provisions:

(i) The exemption request must be certified by an agronomic professional;

(ii) The farmer must be able to show full compliance with the emissions reductions in ~~((d))~~ (a) of this subsection for the acreage not exempted; and

(iii) The farmer must be in full compliance with permit requirements for other crops under WAC 173-430-040.

~~((f))~~ (c) Measurement for emission reduction for grass seed field and turf grass. Ecology will use acres as the basis for determining emission reductions as provided by RCW 70.94.656, until another method(s) is shown to be better and meets with the intent of RCW 70.94.656(4). Ecology will investigate alternate methods, as they become available. If ecology finds that an alternate method is appropriate and meets the criteria, it may certify this method using an administrative order.

(d) The department of ecology or local air authority may provide for trading of permits using the method described in ~~((f)(i), (ii), (iii), (iv), (v), and (vi) of)~~ this subsection. This trading system uses a straight transfer of acres, a transfer requiring mandatory compensation, or a combination of both. If ecology or the local air authority finds that emissions resulting from trading are creating a health impact, as defined by ecology or the local air authority, the trading system, once created, may be dissolved. This provision does not apply to WAC 173-430-045 Alternatives to burning field and/or turf grasses grown for seed.

(i) Ecology or the local air authority may develop a system that allows the trading of permits by:

(A) Adding a signed transfer line to the written permit that provides for a signature for the current holder of the permit;

(B) Providing a tracking system that identifies the current holder of the permit, that identifies when the permit was last used to allow burning of acreage, and that allows the name of the holder to be changed if the transfer line is signed by the current holder;

(C) Requiring that the new holder of the permit must turn in the permit with the signed transfer line at least sixty days before the new holder plans to burn; and

(D) Assuring that the permits are used only once in a calendar year.

(ii) By signing the transfer line on the permit the permit holder must indicate that he or she understands that the acres transferred may no longer be burned, that a permit for the acres transferred will not be issued to the signing permit holder in future years, and that the acres being transferred were not already burned during the calendar year during which the transfer takes place.

(iii) Ecology and the local air authorities may add restrictions to the transfer of permits closer to areas with higher population densities.

(iv) Only permits for acreage which has not yet been burned may be transferred or traded. The seller of the permit is responsible for permanently reducing the acreage burned by the amount of acreage transferred from January 1 of the year during which the transaction takes place.

(v) Acreage that is exempted under (e) of this subsection is not eligible for the trading system.

(vi) The authorities are encouraged to work together to use the same system and to allow trading between authority jurisdictions so as to allow the grass seed growers to adjust to the two-thirds overall reduction in acres permitted for burning as easily as possible.

~~((g) Measurement for emission reduction for grass seed field and turf grass. Ecology will use acres as the basis for determining emission reductions as provided by RCW 70.94.656, until another method(s) is shown to be better and meets with the intent of RCW 70.94.656(4). Ecology will investigate alternate methods, as they become available. If ecology finds that an alternate method is appropriate and meets the criteria, it may certify this method using an administrative order.~~

~~((h))~~ (e) Alternate open burning practices for field and turf grass grown for seed. Ecology acknowledges that there may be practices that involve some burning, but which pro-

duce emissions quantifiably below those of open field burning. If ecology finds that a practice involves open burning and still substantially reduces emissions below open field burning, ecology may certify the alternate burning practice(s) by administrative order. Any certified practice may be used to satisfy the acreage/emissions reduction requirements of ~~((f))~~ (a) of this subsection provided:

(i) The acreage application of the practice is adjusted to reflect effectiveness in reducing emissions so as to meet or exceed the emissions reduction required by ~~((f))~~ (a) of this subsection; and

(ii) In no case shall the emission reduction requirement for the field and turf grass grown for seed be less than that required in ~~((f))~~ (a) of this subsection.

~~((5))~~ (7) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-060 Research into alternatives to agricultural burning. (1) The department shall administer the research portion of the permit fee to carry out the recommendations of the Ag task force. In carrying out the recommendations, the department may conduct, cause to be conducted, or approve of a study or studies to explore and test economical and practical alternative practices to agricultural burning. To conduct any such study, the department may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible.

(2) No less than every two years, the Ag task force will ~~((annually))~~ review research needs and submitted proposals and make its recommendations to the department.

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-070 General agricultural burning permit conditions and criteria. Permit decisions including the issuance, denial, or conditioning must be based on consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the type and amount of vegetative material to be burned, the applicant's need to carry out such burning, existence of extreme burning conditions, risk of escape onto property owned by another, and the public's interest in the environment.

(1) Permits must include the following general conditions:

(a) ~~((No burning))~~ Do not burn at night ~~((except))~~ unless it is specified as a best management practice;

(b) ~~((Complying))~~ Comply with all fire safety regulations of the local fire protection agency including any no-burn directives ~~((they))~~ it may issue;

(c) ~~((Calling))~~ Call the local air authority burning information line (if there is one) before lighting the fire;

~~((d))~~ (d) Burn only during times specified by the permitting authority:

~~((e))~~ (e) Burn when wind takes the smoke away from roads, homes, population centers, or other public areas, to the greatest extent possible;

~~((f))~~ (f) Do not burn when adverse meteorological conditions exist;

~~((g))~~ (g) Burn only natural vegetation;

~~((h))~~ (h) Do not burn or add fuel during any stage of an air pollution episode or local air quality burning ban;

~~((i))~~ (i) Attend the fire at all times;

~~((j))~~ (j) Submit a postburn report to the permitting authority.

(2) If the permitting authority determines a specific situation will cause a nuisance under chapter 173-400 WAC or RCW 70.94.640, agricultural burning will not be allowed.

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-080 Responsibilities of a permitting authority. (1) The permitting authority is ecology or its delegate or a local air authority with jurisdiction or its delegate. The permitting authority must establish and administer an agricultural burning permit system. The minimum responsibilities are described in this section.

~~((2))~~ (2) The permitting authority must act on a complete application (as determined by ~~((the agency))~~ ecology or a local air authority with jurisdiction) within seven days of receipt.

(a) Local air authorities are required to use application templates and permit templates supplied by ecology. Ecology delegated authorities are required to use applications and permits supplied by ecology.

(b) A map is required to accompany all permit applications.

(i) The map must accurately depict the topography of the area where the requested burn would take place and include roads, landmarks, etc.

(ii) The map must accurately show affected acreage to be burned.

(iii) The map must show the position of the field within each section the field occupies, down to the 1/4 - 1/4 section. All four border lines of each section shall be outlined with the section number, township, and range clearly marked.

(c) The permitting authority must evaluate the application and approve or deny all or part of it.

~~((d))~~ (d) The permitting authority must evaluate the application to determine if the requested burning is within the general or crop-specific best management practices.

~~((e))~~ (e) If the application is denied, the reason must be stated.

~~((3))~~ (3) Permitting authorities must issue permits where appropriate on complete applications. Delegated permitting authorities may issue permits when agreed to as part of the delegation order.

(4) Permitting authorities must determine day-to-day burning restrictions near populated areas and arrange for dissemination of the results. Delegated permitting authorities must arrange for assisting in dissemination of results.

~~((5))~~ (5) The permitting authority or its delegate is responsible for responding to agricultural burning complaints.

~~((6))~~ (6) The permitting authority must collect the fee ~~((and))~~, determine the local administration portion of the fee, and issue refunds.

(a) Permitting authorities must issue a permit fee refund ~~((when a farmer decides to burn fewer acres than identified in the permit))~~ for permitted acres not burned on confirmation by the permitting authority. The refund request deadline must be included on the permits.

(b) Local air authorities and delegated permitting authorities must formally adopt the local administration portion of the fee through rule, regulation, ordinance, or resolution.

~~((7))~~ (7) Delegated permitting authorities must provide ecology with copies of all permits and supporting documentation and transfer the research and ecology administration portion of the fee to the department.

(a) ~~((Funds should be transferred twice a year or as designated in the delegation agreement.~~

~~((b))~~ Local air authorities and delegated permitting authorities must transfer funds twice a year by July 15 and January 15.

(b) Local air authorities and delegated permitting authorities must provide ecology copies of all permits, applications with supporting documentation, maps, and postburn reports. All spring (January-June) permits need to be provided by July 15th and all fall (July-December) permits by January 15th.

(c) The department must deposit all agricultural burning permit fees in the air pollution control account. Permitting authorities may deduct the local administration portion before forwarding the remainder to the department. ~~((The portion of the fee designated for research shall be deposited in a special account in the air pollution control account.~~

~~((8))~~ (8) The permitting authority must coordinate compliance. Violations are subject to the remedies of chapter 70.94 RCW, Washington Clean Air Act.

(9) The permitting authority or its delegate must require a postburn report for all permits.

(10) The permitting authority or its delegate must utilize the web-based data base.

(a) Local air authorities and its delegates must make arrangements with ecology to enter information into the web-based data base.

(b) Ecology-delegated permitting authorities must attend a minimum of one data base training per calendar year or as provided by ecology.

AMENDATORY SECTION (Amending Order 94-17, filed 1/17/95, effective 2/17/95)

WAC 173-430-090 Receiving delegation—Counties, conservation districts, and fire protection agencies. (1) The permitting authority is ~~((the local air authority (or the department where no local air authority exists),))~~ ecology or ~~((their))~~ its delegate or a local air authority with jurisdiction or its delegate. The permitting authority is responsible for administering the agricultural burning permit program. The

agricultural burning permit program may be delegated to conservation districts, counties, or fire protection agencies.

(2) When ecology or a local air authority (~~((or the department where no local air authority exists))~~) with jurisdiction finds that a county, fire protection agency or conservation district is capable of administering the permit program and desires to do so, it may delegate by administrative order the administration and/or enforcement authority of the program. (~~((Delegation criteria include:))~~) The delegated permitting authority must, at a minimum, meet all of the following criteria:

(a) Demonstrating that the responsibilities listed under permitting authority responsibilities section can be fulfilled; (~~and~~)

(b) Employing, contracting with, or otherwise accessing someone educated and trained in agronomics;

(c) Providing a copy of the ordinance adopting the local administration portion of the fee;

(d) Providing a copy of agreements between counties, fire districts, and conservation districts when more than one agency will have responsibilities for the agricultural burning program; and

(e) Agreeing to periodic audits and performance reviews.

(3) Delegation may be withdrawn if the department or the local air authority with jurisdiction finds that the agricultural burning program is not effectively being administered and/or enforced. Before withdrawing delegation, the delegated agency shall be given a written statement of the deficiencies in the program and a compliance schedule to correct program deficiencies. If the delegated agency fails to correct the deficiencies according to the compliance schedule, then the department or the local air authority may withdraw delegation.

(4) Permitting authorities must work through agreement with counties (if the county is not the permitting authority) and cities to provide convenient methods for evaluating applications, issuing permits and granting permission to burn.

Once a delegation order has been issued, ecology or the local air authority with jurisdiction must approve of any changes to the agreement prior to implementation.

WSR 06-16-053

PERMANENT RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Docket A-050802, General Order R-536—Filed July 27, 2006, 9:54 a.m., effective August 27, 2006]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-17 issue of the Register.

WSR 06-16-070

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed July 28, 2006, 2:41 p.m., effective August 28, 2006]

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

Purpose: New WAC 388-106-0047 clarifies long-term care services eligibility, including denial and termination.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 42 C.F.R. 441.302(a); Social Security Act Section 1915c waiver rules, 42 C.F.R. 440.180.

Adopted under notice filed as WSR 05-15-146 on July 19, 2005; WSR 05-20-080 on October 4, 2005; and WSR 06-09-091 on April 19, 2006.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-106-0047: Subsection (2) adds language to clarify the challenging cases protocol is a department policy; and subsection (2)(a) adds the following clarifying language: "After a department representative reviews with you your rights and responsibilities as a client of the department, per WAC 388-106-1300 and 388-106-1303..."

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

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

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

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

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

Date Adopted: July 28, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-106-0047 When can the department terminate or deny long-term care services to me? (1) The department will deny or terminate long-term care services if you are not eligible for long-term care services pursuant to WAC 388-106-0210, 388-106-0310, 388-106-0410, 388-106-0510, or 388-106-0610.

(2) The department may deny or terminate long-term care services to you if, after exhaustion of standard case management activities and the approaches delineated in the department's challenging cases protocol, which must include an attempt to reasonably accommodate your disability or disabilities, any of the following conditions exist:

(a) After a department representative reviews with you your rights and responsibilities as a client of the department, per WAC 388-106-1300 and WAC 388-106-1303, you refuse

to accept those long-term care services identified in your plan of care that are vital to your health, welfare or safety;

(b) You choose to receive services in your own home and you or others in your home demonstrate behaviors that are substantially likely to cause serious harm to you or your care provider;

(c) You choose to receive services in your own home and hazardous conditions in or immediately around your home jeopardize the health, safety, or welfare of you or your provider. Hazardous conditions include but are not limited to the following:

- (i) Threatening, uncontrolled animals (e.g., dogs);
- (ii) The manufacture, sale, or use of illegal drugs;
- (iii) The presence of hazardous materials (e.g., exposed sewage, evidence of a methamphetamine lab).

WSR 06-16-071
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
 [Filed July 28, 2006, 2:44 p.m., effective August 28, 2006]

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

Purpose: To amend WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? This rule change is necessary to increase state supplemental payments to individuals residing in nursing facilities by \$2.06 per month as mandated by section 207, chapter 372, Laws of 2006, the 2005-07 Revised omnibus operating budget - 2006 supplemental (ESSB 6386), signed by Governor Christine O. Gregoire on March 31, 2006. When effective, this rule will replace emergency rules filed as WSR 06-12-041.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Adopted under notice filed as WSR 06-12-040 on May 31, 2006.

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

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

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

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

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

Date Adopted: July 26, 2006.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 06-01-045, filed 12/15/05, effective 1/15/06)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a payment from the state for certain SSI eligible people (see WAC 388-474-0012).

If you converted to the federal SSI program from state assistance in January 1974, because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a mandatory income level (MIL) client.

A change in living situation, cost-of-living adjustment (COLA) or federal payment level (FPL) can affect a grandfathered (MIL) client. A grandfathered (MIL) client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal cost-of-living adjustments (COLA) since then; or

(b) The current payment standard.

(2) The monthly SSP rates for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

SSP eligible persons	Monthly SSP Rate
Individual (aged 65 and older) - Calendar Year 2005	\$46.00
Individual (blind as determined by SSA) - Calendar Year 2005	\$46.00
Individual with an ineligible spouse - Calendar Year 2005	\$46.00
Grandfathered (MIL)	Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.

Medical institution	Monthly SSP Rate
Individual	\$((21.62)) <u>23.68</u>

WSR 06-16-072
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed July 28, 2006, 2:48 p.m., effective August 28, 2006]

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

Purpose: WAC 388-112-0110 and 388-112-0250, Residential long-term care services—Training, are amended to correct errors in referenced WAC and add language to replace a WAC reference that no longer exists.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-112-0110 and 388-112-0250.

Statutory Authority for Adoption: RCW 18.20.090, 70.128.040, 70.128.230.

Adopted under notice filed as WSR 06-04-087 on January 31, 2006.

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

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

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

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

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

Date Adopted: July 26, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0110 What is specialty training? (1) Specialty or "special needs" training, including caregiver specialty training, provides instruction in caregiving skills that meet the special needs of people living with mental illness, dementia, or developmental disabilities. Specialty trainings are different for each population served and are not interchangeable. Specialty training may be integrated with basic training if the complete content of each training is included. DSHS must approve specialty training curricula for managers and caregivers, except for adult family home caregiver specialty training.

(2) Manager specialty training for boarding home administrators (or designees), adult family home providers and resident managers:

(a) Developmental disabilities specialty training, under WAC 388-112-0120, is the required training on that specialty for adult family home providers and resident managers, and for boarding home administrators (or designees.)

(b) Dementia specialty training, under WAC (~~388-112-0135~~) 388-112-0125, and mental health specialty training, under WAC (~~388-112-0140~~) 388-112-0135, are the required trainings on those specialties for adult family home providers and resident managers, and for boarding home administrators (or designees).

(3) Caregiver specialty training for boarding homes:

(a) Developmental disabilities specialty training, under WAC 388-112-0120, is the required training on that specialty for boarding home caregivers.

(b) Caregiver dementia training, under WAC (~~388-112-0135~~) 388-112-0130, and caregiver mental health training,

under WAC 388-112-0140, are the required trainings on those specialties for boarding home caregivers.

(4) Caregiver specialty training for adult family homes:

The provider or resident manager who has successfully completed the manager specialty training, or a person knowledgeable about the specialty area, trains adult family home caregivers in the specialty needs of the individual residents in the adult family home, and there is no required curriculum.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0250 What is CPR training? Cardiopulmonary resuscitation (CPR) training is training (~~that meets the content requirements in WAC 296-800-15010~~) provided by an authorized CPR instructor.

WSR 06-16-073

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 28, 2006, 2:52 p.m., effective August 28, 2006]

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

Purpose: The DSHS division of child support (DCS) is amending existing rules to provide that, when setting a parent's support obligation for a child in foster care, DCS completes the Washington state child support schedule (WSCSS) worksheets using that parent's income and the income of the child's other parent, even if the other parent is not a party to the administrative determination of support. DCS does not impute income for another parent when paternity has not been established or when the other parent is known but dead. This rule-making project amends two existing rules and adopts two new rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-14A-3200 and 388-14A-8100.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056.

Adopted under notice filed as WSR 06-13-026 on June 13, 2006.

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

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

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

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

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

Date Adopted: July 26, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3200 How does DCS determine my support obligation? (1) The division of child support (DCS) determines support obligations using the Washington state child support schedule (the WSCSS), which is found in chapter 26.19 RCW, for the establishment and modification of support orders.

(2) See WAC 388-14A-8100 for rules on completing the worksheets under the WSCSS for cases where DCS is determining support for a child in foster care.

AMENDATORY SECTION (Amending WSR 05-12-135, filed 6/1/05, effective 7/2/05)

WAC 388-14A-8100 Are there special rules for setting child support for children in foster care? (1) Child support obligations for children in foster care are set (~~under~~) according to the Washington state child support schedule (the WSCSS), found in chapter 26.19 RCW(~~, just like any other support obligation~~).

(2) When a child or children are placed in foster care, DCS may use the administrative process to set a support obligation:

(a) As a joint obligation for married parents who reside together;

(b) As two separate obligations for parents who do not reside together; or

(c) For just one parent, if:

(i) There is already a court or administrative order setting the support obligation of the other parent;

(ii) The other parent is dead; or

(iii) The other parent is unknown.

(3) When setting a support obligation for only one parent, DCS follows the procedure set out in WAC 388-14A-8125.

(4) When setting a joint support obligation for parents who are married and residing together, DCS follows the procedures set out in WAC 388-14A-8130.

NEW SECTION

WAC 388-14A-8125 How does DCS complete the WSCSS worksheets when setting the child support obligation for one parent of a child in foster care? (1) When the division of child support (DCS) is setting a support obligation for only one parent, DCS follows the steps set out in this section.

(2) The noncustodial parent (NCP) for whom DCS is setting support is called the party NCP, because that parent is a party to the administrative action.

(3) The parent for whom DCS is not setting support is called the non-party NCP, because that parent is not a party to the administrative action.

(4) DCS completes a Washington state child support schedule (WSCSS) worksheet using income information for

both the party NCP and for the non-party NCP, instead of setting support based solely on the income of the party NCP.

(5) DCS uses the best available information regarding the income of both the party NCP and the non-party NCP, as provided in WAC 388-14A-3205.

(6) DCS does not include the income of a non-party NCP in the worksheets if:

(a) Paternity has not been established for the child;

(b) The non-party NCP's parental rights have been terminated; or

(c) The non-party NCP is known but deceased.

(7) DCS determines the support obligation of the party NCP without regard to:

(a) The amount of the non-party NCP's support obligation for the same child or children; or

(b) The cost of foster care placement, as provided in WAC 388-14A-8105.

NEW SECTION

WAC 388-14A-8130 How does DCS complete the WSCSS worksheets when setting a joint child support obligation when the parents of a child in foster care are married and residing together? (1) When the division of child support (DCS) is setting a joint support obligation for married parents who reside together, DCS follows the steps set out in this section for completing the worksheets under the Washington state child support schedule (WSCSS).

(2) DCS calculates each parent's income under the rules set out in WAC 388-14A-3205, and then calculates the income of the marital community by combining both parents' income in the "Father" column of the worksheet and does not put any income in the "Mother" column.

(3) DCS calculates the joint support obligation using the limitations contained in RCW 26.19.065:

(a) The joint child support obligation may not exceed forty-five percent of the net income of the marital community except for good cause.

(b) Even with the need standard limitation, there is a presumptive minimum obligation of twenty-five dollars per month per child.

(c) DCS or the administrative law judge (ALJ) may find reasons for deviation and must support those reasons with appropriate findings of fact in the support order.

(4) The support obligation in the "Father" column of the WSCSS worksheet is the joint support obligation of the parents. The support obligation in the "Mother" column of the WSCSS worksheet is irrelevant for purposes of this particular support calculation.

(5) DCS determines the joint support obligation of the parents without regard to the cost of foster care placement, as provided in WAC 388-14A-8105.

WSR 06-16-087

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 31, 2006, 2:52 p.m., effective August 31, 2006]

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

Purpose: Creates a new section in chapter 308-104 WAC to set the range of the driver's license suspension, cancellation, or denial imposed by the department when a driver has been convicted of or has been determined to have committed one of the prohibited practices relating to driver's licenses listed under RCW 46.20.0921, such as license fraud or providing false information when applying for a license. Makes it clear that for purposes of the prohibited practices, an application for a commercial driver's license includes both the application for the regular driver's license and for the commercial driver's license endorsement.

Statutory Authority for Adoption: RCW 46.01.110, 46.20.207, 46.20.291.

Adopted under notice filed as WSR 06-12-126 on June 7, 2006.

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

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

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

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

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

Date Adopted: July 28, 2006.

Becky Loomis
Assistant Director

NEW SECTION

WAC 308-104-075 Driver's licenses—Prohibited practices—Suspension, cancellation, or denial period. The department shall suspend, cancel, or deny all driving privileges of a person who has been convicted of or determined by the department to have committed one of the prohibited practices relating to drivers' licenses listed in RCW 46.20.0921 for a period of not less than sixty consecutive days and not more than three hundred sixty-four consecutive days. For purposes of RCW 46.20.0921 (1)(e), an application for a commercial driver's license includes the application for a driver's license under RCW 46.20.091 and the application for a commercial driver's license under RCW 46.25.070.

**WSR 06-16-093
PERMANENT RULES
OFFICE OF**

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2006-06—Filed July 31, 2006, 3:56 p.m., effective August 31, 2006]

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

Purpose: The purpose of these amendments is to make changes to sections of Title 284 WAC to avoid duplication of filings. Foreign and alien insurers currently file their audited financial statements with the NAIC and the office of insurance commissioner (OIC). This amendment will eliminate the requirement that they file with the OIC. The OIC has access to these reports at any time from the NAIC. The amendments also remove an outdated reference.

Citation of Existing Rules Affected by this Order: Amending WAC 284-07-100.

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

Adopted under notice filed as WSR 06-11-178 on May 24, 2006.

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

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

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

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

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

Date Adopted: July 31, 2006.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2002-07, filed 10/23/02, effective 11/23/02)

WAC 284-07-100 Purpose and scope. (1) The purpose of this regulation, WAC 284-07-100 through 284-07-230, is to improve the Washington state insurance commissioner's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

(2) Every insurer, as defined in WAC 284-07-110, shall be subject to this regulation. Insurers having direct premiums written of less than one million dollars in any calendar year and less than one thousand policyholders or certificate holders of directly written policies nation-wide at the end of such calendar year shall be exempt from this rule for such year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of one million dollars or more will not be so exempt.

(3) Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

(a) A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the ~~((commissioner))~~ NAIC in accordance with the filing dates specified in WAC 284-07-120, 284-07-190 and 284-07-200, respectively; and

(b) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the ~~((commissioner))~~ NAIC within the time specified in WAC 284-07-180.

Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance.

(4) This rule shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of insurers under the rules, regulations, practices, and procedures of the insurance commissioner.

(5) After January 1, 2003, all reports and filings required by WAC 284-07-100 through 284-07-230 must be filed electronically with the commissioner. ~~((This includes the audit report for the insurer's financial statements for the year ended December 31, 2002.))~~ Insurers must electronically transmit the report or filing in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file paper copies of reports and filings required by WAC 284-07-100 through 284-07-230. The insurer must demonstrate that filing in electronic form will create an undue financial hardship for the insurer. Applications for permission to file in hard copy must be received by the commissioner at least ninety days before the statement of annual statement is due.

(6) To comply with statutory or other requirements that reports or filings be signed or verified, insurers and accountants may:

(a) Use a method of electronic signature verification that has been approved by the commissioner; or

(b) File a paper copy of the signature or verification at the time of the electronic transmission of the report or filing.

(7) The report or filing and the appropriate signatures and/or verifications must both be received to complete a filing. The date of receipt of the later of the two parts of the filing is considered the receipt date of the report or filing.

WSR 06-16-094

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed July 31, 2006, 3:58 p.m., effective August 31, 2006]

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

Purpose: WAC 458-40-690 explains how a taxpayer may claim a credit, or obtain a refund, for property taxes paid upon harvested public timber. The rule is no longer needed because chapter 177, Laws of 2004 (ESHB 2693) changed the law so that standing timber located on public land that is purchased by a private person is exempt from property tax. The department had retained the rule until this time in case someone with a past claim for refund or credit wanted to file for the credit or claim a refund.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-40-690 Timber excise tax—Credit for property tax.

Statutory Authority for Adoption: RCW 82.32.330, 82.01.060(1), and 84.33.096.

Adopted under notice filed as WSR 06-11-014 on May 4, 2006.

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

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

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

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

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

Date Adopted: July 31, 2006.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 458-40-690	Timber excise tax—Credit for property tax.
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WSR 06-16-096

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-174—Filed July 31, 2006, 4:34 p.m., effective August 31, 2006]

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

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619, 232-28-620, and 232-28-621.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 06-11-137 on May 23, 2006.

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

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

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

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

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

Date Adopted: July 31, 2006.

J. P. Koenings
Director
by Larry Peck

AMENDATORY SECTION (Amending Order 06-67, filed 4/11/06, effective 5/12/06)

WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules. (1) All freshwater streams and lakes not listed as open for salmon fishing are closed.

(2) Freshwater terminal gear restrictions: In all waters with freshwater terminal gear restrictions, including, but not limited to, selective gear rules, whitefish gear rules, single point barbless hooks required, fly-fishing only, and nonbuoyant lure restrictions, violation of the gear rules is an infraction, punishable under RCW 77.15.160. It is unlawful to possess fish taken with gear in violation of the freshwater terminal gear restrictions. Possession of fish while using gear in violation of the freshwater terminal gear restrictions is a rebuttable presumption that the fish were taken with such gear. Possession of such fish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree, unless the fish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree.

(3) County freshwater exceptions to statewide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to statewide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to statewide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

(4) Specific freshwater exceptions to statewide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an internal combustion motor permitted. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Additional season October 1 through November 30 and March 1 through Friday before last Saturday in April. Selective gear rules. All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Selective gear rules.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and trout: Release trout.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): Mouth to Highway 20 Bridge: September 1 through October 31 season. Nonbuoyant lure restriction and night closure. Trout: Minimum length fourteen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only July 1 through July 31 except closed 12:01 a.m. July ((5)) 6 through 2:00 p.m. July ((6)) 7 and 12:01 a.m. July ((+1)) 10 through 2:00 p.m. July ((+2)) 11. Nonbuoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five. Small mouth bass: Small mouth bass do not count as part of bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size. Daily limit 10 small mouth bass not more than one of which may be greater than 14 inches in length.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16

through November 30. Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. All species: Release all fish except salmon and except up to two hatchery steelhead may be retained each day. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All species: Release all fish except up to two hatchery steelhead may be retained each day. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these two fish no more than one may be a wild adult coho. Release adult chinook.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules except electric motors allowed. Trout: Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): ~~((See Lake Washington tributaries-))~~ June 1 through August 31 season. Juveniles only.

Big Beaver Creek (Whatcom County):

From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground: June 1 through last day in February season. Closed waters: August 16 through October 31 from mouth to Rodgers Street. Rodgers Street to the Highway 101 Bridge: Selective gear rules June 1 through August 15, one single point barbless hook August 16 through October 31, and selective gear rules November 1 through last day in February and night closure August 16 through December 31. From electric weir to upper boundary of Falls View Campground: Selective gear rules June 1 through last day in February. All game fish: Release all fish from mouth to campground. Salmon: Open only August 16 through October 31 from Rodgers Street to the Highway 101 Bridge. Daily limit 4 coho salmon. Only coho salmon hooked inside the mouth may be retained.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Big River (Clallam County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black Lake (Thurston County): Crappie: Daily limit ten, minimum length nine inches.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek, Beaver Creek, Salmon Creek and Blooms Ditch: Selective gear rules. Trout: Minimum length fourteen inches.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Closed waters: Upstream from cable crossing to posted signs at fence. Nonbuoyant lure restriction and night closure. Only wheelchair-bound anglers may fish from posted signs above rearing pond to posted signs approximately 40 feet downstream at fence including the rearing pond outlet. Trout: Daily limit five. Minimum size 12 inches no more than two

fish over 20 inches. Release wild cutthroat, wild steelhead and hatchery steelhead with missing right ventral fin.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): April 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to Olympic National Park boundary. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead downstream from Highway 101 Bridge. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and ~~((unmarked)) wild adult chinook. ((Unmarked chinook are chinook with unclipped adipose and ventral fins.))~~ September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to waterfall approximately 2 miles upstream: Closed waters. From waterfall approximately 2 miles upstream of mouth to USFS Road #4930 Bridge: Selective gear rules.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bradley Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Creek (Pend Oreille County): Fly fishing only.

Browns Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: No more than one fish greater than 11 inches in length may be retained.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Whitefish gear rules apply.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. All species: Release all fish.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead from mouth to Highway 101 Bridge. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of

which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and ~~((unmarked)) wild adult chinook. ((Unmarked chinook are chinook with unclipped adipose and ventral fins.))~~ September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Calawah River, South Fork (Clallam County) from mouth to Olympic National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules.

Calispell Creek and tributaries: Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Camas Slough: Waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island. Season: Same rules as adjacent waters of the Columbia River.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon River (Mason County and Grays Harbor County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Canyon Creek (Whatcom County): Closed waters: Mouth to Canyon Creek Road Bridge.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south

basin of Capitol Lake. June 1 through March 31 season. Non-buoyant lure restriction and night closure August 1 through November 30. Trout: June 1 through July 31 daily limit five, minimum length eight inches. August 1 through March 31 daily limit two, minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Carbon River (Pierce County), from its mouth to Voight Creek: July 1 through last day in February season. Nonbuoyant lure restriction, night closure and single point barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: July 1 through August 15 and (~~September~~) December 1 through last day in February season: Trout: Minimum length 14 inches. (~~All species: Release all fish except salmon September 1 through November 30.~~) Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be adult hatchery chinook. Release chum and wild adult chinook salmon.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Nonbuoyant lure restriction and night closure September 16 through November 30. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open June 1 through July 9. Nonbuoyant lure restriction and night closure. Daily limit 2 hatchery chinook. Open (~~only~~) September 16 through November 30. Daily limit 4 coho salmon.

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to 100 feet upstream of the falls: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Jefferson County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County), from mouth to Landsburg Road: June 1 through August 31 season. Selective gear rules and night closure. All species: Release all fish. Landsburg Road to Cedar Falls: Closed waters.

Cedar River (Pacific County): Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

Chambers Creek (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Night closure and nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only April 16 through July 31 from mouth to high bridge, October 1 through January 31 from mouth to Porter Bridge, and October 16 through last day in February from Porter Bridge to high bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through November 30, mouth to Porter Bridge, release adult chinook. October 16 through November 30, Porter Bridge to High Bridge, release adult chinook. December 1 through January 31, mouth to Porter Bridge, the daily limit may contain no more than one wild adult coho, and release adult chinook. December 1 through last day in February, Porter Bridge to High Bridge, release adult chinook and wild adult coho. Sturgeon: Open year-round and no night closure from mouth to high bridge on Weyerhaeuser 1000 line.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort School: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit 10, no minimum length. North of a line between Purple Point at Stehekin and Painted Rocks: April 1 through July 31: All species: Release all fish. Salmon: Open only May 1 through May 31 south of a line from Purple Point to Painted Rocks: Daily limit 1, minimum length 15 inches.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: August 1 through September 30 season. Selective gear rules. Trout: Release wild cutthroat.

Chelan River (Chelan County): From the railroad bridge to the Chelan P.U.D. safety barrier below the power house: May 15 through August 31 season. Nonbuoyant lure restriction. Trout: Release all trout.

Chewuch River (Chewack River) (Okanogan County), from mouth to Eight Mile Creek: June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Release all cutthroat. Additional season November 1 through May 31, release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no more than 2 fish may be adult salmon. Salmon minimum size 8 inches. Release wild coho at all times and release wild chinook January 1 through July 31.

Cispus River, North Fork (Lewis County): Selective gear rules. Trout: No more than one over twelve inches in length. Release cutthroat.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Creek (Chelan County): Closed waters.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Last Saturday in April through October 31 season. Chumming permitted. Salmon: Landlocked salmon rules apply.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Clearwater River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size.

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Year-round season. Selective gear rules, except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used. Trout: Release all trout. Above Cle Elum Lake to outlet of Hyas Lake except Tucquala Lake: Selective gear rules.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.

Clough Creek (North Bend) (King County): Closed waters.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Coal Creek (tributary of Lake Washington) (King County): ~~((See Lake Washington tributaries.))~~ June 1 through August 31 season. Juveniles only.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through September 30 season. Selective gear rules except internal combustion motors allowed. Trout: Daily limit one, minimum length eighteen inches. Crappie: Daily limit ten, minimum length nine inches.

Coldwater Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Collins Lake (Mason County): Last Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only. Mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee disability licenses only. All species: Daily limit of five fish combined.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Below Priest Rapids Dam: Daily limit five fish, bass 12 to 17 inches in length may be retained. Up to but not more than three of the daily limit may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other game fish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except Camas Slough, where the license of either state is valid when fishing from a floating device.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through September 30, daily limit 2 salmon of which not more than one may be a chinook salmon. Release chum, sockeye, wild coho, chinook less than 24 inches in length, and coho less than 16 inches in length. October 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon and not more than one of which may be an adult chinook salmon. Release chum, sockeye, and wild coho. January 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, wild coho and wild chinook. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings with barbed hooks allowed and the daily limit is the more liberal if both areas are open. Sturgeon: Release sturgeon May 1 through May 12 and July 5 through December 31. Minimum size when open to retain sturgeon is 42 inches January 1 through April 30 and 45 inches May 13 through July 4.

From the Rocky Point - Tongue Point line to the I-5 Bridge: Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only May 16 through March 31. May 16 through June 15 daily limit 6 hatchery jack chinook. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. August 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. August 1 through December 31 the daily limit may contain not more than 1 adult chinook. Release wild chinook January 1 through

March 31. Sturgeon: (1) Release sturgeon May 1 through May 12 and July 5 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 42 inches January 1 through April 30 and 45 inches May 13 through July 4; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 1 through July 31, and October 1 through December 31. Release sturgeon on other days and during other time periods.

From the I-5 Bridge to the Highway 395 Bridge at Pasco: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder, and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. August 1 through October 15: Nonbuoyant lure restriction and night closure from Bonneville Dam to The Dalles Dam. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam and release all cutthroat in the waters of Drano Lake. Release all trout April 1 through June 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Sturgeon: (1) Sturgeon fishing is closed from Bonneville Dam to a line from a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder to the downstream end of Cascade Island to an Oregon angling boundary on Bradford Island (the Cascade Island - Bradford Island line). (2) It is unlawful to fish for sturgeon from May 1 through July 31 from Cascade Island - Bradford Island line downstream to a line from navigation marker 85 on the Washington shore at a right angle to the thread of the river to the Oregon shore and from 400 feet below McNary Dam to the Highway 82 Bridge. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to the navigation marker 85 line and the closure to the Highway 82 Bridge. Release sturgeon on other days and during other time periods. (4) Release sturgeon September 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. Salmon: Open only June 16 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye. Release wild coho from Bonneville Dam to Hood River Bridge. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and sockeye.

Release wild coho downstream of (~~Bonneville Dam~~) Hood River Bridge. August 1 through December 31, daily limit may contain not more than 1 adult chinook downstream from Bonneville Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout except hatchery steelhead having both adipose and ventral fin clips October 1 through October 31. Release all trout except hatchery steelhead November 1 through March 31. Salmon: Open only June 16 through July 31 and August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Springs Rearing Facility waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only April 1 through April 15 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 fish may be adult salmon. Release sockeye June 16 through July 31.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 may be adult salmon. Release sockeye June 16 through July 31.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel

discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Salmon: Open only July ((+6)) 1 through October 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye. From Wells Dam to Chief Joseph Dam, open only from Highway 173 Bridge at Brewster to Highway 17 Bridge at Bridgeport. Sturgeon: Release all sturgeon.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year-round season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: Daily limit 8 fish. No minimum size. ((Daily limit five fish)) Not more than one ((of which may be longer)) walleye greater than ((+8)) 22 inches may be retained. Sturgeon: Unlawful to fish for or retain sturgeon. Small mouth bass: Small mouth bass do not count as part of the bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size. Daily limit 10 bass of which not more than 1 may be greater than 14 inches in length.

From bridge at Valley upstream and tributaries: Selective gear rules.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Cooper River (Kittitas County): Mouth to Cooper Lake: Selective gear rules.

Coot Lake (Grant County): April 1 through September 30 season.

Copalis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year-round season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Daily limit 6 fish, of which not more than 2 may be adult salmon. Release wild coho. Release wild chinook June 1 through July 31.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Closed waters: From 400 feet or posted markers below Cowlitz salmon hatchery barrier dam to boundary markers near the Cowlitz salmon hatchery water intake approximately 1,700 feet upstream of the Cowlitz salmon hatchery barrier dam, and from 400 feet below the Mayfield powerhouse upstream to Mayfield Dam. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the Cowlitz salmon hatchery barrier dam. Lawful to fish up to four hundred feet or the posted deadline at the Cowlitz salmon hatchery barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish up to Lewis County P.U.D. safety signs below Cowlitz Falls Dam. From the Cowlitz salmon hatchery barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the Cowlitz salmon hatchery barrier dam. All game fish: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Release all steelhead missing right ventral fin. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Mill Creek to Blue Creek - release all chinook October 1 through December 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

From posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: Trout: Release cutthroat. Additional November 1 through May 31 season. Trout: Release all fish except up to two hatchery

steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon. Salmon minimum size 12 inches. Release wild coho. Release wild chinook January 1 through July 31.

Cowlitz River, Clear and Muddy Forks (Lewis County): Selective gear rules. Trout: Release cutthroat.

Coyote Creek and Ponds (Adams County): April 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln/Grant counties) and tributaries: Year-round season. In those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Moses Lake. From Moses Lake downstream to the confluence of the outlet streams March 1 through May 31 terminal gear restricted to one single-point hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Potholes Reservoir.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crescent Lake (Pierce County): Last Saturday in April through October 31 season.

Crocker Lake (Jefferson County): Closed waters.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cushman Reservoir (Mason County): Salmon: Landlocked salmon rules apply.

Dakota Creek (Whatcom County): Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): April 1 through August 31: Selective gear rules. All species: Release all fish.

Davis Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Deadman Lake (Adams County): April 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Deep Creek (Clallam County): December 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead may be retained.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season.

Deep River (Wahkiakum County): Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round only from mouth to town bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County): Closed waters: From 400 feet below lowest Tumwater Falls fish ladder to Old Highway 99 Bridge. From old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: Year-round season. Selective gear rules. All game fish: Release all fish except hatchery steelhead. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): Selective gear rules. Game fish: Release all fish. Salmon: Open only September 16 through October 31 mouth to Dewatto-Holly Road Bridge. Daily limit two coho. Release all salmon other than coho.

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (Clallam County): June 1 through April 30 season in mainstem Dickey and East Fork Dickey upstream to D5200 road and June 1 through March 15 in East Fork Dickey upstream from D5200 road and West Fork Dickey. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and ~~((unmarked))~~ wild adult chinook. ~~((Unmarked chinook are chinook with unclipped adipose and ventral fins.))~~ September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Dillacort Creek (Klickitat County): Trout: Release all trout.

Dog Lake (Yakima County): Trout: Daily limit may contain not more than 1 fish over 14 inches in length.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile down-

stream of falls: June 1 through August 31 season mouth to park boundary and November 1 through December 15 season mouth to Highway 101 Bridge. Selective gear rules June 1 through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through August 31 season mouth to park boundary and November 1 through December 15 season mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Selective gear rules June 1 through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness rivers: October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 coho salmon.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one fish.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): Trout: Minimum length fourteen inches.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Echo Lake (Snohomish County): Last Saturday in April through October 31 season.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30 downstream of the confluence of the east and middle branches. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Nonbuoyant lure restriction and night closure September 1 through October 31. Stationary gear restriction September 1 through October 31. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult chinook. Release chum and wild coho. October 1 through December 31 release chinook upstream of Highway 4 Bridge.

Eloika Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell ((Lake)) Dam downstream two hundred feet ((and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted)).

From mouth to two hundred feet below the south spillway on the Aldwell ((Lake)) Dam: ((June)) October 1 through last day in February season((, except closed June 1 through September 30 mouth to marker at outfall of rearing channel at about river mile 3.2)). Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to Olympic National Park boundary, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: December 1 through March 31 season. Whitefish gear rules apply. Above Entiat Falls: Selective gear rules. Trout: Daily limit 5 trout, not more than one of which may be greater than 12 inches in length. Eastern brook trout not included in trout daily limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Ephrata Lake (Grant County): Closed waters.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year-round season. Trout: Minimum length fourteen inches.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): April 1 through September 30 season.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules. Trout: Release all trout.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Pond, North (Snohomish County): Juveniles only.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 31 season. Selective gear rules. All species: Release all fish.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): Trout: Minimum length fourteen inches.

Golf Course Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through

last day in February, one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of disability licenses only.

Goose Lake, Lower (Adams County): Crappie: Daily limit ten, minimum length nine inches. Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year-round season. Selective gear rules September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through October 31 season. Selective gear rules, June 1 through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Grass Lake (Mason County): Last Saturday in April through October 31 season.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: September 1 through October 15 and November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: September 1 through October 15 and December 15 through March 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 15. All game fish: Release all fish except hatchery steelhead. Salmon: Open only September 1 through October 15 from mouth to South Fork. Daily limit 6 fish of which no more than two may be adult salmon. Release chinook, chum, and wild coho.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Grays River, West Fork (Wahkiakum County), downstream from hatchery intake footbridge: June 1 - August 31 season. Trout: Additional December 15 through March 15 season downstream from hatchery intake footbridge. Release all fish other than hatchery steelhead. Salmon: Additional September 1 through October 15 season. Stationary gear restriction. Daily limit 6 fish of which not more than two may be adult salmon. Release chinook, chum and wild coho.

Green Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

Green Lake (Lower) (Okanogan County): April 1 through November 30: Selective gear rules, and all species: Release all fish.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: June 1 through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All species: When nonbuoyant lure restriction in effect, only fish hooked inside the mouth may be retained. ~~((All species))~~ Trout: Release all ((fish)) trout except hatchery steelhead. Salmon: Open August 1 through November 30. Daily limit 6 fish of which not more than two may be adult salmon. Release chum and wild coho. Release chinook October 1 through November 30.

From 2800 Bridge to source: Closed waters.

Green (Duwamish) River (King County):

From the First Avenue South Bridge to ~~((Interstate 5 Bridge))~~ Tukwila International Boulevard/Pacific Highway South: June 1 through July 31 and September 1 through February 15 season. Nonbuoyant lure restriction and night closure September 1 through November 30 ~~((First Avenue South Bridge to Interstate 5 Bridge))~~. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon ~~((and of the adult salmon not more than 1 may be a))~~. Release chinook.

From the ~~((Interstate 5 Bridge))~~ Tukwila International Boulevard/Pacific Highway South to SW 43rd Street/South 180th Street Bridge: June 1 through July 31 and September 16 through February 15 season. Nonbuoyant lure restriction and night closure September 16 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 16 through November 30, one

wild steelhead per day may be retained. Salmon: Open only September 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the SW 43rd Street/South 180th Street Bridge to South 277th Street Bridge in Auburn: Open only June 1 through July 31 and October 1 through February 15. Nonbuoyant lure restriction and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and October 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 3 may be adult salmon. Release chinook.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: Open only June 1 through ~~((July 31))~~ August 15 and October 16 through last day in February. Nonbuoyant lure restriction and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through last day in February. Trout, minimum length fourteen inches. July 1 through ~~((July 31))~~ August 15 and October 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. July 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only November 1 through December 31. Daily limit 2 chum.

Greenwater River (King County), from mouth to Greenwater Lakes: July 1 through October 31 season. Selective gear rules. Trout: Minimum length 14 inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Halfmoon Lake (Adams County): April 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hamilton Creek (Skamania County): Trout: Release all fish except up to two hatchery steelhead may be retained per day. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): Last Saturday in April through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to Olympic National Park boundary below mouth of South Fork: May ((+8)) 15 through April 15 season. May ((+8)) 15 through May 31, open Wednesday through Sunday only from mouth to Willoughby Creek only. Willoughby Creek to park boundary closed through May 31. Selective gear rules June 1

through October 15 from Willoughby Creek to Morgan's Crossing Boat Launch, June 1 through November 30 from Morgan's Crossing Boat Launch to the mouth of south fork, and December 1 through April 15 from DNR Oxbow Campground Boat Launch to mouth of south fork. Trout: Minimum length fourteen inches. Catch and release during May, except up to two hatchery steelhead may be retained on open days. November 1 through February 15, daily limit three steelhead downstream from the Oxbow Campground Boat Launch. December 1 through April 15, from mouth to DNR Oxbow Campground Boat Launch, one wild steelhead per day may be retained. Salmon: Open only May 16 through November 30 mouth to Willoughby Creek and October 16 through November 30 Willoughby Creek to Morgan's Crossing Boat Launch. Daily limit 6 fish of which no more than 2 may be adult salmon except May ((+8)) 15 through August 31 from mouth to Willoughby Creek open Wednesday through Sunday only of each week and daily limit may contain no more than one adult salmon.

Hoh River South Fork (Jefferson County), outside Olympic National Park: June 1 through April 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31. Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. December 1 through March 15, one wild steelhead per day may be retained.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): June 1 through March 31 season. Fly fishing only. All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear rules and all species: Release all fish except up to two hatchery steelhead may be retained per day, from March 1 through March 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee:

Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humptulips River (Grays Harbor County), from mouth to ~~((forks)) Highway 101 Bridge~~: June 1 through March 31 season except closed ~~((March 1 through March 31 from Highway 101 Bridge to forks))~~ September 1 through October 15 mouth to Ocean Beach Road and September 1 through September 30 Ocean Beach Road to Highway 101 Bridge. Night closure and single point barbless hooks required August 16 through November 30. Bait prohibited October 1 through October 15. Trout: Minimum length fourteen inches. Salmon: Open ~~((only))~~ October ~~((16))~~ 1 through ~~((January 31))~~ October 15 from ~~((mouth))~~ Ocean Beach Road to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon, and of the adult salmon only one may be a wild adult coho. Release adult chinook. Open October 16 through ~~((November 30 the daily limit may contain no more than 1 wild adult coho))~~ January 31. Daily limit of 6 salmon, not more than two of which may be adult salmon. ((December 1 through January 31 release wild adult coho.)) October 16 through October 31 the daily limit may contain no more than one adult chinook and one wild adult coho. November 1 through November 30 the daily limit may contain no more than one wild adult coho and release adult chinook. December 1 through January 31 release adult chinook and wild adult coho. From Highway 101 Bridge to forks: June 1 through last day in February season. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humptulips Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, West Fork (Grays Harbor County), from mouth to Donkey Creek: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion motors prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Indian Creek (Yakima County): From mouth to waterfall approximately 5 and three-quarters miles upstream: Closed waters. Upstream of waterfall: Eastern brook trout do not count as part of trout daily limit. Eastern brook trout: No minimum size and no daily limit.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Issaquah Creek (King County): ~~((See Lake Washington tributaries.))~~ June 1 through August 31 season. Juveniles only.

Jackson Lake (Pierce County): Last Saturday in April through October 31 season.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1

through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Johns Creek (Mason County): Closed waters.

Johns River (Grays Harbor County): Mouth to Ballon Creek: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ballon Creek upstream, including North and South Forks: June 1 through September 30 and December 1 through last day in February season. Trout: Minimum length 14 inches.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round season except during the period the temporary fish rack is installed. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters when the rack is installed. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to the rack. All species: When nonbuoyant lure restriction in effect only fish hooked inside the mouth may be retained. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. ~~((Release hatchery coho October 16 through December 31.))~~ October 1 through December 31 release chinook upstream from natural gas pipeline crossing.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year-round season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. All species: Release all fish.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. All species: Release all fish.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained.

Kelsey Creek (tributary of Lake Washington) (King County): ~~((See Lake Washington tributaries.))~~ June 1 through August 31 season. Juveniles only.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. All species: Selective gear rules. Trout: Minimum length 12 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

Additional season: November 1 through May 31. Whitefish gear rules apply.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Kiwanis Pond (Kittitas County): Juveniles and holders of disability licenses only.

Klaus Lake (King County): Last Saturday in April through October 31 season. Closed waters: The inlet and outlet to first Weyerhaeuser spur.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: April 1 through January 31 season. Nonbuoyant lure restriction and night closure May 1 through May 31. Nonbuoyant lure restriction August 1 through January 31. Game fish: Closed December 1 through January 31. Release game fish other than steelhead April 1 through May 31. Trout: Minimum length twelve inches. Steelhead and salmon: April 1 through May 31 Mondays, Wednesdays and Saturdays only, daily limit ((2)) 1 hatchery steelhead or ((2)) 1 salmon (~~or one of each~~). Salmon: June 1 through January 31 daily limit 6 fish of which no more than 2 may be adult salmon.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31: Daily limit 6 salmon. Release adult salmon. August 1 through November 30: Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook November 1 through November 30. Additional December 1 through March 31 season. Whitefish gear rules apply.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Salmon: Landlocked salmon rules apply.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year-round season.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Le Clerc Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern

brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than one over 14 inches in length.

Lemna Lake (Grant County): April 1 through September 30 season.

Lenice Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls upstream including all tributaries above Horseshoe Falls.

Mouth to 400 feet below Horseshoe Falls: June 1 through March 15 season. Trout: Release all trout except up to two hatchery steelhead per day may be retained. Mouth to top boat ramp at Lewisville Park: Additional April 16 through May 31 season. Selective gear rules. Release all fish except up to two hatchery steelhead may be retained per day.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Colvin Creek: Year-round season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Nonbuoyant lure restriction and night closure April 1 through November 30 from Johnson Creek to Colvin

Creek. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: May 1 through September 30 and December 16 through April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only January 1 through September 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal: Closed waters.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only.

Lions Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): ~~((Closed waters-))~~ June 1 through August 31 season. Juveniles only.

Little Hoko River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Pend Oreille River (Stevens County) from the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Selective gear rules, and all species: Release all fish except up to five Eastern brook trout may be retained.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Additional December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Frideger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): May 1 through March 31 season, except for hatchery steelhead and chinook season in April, and except closed Wednesdays beginning the second Wednesday in April through May 31 and October 1 through October 31. Night closure and nonbuoyant lure restriction May 1 through June 30. Nonbuoyant lure restriction August 1 through December 31. Night closure October 1 through October 31. March 16 through June 30 daily limit of two fish, of which one or both may be hatchery steelhead or one or both may be chinook salmon. Release wild chinook. Trout and salmon: May 1 through June 30 release all fish except hatchery steelhead and chinook salmon. Trout: July 1 through March 15 release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only August 1 through December 31. Daily limit six fish of which no more than two may be adult salmon. Release wild coho.

Lone Lake (Island County): Selective gear rules. Trout: Daily limit one, minimum length 18 inches.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Kittitas County): Trout: Not more than 1 fish over 14 inches in length.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyle Lake (Adams County): April 1 through September 30 season.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

Mashel River (Pierce County): July 1 through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): ~~((See Lake Washington tributaries:))~~ June 1 through August 31 season. Juveniles only.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 4 may be adult salmon.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season.

McLane Creek (Thurston County), from a line 50 feet north of and parallel to the Mud Bay Road Bridge to a line 100 feet upstream and parallel to the south bridge on Highway 101: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Release game fish November 1 through November 30. Trout: Minimum length fourteen inches upstream from the south bridge. Salmon: Open only July 1 through November 30. Closed to salmon fishing: Waters within 400 feet of Allison Springs Pond outfall. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From a line 100 feet upstream and parallel to the south bridge on Highway 101 upstream: Nonbuoyant lure restric-

tions and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McManaman Lake (Adams County): April 1 through September 30 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): ~~((Closed waters.))~~ June 1 through August 31 season. Juveniles only.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County):

Mouth to ~~((Gold Creek))~~ County Road 1535 (Burma Road) Bridge: Closed waters June 1 through October 31. County Road 1535 (Burma Road) Bridge to Foghorn Dam: June 1 through September 30 season: Selective gear rules. All species: Release all fish. Foghorn Dam to Weeman Bridge: June 1 through August 15 season. Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October 31. Additional season mouth to falls above Brush Creek: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): June 1 through August 31 and November 1 through March 15 seasons. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): Trout: Minimum length fourteen inches.

Mill Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Mill Creek (Walla Walla County):

From mouth to Gose St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except hatchery steelhead September 1 through April 15. Trout: Daily limit three hatchery steelhead.

From Gose St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth June 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only November 1 through December 31 from mouth to 50 feet downstream of the hatchery rack. Daily limit 4 chum.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Molson Lake (Okanogan County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Mooses Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): April 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit ten, only crappie more than nine inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. No minimum size. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than one of which may be greater than 14 inches in length. Walleye: Daily limit 8 walleye. Minimum length twelve inches. No more than one walleye over 22 inches in length may be retained. Yellow perch: Daily limit 25 yellow perch.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Mountain Lake (San Juan County): Trout: Daily limit may not contain more than one trout over 18 inches in length.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum

length twenty inches. Release trout June 1 through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls. Waters from the North Valley Road Bridge (Big Hill Bridge) to Highway 4 closed August 16 through October 15.

Mainstem: June 1 through April 15 season, except sturgeon. Single point barbless hooks required August 16 through November 30 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Stationary gear restrictions above mouth of South Fork August 16 through November 30. Selective gear rules March 1 through April 15 above mouth of South Fork. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of these 3 adult fish no more than 1 may be a wild adult coho and not more than 2 may be adult chinook. No more than 2 chum may be retained.

Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork to source: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork, from mouth to Bean Creek: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 16 through November 30. Game fish: Release game fish except up to two hatchery steelhead per day may be retained. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season, except closed August 1 through September 30 on North Nemah from Highway 101 Bridge upstream to lower bridge on dead end lower Nemah Road. Single point

barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through November 30, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road August 16 through November 30, and on South Nemah upstream to confluence with Middle Nemah August 16 through November 30. Selective gear rules on Middle Nemah above DNR Bridge and South Nemah above confluence with Middle Nemah. Night closure August 16 through November 30 on South and Middle Nemah and October 1 through November 30 on North Nemah. Nonbuoyant lure restriction on North Nemah upstream from bridge on dead end lower Nemah Road August 16 through November 30. On the North Nemah from the mouth to the lower bridge on dead end lower Nemah Road, stationary gear restriction during the period August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 on Middle Nemah from mouth to DNR Bridge and South Nemah from mouth to confluence with Middle Nemah and October 1 through January 31 on North Nemah from mouth to the lower bridge on dead end Lower Nemah Road. Middle and South Nemah: Daily limit 6 fish of which no more than 2 may be adult salmon and of the two adult fish no more than one may be a wild adult coho. North Nemah: Daily limit 6 salmon of which not more than 3 may be adult salmon and of the adult fish no more than one may be a wild adult coho and no more than two may be adult chinook. No more than two chum may be retained.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County): June 1 through March 31 season. Night closure and single point barbless hooks required August 16 through November 30 from mouth to Leonard Road. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through last day in February from mouth to Leonard Road. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook. Release wild adult coho December 1 through last day in February.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From 400 feet below Chehalis city water intake upstream: Closed waters.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Night closure and single point barbless hooks required August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult

fish not more than one may be a wild adult coho. Release adult chinook.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to Military Tank Crossing Bridge: June 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. All species: Release all species except salmon December 1 through January 31. Salmon: Open only July 1 through January 31 from mouth to Military Tank Crossing Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult chinook.

From Military Tank Crossing Bridge to four hundred feet below LaGrande Falls: July 1 through October 31 season. Selective gear rules. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through last day in February season except closed June 1 through September 30 in mainstem from yellow marker at the FFA High School barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through last day in February. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31 in mainstem from Lummi Indian Reservation boundary to yellow marker at the FFA High School barn in Deming. Open only October 16 through December 31 in mainstem from the FFA barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release ((pink and)) wild coho, release wild chinook from mouth to FFA barn, and release chinook from FFA barn to forks and in North Fork.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through last day in February season except closed July 1 through October 15 from Saxon Road Bridge to mouth of Skookum Creek. Selective gear rules. Night closure August 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31. Daily limit 2 salmon, except release ((pink)) chinook and wild coho.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (Okanogan County): From mouth to falls at river mile 0.8: Selective gear rules.

North Creek (tributary of Sammamish River) (Snohomish/King counties): ~~((See Lake Washington tributaries.))~~ June 1 through August 31 season. Juveniles only.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped

with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: June 1 through last day in February season, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek. Nonbuoyant lure restriction from Salmon Creek to Falls River August 16 through November 30. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from Highway 105 Bridge to Salmon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from Highway 105 Bridge to Salmon Creek.

Upstream from Falls River: Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through November 30 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Last Saturday in April through October 31 season.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year-round season. Trout: Release all trout. Upstream from the highway bridge at Malott: June 1 through August 31 season. Trout: Release all trout. Salmon: Open only July (~~46~~) 1 through October 15 from mouth to Highway 97 Bridge immediately upstream of mouth. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye.

Closed waters: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Old Mill Stream (Chelan County): Closed waters.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through March 31 season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 upstream to the confluence of the South and Middle Forks. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Above the confluence of the South and Middle Forks: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the confluence of the South and Middle Forks.

Palouse River and tributaries, except Rock Creek (Whitman County): Year-round season. Mainstem from mouth to base of Palouse Falls. Trout: Daily limit 6 fish, minimum length 10 inches, no more than 3 trout over 20 inches may be retained, except release all trout April 1 through June 15 and release steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Bass: Fish 12 to 15 inches in length may be retained, but not more than 3 bass over 15 inches in length may be retained. Walleye: Daily limit 10 fish, no minimum size. No more than 5 walleye over 18 inches in length may be retained, and no more than 1 walleye over 24 inches in length may be retained. Channel catfish: No daily limit.

Palouse River mainstem above Palouse Falls and tributaries except Rock Creek: Year-round season.

Pampa Pond (Whitman County): March 1 through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): April 1 through September 30 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

Within the city limits of Pomeroy: Juveniles only.

From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Juveniles only.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year-round season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Phelps Creek (Chelan County): From mouth to falls at river mile 1: Selective gear rules.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Mason County): Last Saturday in April through October 31 season.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches.

Pilchuck River (Snohomish County)

From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

From 500 feet below diversion dam upstream: Closed waters.

Pillar Lake (Grant County): April 1 through September 30 season.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Ping Pond (Grant County): Third Saturday in April through Labor Day season. Juveniles and holders of reduced fee disability licenses only. Game fish: Daily limit of five fish in the aggregate. No minimum or maximum size for any species.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pit Lake (Douglas County): Juveniles only.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): April 1 through September 30 season.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: Daily limit twenty-five fish. Small mouth bass: Small mouth bass are not included as part of the bass daily limit. No minimum size. Small mouth bass 12 to 17 inches in length may be retained. Daily limit 10 small mouth bass, not more than 1 of which may be greater than 14 inches in length. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: July 1 through last day in February season. Single point barbless hooks, nonbuoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Salmon: Open only ~~((August))~~ September 1 through December 31 from mouth to Carbon River. Daily limit 6 fish of which no more than ~~((4))~~ 2 may be adult salmon ~~((and of the adult salmon no more than two may be chinook, coho or chum or a combination of chinook, coho and chum))~~. Release wild adult chinook.

From Electron power plant outlet upstream: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. December 1 through last day in February, one wild steelhead per day may be retained.

Pysht River South Fork (Clallam County): Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Quigg Lake (Grays Harbor County): June 1 through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quillayute River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only ~~((March))~~ February 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon ~~((March))~~ February 1 through August 31 and 3 may be adult salmon September 1 through November 30. September 1 through November 30 the 3 adult salmon may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho. ~~((March))~~ February 1 through August 31 release wild adult coho and ~~((unmarked))~~ wild adult chinook. ~~((Unmarked chinook are chinook with unclipped adipose and ventral fins.))~~

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only July 1 through October 31. Daily limit 6 fish except release adult salmon.

Quincy Lake (Grant County): March 1 through July 31 season.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Railroad Pond (Franklin County): Selective gear rules. Trout: Daily limit two.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules. All species: Release all fish.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Riffe Lake (Reservoir) (Lewis County): Mossyrock Dam to 400 feet below Cowlitz Falls Dam. Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam. Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Chelan County): Selective gear rules.

Rock Creek (Cedar River tributary below Landsburg Dam) (King County): Closed waters.

Rock Creek (Skamania County): Mouth to falls: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Above falls, additional November 1 through March 15 season.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roesiger Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): All species: Closed January 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Wall-eye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 22 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries. Carp: Unlawful to fish for carp with bow and arrow. Small mouth bass: Small mouth bass do not count as part of the bass daily limit. Fish between 12 and 17 inches in length may be retained. No minimum size. Daily limit 10 bass, no more than one bass over 14 inches in length may be retained.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with an internal combustion motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Closed waters.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Ruby Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. Kokanee not included in daily trout limit. Kokanee daily limit 2. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Salmon River (Jefferson County) outside of Olympic National Park and Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches. Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the Hickson Bridge: June 1 through March 15 season. From Highway 99 Bridge to department salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 1 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

Sammamish Lake (King County): Trout: Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length. Salmon: Closed to salmon fishing within 100 yards of the mouth of Issaquah Creek. Open only August 16 through November 30. Daily limit two salmon. Release sockeye.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: ~~((Closed waters: All tributaries.))~~ January 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, (Grays Harbor County): Trout: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork, single point barbless hooks and night closure August 16 through November 30 except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road nonbuoyant lure restriction and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road night closure and nonbuoyant lure restriction August 16 through October 31.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Middle Fork (Turnow Branch), from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

West Fork, from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches.

Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted. Crappie: Daily limit ten, minimum length nine inches.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Serene Lake (Snohomish County): Last Saturday in April through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoveler Lake (Grant County): April 1 through September 30 season.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Crappie: Daily limit ten crappie. Minimum size nine inches in length.

Silver Lake (Pierce County): Last Saturday in April through October 31 season.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. March 1 through September 30: Trout: Daily limit 2 fish, minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Silvernail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Additional December 1 through March 31 season. Whitefish gear rules apply.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year-round season. Selective gear rules March 1 through May 31 except lawful to fish from a floating device equipped with an internal combustion motor. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only (~~(August 16)~~) September 1 through December 31. Daily limit (~~(two)~~) three salmon except release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through March 15 season. Night closure and nonbuoyant lure restriction July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, mini-

um length twenty inches. Salmon: Open only (~~(August 16)~~) September 1 through December 31. Daily limit (~~(two)~~) three salmon except release chinook.

From Gilligan Creek to Cascade River: June 1 through March 15 season except closed June 1 through June 30 and August 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through December 31 Gilligan Creek to the Dalles Bridge at Concrete. Daily limit (~~(two)~~) three salmon except release chinook.

From the Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport - (~~(Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.)~~) Salmon open July 1 through July 31 except closed 12:01 a.m. July (~~(5)~~) 6 until 2:00 p.m. July (~~(6)~~) 7 and 12:01 a.m. July (~~(+4)~~) 10 until 2:00 p.m. July (~~(+2)~~) 11, and, except closed from 200 feet above the mouth of the Baker River to the Cascade River. Daily limit two sockeye salmon. Release all salmon except sockeye salmon. Salmon open September 16 through December 31. Daily limit (~~(two)~~) three salmon except release chinook. Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.

From the Highway 530 Bridge at Rockport to the Cascade River - (~~(Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.)~~) Salmon open June 1 through July (~~(8)~~) 9. Nonbuoyant lure restriction and night closure June 1 through November 30. Daily limit two salmon. Release all salmon except hatchery chinook. Salmon open September 16 through December 31. Daily limit (~~(two)~~) three salmon. Release chinook. Additional season: March 16 through April 30. Selective gear rules except lawful to fish from a floating device equipped with an internal combustion motor. Unlawful to fish from a floating device while under power. All species: Release all fish.

From Cascade River to Gorge Powerhouse: June 1 through March 15 season. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin.

Skokomish River (Mason County), mouth to forks: Night closure, nonbuoyant lure restriction and single point barbless hooks required August 1 through November 30 mouth to Highway 101. June 1 through last day in February season except closed September 14 through September 30 mouth to Highway 101 Bridge. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through September 13 and October 1 through December 15 mouth to Highway 101 Bridge. Terminal gear restricted to no closer than 25 feet of a tribal gill net. Daily limit 1 salmon August 1 through September ~~((30))~~ 13. Release chum salmon. Daily limit 6 salmon ~~((October 1))~~ September 14 through December 15, except daily limit may contain no more than 4 adult fish and of these adults not more than one may be an adult chinook. October 1 through October 15 release chum salmon.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to mouth of Rule Creek: Closed waters.

From mouth of Rule Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skookum Creek (Mason County): Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Creek (Klickitat County): Trout: Release all trout.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: June 1 through April 30 season. Single point barbless hooks and night closure August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through last day in February. Daily limit 6 fish of which no more than 2 may be adult salmon, except December 1 through the last day in February release adult wild coho. Release adult chinook.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Wallace River: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30 mouth to Lewis Street Bridge in Monroe and June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River. Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open ~~((August 16))~~ September 1 through December 31 mouth to Lewis Street Bridge in Monroe. Daily limit ~~((4))~~ 2 salmon ~~((of which no more than 2 may be coho or chum or a combination of coho and chum))~~. Release chinook and pink. Open June 1 through July 31 Lewis Street Bridge in Monroe to Wallace River. Daily limit 2 hatchery chinook. Open September 1 through December 31 Lewis Street Bridge to Wallace River. Daily limit ~~((4))~~ 2 salmon ~~((of which no more than 2 may be coho or chum or a combination of coho and chum))~~. Release chinook and pink.

From the mouth of the Wallace River to the forks: June 1 through last day in February season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds August 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit ~~((4))~~ 2 salmon ~~((of which no more than 2 may be coho or chum or a combination of coho and chum))~~. Release chinook and pink.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length four-

teen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Slate Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season, except sturgeon. Single point barbless hooks, and night closure August 16 through November 30 upstream to the Highway 101 Bridge. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be an adult wild coho. Release adult chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

Snake River: Year-round season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Bass: Fish twelve to seventeen inches in length may be retained. Up to but not more than 3 bass over fifteen inches in length may be retained. Walleye: Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): April 1 through September 30 season.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through last day in February season, except sturgeon. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only ~~((August 16))~~ September 1 through December 31. Daily limit ~~((4))~~ 2 salmon ~~((of which no more than 2 may be coho or chum or a combination of coho and chum))~~. Release chinook and pink. Sturgeon: Open year-round from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: June 1 through last day in February season, except waters within the Puget Power tunnel at

the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with an internal combustion motor allowed. Fishing from any floating device prohibited November 1 through last day in February from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 fish. Release chinook and pink.

From Snoqualmie Falls upstream, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: Year-round season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries: Closed waters.

Snyder Creek (Klickitat County): Trout: Release all trout.

Sol Duc River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Selective gear rules from the concrete pump station at the Sol Duc Hatchery to the Highway 101 Bridge downstream of Snider Creek November 1 through April 30, and from the Highway 101 Bridge to Olympic National Park June 1 through October 31. Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead from mouth to concrete pump station at Sol Duc Hatchery. December 1 through April 30, from mouth to the concrete pump station at the Sol Duc Hatchery, one wild steelhead per day may be retained. Salmon: Open only ~~((March))~~ February 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon ~~((March))~~ February 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. ~~((March))~~ February 1 through August 31 release wild adult coho and ~~((unmarked))~~ wild adult chinook. ~~((Unmarked chinook are chinook with unclipped adipose and ventral fins.))~~ September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Soos Creek (King County), from mouth to bridge near hatchery residence: June 1 through August 31 season except salmon. Trout: Minimum length fourteen inches. Salmon: Open only October ~~((8))~~ 7 through October ~~((30))~~ 29 to fishing by juveniles only. Night closure October 8 through October 30. Terminal gear restricted to one single point hook. Daily limit two coho salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Maximum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year-round season.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Okanogan County): April 1 through September 30 season.

Spirit Lake (Skamania County): Closed waters.

~~((Spring Lake (Columbia County): Trout: No more than 2 trout over 13 inches in length may be retained.))~~

Spokane River (Spokane County):

From SR 25 Bridge upstream to the upstream boundary at Plese Flats Day Use Area (Riverside State Park), except Long Lake, formed by Long Lake Dam (see also Long Lake): Year-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit ~~((five))~~ eight, no minimum length, no more than one over ~~((eighteen))~~ twenty-two inches in length. April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon. Small mouth bass: Small mouth bass do not count as part of the bass daily limit. Small mouth bass 12 to 17 inches in length may be retained. No minimum size. Daily limit 10 bass, no more than one bass greater than 14 inches in length may be retained.

From the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street Dam: Year-round season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: June 1 through March 15 season. Selective gear rules, except fishing from a floating device equipped with an internal combustion motor permitted. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties):

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through September 15 season. Crappie: Daily limit ten, minimum length nine inches. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Stan Coffin Lake (Grant County): Bass: Release all bass.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Release cut-throat. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through September 30 and December 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Kokanee: Kokanee not included in trout daily limit. Kokanee daily limit ten fish.

Steves Lake (Mason County): Last Saturday in April through October 31 season.

Stickney Lake (Snohomish County): Last Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to Marine Drive, including all sloughs: Year-round season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

From Marine Drive to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Night closure August 1 through November 30. Selective gear rules June 1 through November 30 except fishing from a floating device equipped with an internal combustion motor allowed. Game fish: June 1 through November 30 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches December 1 through last day in February. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. June 1 through November 30: All species: Release all fish except hatchery steelhead. June 1 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches.

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream and tributaries: Selective gear rules. Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Sullivan Lake (Pend Oreille County): Trout: Daily limit 2 trout, except kokanee not counted in daily trout limit. Kokanee daily limit ten.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swale Creek (Klickitat County): Trout: Release all trout.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): (~~Closed waters.~~) June 1 through August 31 season. Juveniles only.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season. From posted markers below Eagle Cliff Bridge to Bridge: Selective gear rules except fishing from a floating device equipped with an internal combustion motor allowed. Salmon: Landlocked salmon rules apply.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Tacoma Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Tahuya River (Mason County): Selective gear rules and release all fish except salmon. Salmon: Open only September 16 through October 31 mouth to marker one mile above North Shore Road Bridge. Daily limit 2 coho salmon.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Salmon: Landlocked salmon rules apply.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Last Saturday in April to August 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Additional September 1 through March 30 season. Selective gear rules. All species: Release all fish.

Teanaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 31 except fishing from floating dock permitted.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): ~~((Closed waters-))~~ June 1 through August 31 season. Juveniles only.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): ~~((Closed waters-))~~ June 1 through August 31 season. Juveniles only.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Additional December 1 through March 31 season: Whitefish gear rules apply.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the Fish Hatchery Road Bridge: December 1 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length fourteen inches.

From Fish Hatchery Road Bridge to posted cable boundary marker located approximately ~~((seven))~~ four hundred feet ~~((upstream))~~ downstream of the ~~((mouth))~~ hatchery intake: January 15 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length 14 inches.

From the posted cable boundary marker located approximately ~~((seven))~~ four hundred feet ~~((upstream))~~ downstream of the ~~((mouth))~~ hatchery intake to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. All species: Release all fish.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

Bass: Bass 12 to 17 inches in length may be retained. Up to but not more than 3 greater than 15 inches may be retained as part of the daily limit.

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Bass: Statewide rules apply. Trout: Release all steelhead. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek June 1 through August 31 season.

South Fork: Upstream from Griffin Creek June 1 through August 31 season.

Wolf Fork: Upstream from Coates Creek June 1 through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Nonbuoyant lure restriction and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which

no more than 2 may be adult salmon. Release chum and wild coho. Release all chinook October 1 through November 30 in North Fork upstream from Kidd Valley Bridge.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except hatchery steelhead. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except hatchery steelhead.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the mouth upstream to Turner Road Bridge: Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the Tucannon Hatchery Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucquala Lake (Kittitas County): June 1 through October 31 season.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to War Creek: June 1 through August 15 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all

fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County): Mouth to North Shore Road Bridge. All species: Release all fish except sturgeon.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: June 1 through August 15 season. Selective gear rules. All species: Release all fish except sturgeon.

From lower bridge on Old Belfair Highway upstream to watershed boundary: Selective gear rules. All species: Release all fish except sturgeon.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Van Winkle Creek (Grays Harbor County): Mouth to 400 feet below outlet of Lake Aberdeen Hatchery: Game fish: Minimum length 14 inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish of which not more than 2 may be adult fish. Release chum, adult chinook and wild adult coho.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Vogler Lake (Skagit County): Last Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Wahkiacus Creek (Klickitat County): Trout: Release all trout.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to 200 feet upstream of the water intake of the salmon hatchery: June 1 through last day in February season. Closed waters: From the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery during the period June 1 through August 31. Fishing from any floating device prohibited November 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through November 30. Daily limit 2 coho.

From 200 feet upstream of the water intake of the salmon hatchery to mouth of Olney Creek: November 1 through last day in February season. Fishing from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year-round season. Trout: Barbless hooks required when fishing for steelhead. Trout: Release trout April 1 through May 31. Daily limit three hatchery steelhead. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an internal combustion motor allowed. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. Trout: Release all trout. From August 1 through October 31: Selective gear rules except

fishing from a device equipped with an internal combustion motor permitted.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season.

Warden Lake and Warden Lake, South (Grant County): Last Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): Last Saturday in April through October 31 season. Trout: Daily limit two.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February, daily limit 5, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit 5, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. Salmon: Open only September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge. Daily limit two coho salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year-round. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

~~((Washington Lake, tributaries (King County) except the Cedar River and that portion of the Sammamish River downstream from the 68th Street Bridge: June 1 through August 31 season. Juveniles only.))~~

Washougal River (Clark County): Night closure year-round.

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Nonbuoyant lure restriction and stationary

gear restriction July 1 through October 31. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through March 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. (~~Release hatchery coho October 16 through December 31~~) Upstream of Little Washougal River, release chinook October 1 through November 30.

From mouth to Mt. Norway Bridge: Additional March 16 through May 31 season. Selective gear rules. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

From bridge at Salmon Falls to its source, including tributaries: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Waughop Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenaha River tributaries within Washington: June 1 through August 31 season.

Wenatchee Lake (Chelan County): Selective gear rules except fishing from a floating device equipped with an internal combustion motor allowed. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River, including Lake Jolanda (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

West Evans Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to

markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters. Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: July 1 through October 31 season. Nonbuoyant lure restriction and night closure October 1 through October 31. Selective gear rules July 1 through October 31. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through January 31 season. Whitefish gear rules apply.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Open year-round. Bank fishing only downstream from the Highway 14 Bridge. August 1 through December 31: Nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon and steelhead: Open April 1 through June 30, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead. Release wild coho and wild chinook. Salmon: Open July 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to April 30 season except salmon and steelhead. Trout: Minimum length fourteen inches. Release trout April 1 through April 30. Salmon: Open November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. November 16 through December 31 release chinook.

Salmon and steelhead: Open April 1 through June (~~(45)~~) 30, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead. Release wild coho and wild chinook.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): April 1 through September 30 season.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season.

Wilderness Lake (King County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County): Mouth to Highway 6 Bridge: June 1 through March 31 season. All game fish: Release all game fish except that up to two hatchery steelhead may be retained per day. All species: August 16 through November 30 night closure, single point barbless hooks and stationary gear restriction. Fishing from a floating device prohibited November 1 through March 31 from the bridge on Willapa Road to Fork Creek. Highway 6 Bridge to Fork Creek: June 1 through July 15 and October 16 through March 31 season. Night closure, single point barbless hooks, and stationary gear restriction October 16 through November 30 ((~~mouth to Fork Creek~~)). November 1 through March 31 fishing from any floating device prohibited from the bridge on Willapa Road to Fork Creek.

All game fish: Release all fish except that up to two hatchery steelhead may be retained. Salmon: Open only August 1 through January 31 from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek and open October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than one may be a wild adult coho and not more than two may be adult chinook and not more than two may be chum.

Sturgeon: Open (~~(October 16 through July 15)~~) year round from mouth to Highway 6 Bridge.

Upstream from Fork Creek: Selective gear rules. August 16 through October 31, nonbuoyant lure restriction and night closure. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork: June 1 through last day in February season. Selective gear rules June 1 through October 31. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish except up to two hatchery steelhead may be retained.

Williams Creek (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Open year-round. Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: July 1 through March 15 season, except salmon and steelhead. May 1 through June 30: Nonbuoyant lure restriction and night closure. August 1 through October 31: Nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Open March 16 through June 30 daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Release wild coho and wild chinook. Trout: Minimum length fourteen inches. Salmon: Open August 1 through October 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. Release chinook from Burlington-Northern Railroad Bridge upstream.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: May 1 through June 30 season. Closed waters: From 400 feet below to 100 feet above the Coffey Dam and from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries. Night closure and nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Additional season September 16 through November 30. Selective gear rules. All species: Release all fish.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.) to dam. Trout: Minimum length fourteen inches. Release wild cutthroat. Mouth to West Fork: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear and all species: Release all fish except up to two hatchery steelhead may be retained per day, March 1 through March 31. Salmon: Open only October 1 through December 31 from mouth to 200 feet below the weir at the Long Live the Kings/Mayr Brothers

facility. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

From the West Fork to four hundred feet below outlet: June 1 through March 31 season. Trout: Minimum length fourteen inches.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake (Mason County): Last Saturday in April through October 31 season.

Wye Lake (Kitsap County): Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to 7400 line bridge above mouth of Schafer Creek: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except daily limit may contain no more than 1 wild adult coho December 1 through January 31. Release adult chinook.

7400 line bridge upstream: Additional December 1 through March 31 season. Selective gear rules. Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to 400 feet below Prosser Dam: Chumming permitted. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to Highway 223 Bridge: Bass: Bass 12 to 17 inches in length may be retained. No daily limit for bass, but not more than 3 bass greater than 15 inches in length may be retained.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to thirty-five hundred feet below Roza Dam: Year-round season. Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. March 1 through November 30, closed from thirty-five hundred feet below Roza Dam to Roza Dam. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31. Thirty-five hundred feet below Roza Dam to four hundred feet below Roza Dam: December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used December 1 through last day in February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam. Release all trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 232-28-620 Coastal salmon—Saltwater seasons and daily limits. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, for the sizes provided in WAC 220-56-180, and for the species designated in this section. Open when a daily limit is provided:

- (1) Catch Record Card Area 1:
 - (a) May 1 through July 2 - Closed.
 - (b) July 3 through September 30 - Open Sundays through Thursdays only - Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho.
 - (c) October 1 through April 30 - Closed.
 - (d) Closed in the Columbia River Mouth Control Zone 1 during all open periods, see WAC 220-56-195.
- (2) Catch Record Card Area 2 and Catch Record Card Area 2-2 west of the Buoy 13 line:
 - (a) May 1 through (~~June 25~~) July 2 - Closed.
 - (b) Area 2 (~~June 26~~) July 3 through September (~~17~~) 17 except closed to salmon fishing August 1 through September (~~17~~) 17 in the Grays Harbor Control Zone described in WAC 220-56-195(11) and Area 2-2 west of the Buoy 13 (~~June 26 through July 31~~) line - Open Sundays through Thursdays only. Daily limit 2 salmon, of which not more than one may be a chinook salmon. Release wild coho.
 - (c) Area 2 September (~~18~~) 18 through April 30 and Area 2-2 west of Buoy 13 (~~August 1~~) September 18 through April 30 - Closed.

(3) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):

(a) May 1 through September 15 - Closed.

(b) September 16 through November 30 - Daily limit of 2 salmon. Release chinook salmon September 16 through September 30 and October 16 through November 30. October 1 through October 15 the daily limit may contain no more than one chinook.

(c) December 1 through April 30 - Closed.

(d) Notwithstanding the provisions of this subsection, Westport Boat Basin and Ocean Shores Boat Basin: Open only August 16 through January 31 - Daily limit of six salmon not more than four of which may be adult salmon.

(4) Willapa Bay (Catch Record Card Area 2-1):

(a) May 1 through ~~((June 25))~~ July 2 - Closed.

(b) ~~((June 26))~~ July 3 through ~~((August 15))~~ July 31 - Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August ~~((16))~~ 1 through ~~((January 31))~~ August 15 - Daily limit of six salmon, not more than two of which may be adult salmon.

(d) August 16 through January 31 - Daily limit 6 salmon, not more than 3 of which may be adult salmon, and of the adult salmon not more than 2 may be chinook.

(e) February 1 through April 30 - Closed.

(5) Catch Record Card Area 3:

(a) May 1 through June ~~((30))~~ 29 - Closed.

(b) ~~((July 1))~~ June 30 through September ~~((18))~~ 17 - Open Tuesday through Saturday only. Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho.

(c) September ~~((19))~~ 18 through April 30 - Closed.

(d) Notwithstanding the provisions of this subsection, waters north of 47°50'00"N latitude and south of 48°00'00"N latitude open September ~~((24))~~ 23 through October ~~((9))~~ 8 - Daily limit two salmon, of which not more than one may be a chinook salmon. Release wild coho.

(6) Catch Record Card Area 4:

(a) May 1 through June ~~((30))~~ 29 - Closed.

(b) ~~((July 1))~~ June 30 through September ~~((18))~~ 17 - Open Tuesdays through Saturdays only. Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho salmon. Waters east of a true north-south line through Sail Rock closed July 1 through July 31. Release chinook salmon caught east of the Bonilla-Tatoosh line August 1 through September ~~((18))~~ 17. Release chum salmon August 1 through September ~~((18))~~ 17.

(c) September ~~((19))~~ 18 through April 30 - Closed.

AMENDATORY SECTION (Amending Order 05-168, filed 8/3/05, effective 9/3/05)

WAC 232-28-621 Puget Sound salmon—Saltwater seasons and daily limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, and for the species designated in this section and sizes as defined in WAC 220-56-180. Open when a daily limit is provided. Puget Sound waters west of the mouth of the Sekiu

River are managed concurrent with ocean waters as provided for in WAC 232-28-620.

(1) Catch Record Card Area 5:

(a) May 1 through June 30 - Closed.

(b) July 1 through August ~~((10))~~ 31 - Daily limit ~~((4))~~ 2 salmon ~~((not more than 2 of which may be salmon other than pink salmon))~~. Release chum, wild chinook and wild coho.

(c) ~~((August 11))~~ September 1 through September 30 - Daily limit of ~~((4))~~ 2 salmon ~~((not more than 2 of which may be salmon other than pink salmon))~~. Release chum, chinook and wild coho.

(d) October 1 through October 31 - Closed.

(e) November 1 through November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(f) December 1 through February 15 - Closed.

(g) February 16 through April 10 - Daily limit 1 salmon.

(h) April 11 through April 30 - Closed.

(2) Catch Record Card Area 6:

(a) May 1 through June 30 - Closed.

(b) July 1 through August ~~((10))~~ 31 - Daily limit ~~((4))~~ 2 salmon ~~((not more than 2 of which may be salmon other than pink salmon))~~. Release chum, wild chinook and wild coho. Release all chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

(c) ~~((August 11))~~ September 1 through September 30 - Daily limit of ~~((4))~~ 2 salmon ~~((not more than 2 of which may be salmon other than pink salmon))~~. Release chum, chinook and wild coho.

(d) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed July 1 through ~~((August))~~ October 31.

(e) October 1 through October 31 - ~~((Closed))~~ Daily limit of 2 salmon not more than 1 of which may be a chinook salmon, except waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy then to the Port Williams Boat Ramp are open with a daily limit of 2 coho salmon. Release all other salmon. Waters inside the line described in this subsection are closed at all times except during October.

(f) November 1 through ~~((November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon -~~

~~((g) December 1 through))~~ February 15 - Closed.

~~((h))~~ (g) February 16 through April 10 - Daily limit 1 salmon.

~~((i))~~ (h) April 11 through April 30 - Closed.

(3) Catch Record Card Area 7:

(a) May 1 through June 30 - Closed.

(b) July 1 through July 31 - Daily limit of ~~((4))~~ 2 salmon, not more than one of which may be a chinook salmon ~~((and not more than two of which may be salmon other than pink salmon))~~. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195(7).

(c) August 1 through September 30 - Daily limit of ~~((4))~~ 2 salmon, not more than one of which may be a chinook salmon ~~((and not more than two of which may be salmon other than pink salmon))~~. Release chum and wild coho. Closed to salmon fishing in the Southern Rosario Strait and

Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195(7).

(d) Waters of Bellingham Bay described in WAC 220-56-195(1) closed July 1 through August 15. August 16 through October 31 - Daily limit 4 salmon, not more than 2 of which may be chinook salmon. November 1 through June 30 - Same rules as Area 7.

(e) October 1 through October 31 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(f) Waters of Samish Bay described in WAC 220-56-195(4) closed July 1 through October 15.

(g) November 1 through November 30 - Daily limit 2 salmon. Release chinook salmon.

(h) December 1 through January 31 - Closed.

(i) February 1 through March 31 - Daily limit of 1 salmon.

(j) April 1 through April 30 - Closed.

(4) Catch Record Card Area 8-1:

(a) May 1 through July 31 - Closed.

(b) August 1 through September 30 - Daily limit of ((4)) 2 salmon ((not more than 2 of which may be salmon other than pink salmon)). Release chinook.

(c) October 1 through April 30 - Daily limit 2 salmon. Release wild chinook.

(5) Catch Record Card Area 8-2:

(a) May 1 through July 31 - Closed, except waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point - June ((3)) 2 through June ((47)) 16 and June ((49)) 18 through July 31, open only Friday through 11:59 a.m. Monday of each week - Daily limit of 2 salmon.

(b) August 1 through September 30 - Daily limit ((4)) 2 salmon ((of which not more than 2 may be salmon other than pink salmon)) and release chinook, except waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point - August 1 through September ((27)) 25, open only Friday through 11:59 a.m. Monday of each week - Daily limit of 2 salmon ((and except waters of Port Susan described in WAC 220-56-195(10) closed August 1 through August 31 and release pink salmon September 1 through September 30)).

(c) October 1 through April 30 - Daily limit 2 salmon. Release wild chinook.

(6) Catch Record Card Area 9:

(a) May 1 through July ((31)) 15 - Closed.

(b) ((August 1)) July 16 through September 30 - Daily limit of ((4)) 2 salmon ((of which not more than 2 may be salmon other than pink salmon)). Release chum and chinook.

(c) October 1 through October 31 - Daily limit of 2 salmon. Release chinook.

(d) November 1 through November 30 - Daily limit 2 salmon, of which not more than one may be a chinook.

(e) December 1 through January 31 - Closed.

(f) February 1 through April 15 - Daily limit 1 salmon.

(g) April 16 through April 30 - Closed.

(h) Edmonds Fishing Pier: Open year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release chum August 1 through September 30.

(7) Catch Record Card Area 10:

(a) May 1 through ((June 15)) May 31 - Closed.

(b) June ((46)) 1 through June 30 - Open only north of a line from Point Monroe to Meadow Point. Catch and release.

(c) July 1 through September 30 - Daily limit ((4)) 2 salmon ((not more than 2 of which may be salmon other than pink salmon)). Release chum August 1 through September 15. Release chinook. Waters of Shilshole Bay southeast of a line from Meadow Point to West Point closed July 1 through August 31. Waters of Elliott Bay east of a line from West Point to Alki Point closed July 1 through August ((23)) 31, except waters east of a line from Pier 91 to Duwamish Head open July ((8)) 14 through ((11:59 a.m.)) August ((22)) 20, and open only on Friday through ((Monday)) Sunday of each week - Daily limit ((4)) 2 salmon ((not more than 2 of which may be salmon other than pink salmon)). Release chum August 1 through August ((22)) 20.

(d) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White - Daily limit 2 salmon July 1 through September 30. Release chum August 1 through September 15.

(e) October 1 through October 15 - Daily limit of 2 salmon. Release chinook salmon.

(f) October 16 through November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(g) December 1 through January 31 - Daily limit 1. Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point ((closed)) fly fishing only, lead core lines prohibited and catch and release January 1 through January 31.

(h) February 1 through April 30 - Closed.

(i) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier: Open year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release chum August 1 through September 15.

(j) East Duwamish waterway - Waters between a line projected east along the path of SW Hanford Street and a line projected east from the south tip of Harbor Island - July 1 through October 31 terminal gear restricted to bait suspended above the bottom by a float.

(8) Catch Record Card Area 11:

(a) May 1 through May 31 - Closed.

(b) June 1 through June 30 - Daily limit of 2 salmon. Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock closed.

(c) July 1 through September 30 - Daily limit of ((4)) 2 salmon ((not more than 2 of which may be salmon other than pink salmon)). Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock closed July 1 through August ((42)) 11.

(d) October 1 through October 31 - Daily limit of 2 salmon.

(e) November 1 through December 31 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(f) January 1 through February 15 - Closed.

(g) February 16 through April 10 - Daily limit of 1 salmon.

(h) April 11 through April 30 - Closed.

(i) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock: Open year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon.

(9) Catch Record Card Area 12:

(a) May 1 through June 30 - Closed.

(b) July 1 through October 15 in waters south of Ayock Point - Daily limit 4 salmon, of which no more than two may be chinook salmon. Release chum.

(c) July 1 through August 31 in waters north of Ayock Point except waters of Quilcene Bay north of a true east line from Whitney Point to the Toandos Peninsula - Closed.

(d) September 1 through October 15 in waters north of Ayock Point and August 16 through October 15 in waters of Quilcene Bay north of a true east line from Whitney Point to the Toandos Peninsula - Daily limit 4 coho salmon. Release all salmon except coho.

(e) October 16 through December 31 - Daily limit 4 salmon, of which no more than one may be a chinook salmon.

(f) January 1 through February 15 - Closed.

(g) February 16 through April 10 - Daily limit 1 salmon.

(h) April 11 through April 30 - Closed.

(i) July 1 through December 31 the Hoodspout Hatchery Zone is managed separately from the remainder of Area 12. See WAC 220-56-124.

(10) Catch Record Card Area 13:

(a) May 1 through ~~((May 31))~~ June 30 - Daily limit 2 salmon. Carr Inlet north of a line from Penrose Point to Green Point - Closed.

(b) ~~((June 1 through June 30 - Closed.~~

~~((e))~~ July 1 through October 31 - Daily limit 2 salmon. Release wild coho. Waters of Carr Inlet north of a line from Penrose Point to Green Point closed July 1 through July 31, except open to fly fishing only for hatchery coho.

~~((d))~~ (c) Waters at the mouth of Minter Creek within 1,000 feet of the outer oyster stakes are closed July 1 through September 30.

~~((e))~~ (d) Waters of Budd Inlet south of the Fourth Avenue Bridge are closed. Contiguous waters north of the Fourth Avenue Bridge and south of a line from the northwest corner of the Thriftway Market building and a point 100 yards north of the railroad bridge on the western shore are closed July 16 through October 31. Waters north of the Thriftway Market-railroad bridge line and south of a line projected due west from the KGY radio tower - night closure and nonbuoyant lure restriction July 16 through October 31.

~~((f))~~ (e) November 1 through December 31 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

~~((g))~~ (f) January 1 through ~~((April 30))~~ January 31 - Daily limit 1 salmon. ~~((Waters of Carr Inlet north of a line from Penrose Point to Green Point closed April 16 through April 30.~~

~~((h))~~ (g) February 1 through last day in February - Closed.

(h) March 1 through April 30 - Daily limit 1 salmon. Waters of Carr Inlet north of a line from Penrose Point to Green Point closed April 16 through April 30.

(i) Fox Island Public Fishing Pier: Open year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release wild coho July 1 through October 31.

WSR 06-16-097

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed July 31, 2006, 4:44 p.m., effective August 31, 2006]

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

Purpose: The department is adopting a new WAC 458-20-273 Renewable energy system cost recovery. This rule is to effectuate new legislation promoting the use and manufacture of alternative renewable energy systems in the state of Washington through the development of a customers' cost recovery incentive payments program with a corresponding credit to participating light and power businesses. Specifically, a credit of up to \$2,000 annually will be paid to customers for measured electric generation from qualified solar, wind and anaerobic digester energy systems. The light and power businesses pay the incentive payments to their qualifying customers and then receive a credit equal to the amount of payments made on their public utility tax. The amount of payments one light and power business may make is limited by the higher of \$25,000 or 0.25% of the business' taxable power sales due under RCW 82.16.020 (1)(b). Participation by the light and power businesses in this program is discretionary.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060.

Adopted under notice filed as WSR 06-13-099 on June 21, 2006.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made to the proposed rule presented at the July 27, 2006, CR-102 hearing. The language added to the proposed rule is underlined:

The first amendment of the proposed rule as published is in the preamble as follows:

WAC 458-20-273 Renewable energy system cost recovery. The customer investment cost recovery incentive payment ("incentive payment") covers the purchase and use of renewable energy systems that produce electricity, such as: Solar energy systems, wind generators, and certain types of anaerobic digesters that process manure from cattle into bio-gas and dried manure using microorganisms in a closed oxygen-free container. Any individual, business, or local government that purchases and uses such a system may apply for an incentive payment from the light and power business that serves their property. Your light and power business may make payment to you in the form of a credit offsetting the amount you owe on your power bill. The light and power business then gets a credit on its public utility tax for the amount it pays to customers as incentive payments. The

department of revenue is not regulating light and power businesses; it is only administering a tax credit program relating to the public utility tax. Therefore, the department will only audit light and power businesses to determine whether their claimed credit amount equals the amount of the total of customers' incentive payments, whether they proportionally reduced the payments to each customer by an equal percentage if the limit of total allowed payments is reached, and whether the customer payments are based on measured production of the renewable energy systems. A light and power or gas distribution business will not qualify for an incentive payment. This program applies to measured customers' renewable energy system kilowatt-hours generated between July 1, 2005, and June 30, 2014.

The next amendment of the proposed rule as published is a change in the transition rule for the period July 1, 2005, through June 30, 2006, located in Question and Answer No. 4:

There is a special transition rule for the first annual period from July 1, 2005, through June 30, 2006. For only the first year of the incentive program, recognizing that each utility will establish its own procedures and requirements for metering the output of customers' renewable energy systems, the department will accept kWh production readings taken from the inverter or from an owner installed production meter. The owner must report the reading of the meter from July 1, 2005 (or make a good-faith estimation if no reading exists) and the reading on June 30, 2006. Your June 30, 2006 reading may be relied upon by your light and power business as the first reading for the subsequent year July 1, 2006, through June 30, 2007. Further, if your light and power business decides to replace your production meter during the subsequent year July 1, 2006, through June 30, 2007, it may rely on the last reading on your prior meter before its replaced. You must also report the array size in DC watts. This information will be used to validate reported watt hours for the first year. Your participating light and power business is not required to perform independent reading or monitoring of your system's electric generation during the first year. Further, for the first year only, the power and light business serving your property shall have one hundred twenty days to notify you whether your incentive payment is authorized or denied and shall process your annual payment, if any, by January 31, 2007. You must file your request for system certification with the department of revenue no later than September 30, 2006. Each light and power business will decide its own deadline for submission of your annual application for incentive payment during this first year.

Another amendment of the proposed rule as published is located in Question and Answer No. 5:

(5) What are the possible procedures you and your light and power business may follow in setting up your incentive payments? Recommended procedures you should follow when requesting your light and power businesses to set up your incentive payments and the possible procedures your light and power business may follow are as follows:

- First, since participation under this incentive program is voluntary for light and power businesses, contact the light and power business serving your property and ask whether it

is participating and what application procedures you must follow.

- If your light and power business is participating in the incentive program, then you submit an application to your light and power business.

- You submit to your light and power business proof that your renewable energy system is certified by the department of revenue for the incentive payment program.

- You submit to the light and power business a copy of the approved certification and letter from the department of revenue. You should submit this information to the light and power business before August 1st in order to receive payment for any production that occurred prior to July 1st.

- If your light and power business approves your application, then it will require a signed agreement that it will provide to you.

- You or your licensed electrical contractor or certified electrician obtain an electrical permit and install the system. (A licensed electrical contractor or certified electrician must install the system, unless you perform the work yourself on your home with the help of an uncompensated volunteer who assists you. See WAC 296-46B-925(13) for guidance on the proper installation of your system.)

- Once installation is complete your renewable energy system must pass a final electrical inspection from the local code official.

- Your local light and power business will send a utility serviceman to inspect your system and may install an electric production meter if one meeting its qualifications is not already installed.

- Your production meter is read by the light and power business at least annually and it processes your annual incentive payment.

- Your light and power business notifies you within sixty days whether your incentive payment is authorized or denied.

- Your light and power business calculates annual production payments based on the meter reading or readings made prior to the accounting date of July 1st.

- Your incentive payment check (or credit to your account) is sent to you by your light and power business on or before December 15th.

A further amendment of the proposed rule as published is located in Question and Answer No. 6:

(6) What is the formal agreement between me and my light and power business? The formal agreement between you and the light and power business serving your property governs the relationship between you and your light and power business. This document may:

- Contain the necessary safety requirements and inter-connection standards;

- Allow the light and power business the contractual right to review your substantiation documents for four years, upon five working days' notice;

- Allow the light and power business the contractual right to assess against you, with interest, for any overpayment of incentive payments made to you;

- Delineate any extra metering costs for an electric production meter to be installed on your property;

- Contain a statement allowing the department of revenue to send proof of your system's certification electronically

to your light and power business, which will include your department of revenue taxpayer's identification number; and

- Contain other information required by the light and power business to effectuate and properly process your incentive payment.

Another amendment of the proposed rule as published is located in Question and Answer No. In the third sentence the word "development" was added. Now the third sentence reads:

"An economic development kilowatt-hour is the actual kilowatt-hour measurement of your generated electricity multiplied by the appropriate economic development factor."

The last amendment of the proposed rule as published is located in Question and Answer No. 20:

(20) Are individuals, businesses and local governments that are not interconnected to the electric transmission and distribution system and who are not customers of a light and power business eligible for the incentive payment program? Generally, only renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible for participation in the incentive payment program. The term property means within the established boundaries of the lot served by the light and power business. However, the renewable energy system generating the electricity does not itself have to be interconnected to the electric transmission and distribution system as long as it is located on a property served by a light and power business.

For example, if a customer of a light and power business living in a home connected to the power grid builds a studio addition served by a renewable energy system that is not connected to the power grid, that customer is eligible for the incentive payment program.

Another example, if a customer of a light and power business owning a manufacturing facility connected to the power grid builds an unattached vehicle garage on the same lot that the factory is located and the garage is not interconnected, the renewable energy system supplying electricity to this garage is eligible for the incentive payment program.

If the facts are the same as above, but the manufacturing facility's owner buys a new lot across the street and the only improvement on this separate lot is the unattached vehicle garage that is not connected to the power grid, then the renewable energy system attached to the garage would not be eligible for the incentive payment program.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: July 31, 2006.

Alan R. Lynn
Rules Coordinator

NEW SECTION

WAC 458-20-273 Renewable energy system cost recovery. The customer investment cost recovery incentive payment ("incentive payment") covers the purchase and use of renewable energy systems that produce electricity, such as: Solar energy systems, wind generators, and certain types of anaerobic digesters that process manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container. Any individual, business, or local government that purchases and uses such a system may apply for an incentive payment from the light and power business that serves their property. Your light and power business may make payment to you in the form of a credit offsetting the amount you owe on your power bill. The light and power business then gets a credit on its public utility tax for the amount it pays to customers as incentive payments. The department of revenue is not regulating light and power businesses; it is only administering a tax credit program relating to the public utility tax. Therefore, the department will only audit light and power businesses to determine whether their claimed credit amount equals the amount of the total of customers' incentive payments, whether they proportionally reduced the payments to each customer by an equal percentage if the limit of total allowed payments is reached, and whether the customer payments are based on measured production of the renewable energy systems. A light and power or gas distribution business will not qualify for an incentive payment. This program applies to measured customers' renewable energy system kilowatt-hours generated between July 1, 2005, and June 30, 2014.

The purpose of the law creating this incentive payment program is to develop a market for renewable energy systems and to promote the manufacture of these systems in Washington state. To facilitate this purpose, these regulations are written to facilitate prospective customers of renewable energy systems in the purchase and use of their systems, in conjunction with the incentive payment program.

(1) What is my first step as a possible customer of a renewable energy system? First, contact the light and power business serving your property to confirm it is participating in this incentive payment program. Participation by light and power businesses is discretionary. Further, ask your light and power business for a copy of its procedural requirements and application for participating in this incentive payment program. Only your light and power business has the authority to determine whether your incentive payment will be authorized or denied.

(2) How do I certify my renewable energy system? After contacting your light and power business, you must apply for a system certification to the department of revenue. The department of revenue will consult with the climate and rural energy development center at Washington State University's energy extension regarding your certification request.

The certification form can be downloaded from the department of revenue's web site located at: dor.wa.gov, or may be obtained by calling the department at: 1-800-647-7706. The certification form requires certain verifiable information, including the following:

(a) Your name, address, and the address of the renewable energy system;

(b) Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their application and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);

(c) Your statement that your renewable energy system generating electricity is located on your own real property and that your property is also served by a participating light and power business;

(d) Your statement that the electricity you produce on your own renewable energy system does not include electricity generated by a light and power business or a gas distribution business;

(e) You must also state that your renewable energy electric generation system uses:

- Any solar inverter or modules manufactured in Washington state;
- A wind generator powered by blades manufactured in Washington state;
- A solar inverter manufactured in Washington state;
- A solar module manufactured in Washington state;
- Solar or wind equipment manufactured outside Washington state; or
- An anaerobic digester which processes manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container.

(f) You must also state that your own generated electricity can be transformed or transmitted for entry into or operation in parallel with electric transmission and distribution systems;

(g) The date that your local jurisdiction issued its final electrical permit on your renewable energy system;

(h) Your statement that you understand that this information is provided to the department of revenue in determining whether the light and power business correctly calculates its credit allowed for customer incentive payments and that your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury; and

(i) If you have just purchased a property with a certified renewable energy system, you must reapply for certification as the new owner.

(3) How long will it take before I receive notification of whether the department of revenue, in consultation with the climate and rural energy development center at Washington State University's energy extension, has approved the request for my system's certification? The department of revenue will notify you in writing within thirty days whether your request for system certification qualifies for the incentive payment program. Certification is merely an administrative and preliminary step, however, and ultimately it is the application procedure with the light and power business that serves your property which will deter-

mine whether your incentive payment is authorized or denied.

(4) After the department of revenue approves my system's certification, how do I apply for my incentive payment? The next step is to apply for your incentive payment from the light and power business that serves the property you own, on which the renewable energy system is located. You must annually apply by August 1st of each calendar year. The department of revenue will create an application form for use by customers when applying for the incentive payment with their light and power business. However, individual light and power businesses may create their own forms or use the department's form in conjunction with their additional addendums. Further, your light and power business has the authority to verify and make separate determinations on the matters covered in your earlier certification with the department of revenue. If your light and power business finds the certification process made an error in determining whether your renewable energy system's generated electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems, then the determination by the light and power business shall be controlling and it has the authority to decertify your system.

There is a special transition rule for the first annual period from July 1, 2005, through June 30, 2006. For only the first year of the incentive program, recognizing that each utility will establish its own procedures and requirements for metering the output of customers' renewable energy systems, the department will accept kWh production readings taken from the inverter or from an owner installed production meter. The owner must report the reading of the meter from July 1, 2005 (or make a good-faith estimation if no reading exists) and the reading on June 30, 2006. Your June 30, 2006 reading may be relied upon by your light and power business as the first reading for the subsequent year July 1, 2006, through June 30, 2007. Further, if your light and power business decides to replace your production meter during the subsequent year July 1, 2006, through June 30, 2007, it may rely on the last reading on your prior meter before it's replaced. You must also report the array size in DC watts. This information will be used to validate reported watt hours for the first year. Your participating light and power business is not required to perform independent reading or monitoring of your system's electric generation during the first year. Further, for the first year only, the light and power business serving your property shall have one hundred twenty days to notify you whether your incentive payment is authorized or denied and shall process your annual payment, if any, by January 31, 2007. You must file your request for system certification with the department of revenue no later than September 30, 2006. Each light and power business will decide its own deadline for submission of your annual application for incentive payment during this first year.

Some of the verifiable information you must provide includes:

- Your name, address, and the address of the renewable energy system;

- Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their certification request described above and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);

- The date of the letter from the department of revenue certifying that your renewable energy system is eligible for incentive payments;

- Your statement that your system has been operable throughout the year and that your light and power business will be allowed reasonable access to read your electric production meter for your system in order to calculate the kilowatt-hours generated by your renewable energy system during the prior fiscal year beginning July 1st and ending on June 30th; and

- Your statement that you understand that this information is provided to the department of revenue in determining whether the light and power business correctly calculates its credit allowed for customer incentive payments and that your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury.

The light and power business serving your property has the authority to request other information it believes is necessary in making its determinations under the incentive payment program.

(5) What are the possible procedures you and your light and power business may follow in setting up your incentive payments? Recommended procedures you should follow when requesting your light and power businesses to set up your incentive payments and the possible procedures your light and power business may follow are as follows:

- First, since participation under this incentive program is voluntary for light and power businesses, contact the light and power business serving your property and ask whether it is participating and what application procedures you must follow.

- If your light and power business is participating in the incentive program, then you submit an application to your light and power business.

- You submit to your light and power business proof that your renewable energy system is certified by the department of revenue for the incentive payment program.

- You submit to the light and power business a copy of the approved certification and letter from the department of revenue. You should submit this information to the light and power business before August 1st in order to receive payment for any production that occurred prior to July 1st.

- If your light and power business approves your application, then it will require a signed agreement that it will provide to you.

- You or your licensed electrical contractor or certified electrician obtain an electrical permit and install the system. (A licensed electrical contractor or certified electrician must install the system, unless you perform the work yourself on your home with the help of an uncompensated volunteer who assists you. See WAC 296-46B-925(13) for guidance on the proper installation of your system.)

- Once installation is complete your renewable energy system must pass a final electrical inspection from the local code official.

- Your local light and power business will send a utility serviceman to inspect your system and may install an electric production meter if one meeting its qualifications is not already installed.

- Your production meter is read by the light and power business at least annually and it processes your annual incentive payment.

- Your light and power business notifies you within sixty days whether your incentive payment is authorized or denied.

- Your light and power business calculates annual production payments based on the meter reading or readings made prior to the accounting date of July 1st.

- Your incentive payment check (or credit to your account) is sent to you by your light and power business on or before December 15th.

(6) What is the formal agreement between me and my light and power business? The formal agreement between you and the light and power business serving your property governs the relationship between you and your light and power business. This document may:

- Contain the necessary safety requirements and interconnection standards;

- Allow the light and power business the contractual right to review your substantiation documents for four years, upon five working days' notice;

- Allow the light and power business the contractual right to assess against you, with interest, for any overpayment of incentive payments made to you;

- Delineate any extra metering costs for an electric production meter to be installed on your property;

- Contain a statement allowing the department of revenue to send proof of your system's certification electronically to your light and power business, which will include your department of revenue taxpayer's identification number; and

- Contain other information required by the light and power business to effectuate and properly process your incentive payment.

(7) How long will it take before I receive notification as to whether the light and power business that serves my property has approved my incentive payment? The light and power business that serves your property has sixty days to notify you in writing as to whether your request for an incentive payment is authorized or denied.

(8) How is my incentive payment calculated? Your incentive payment is calculated using a formula. First the incentive payment may be paid at fifteen cents per "economic development kilowatt-hour." An economic development kilowatt-hour is the actual kilowatt-hour measurement of your generated electricity multiplied by the appropriate economic development factor. The economic development factors, which you multiply to the base rate of fifteen cents per actual kilowatt hours that your renewable energy system produces, are:

- Two and four tenths (2.4) if your system generates electricity using only solar modules manufactured in Washington;

- One and two tenths (1.2) if your solar or wind system uses an inverter manufactured in Washington;
- One (1.0) if your wind system uses only blades manufactured in Washington, or if your system is an anaerobic digester, or if your solar system is other than described above; and

- Eight tenths (0.8) if your system is a wind generator with blades not manufactured in Washington.

The following table describes the application of the economic development factors. The actual incentive payment you receive must be computed using your renewable energy system's actual measured electric kilowatt-hours generated.

Annual Investment Cost Recovery Incentive Payment Calculation Table

Customer-generated power Applicable rates	Base rate (0.15) multiplied by applicable factor equals incen- tive payment rate	Kilowatt-hours generated	Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated
Solar modules manufactured in Washington state Factor: 2.4 (two and four-tenths)	\$0.36		
Solar or wind generating equipment with an inverter manufactured in Washington state Factor: 1.2 (one and two-tenths)	\$0.18		
Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state Factor: 1.0 (one)	\$0.15		
All other electricity produced by wind Factor: 0.8 (eight-tenths)	\$0.12		

(9) **Are the factors for systems cumulative?** The factors are cumulative. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington state, you would compute your economic development hours by using the factor three and six tenths (3.6) (computed 2.4 plus 1.2). Therefore you would multiply the fifteen cent base rate per actual kilowatt-hour generated by your system by three and six tenths (3.6) to get your incentive payment rate.

(10) **What is the definition of the phrase: Manufactured in Washington state?** The department of revenue defines manufacturing in WAC 458-20-136. Of particular interest is WAC 458-20-136(7), which defines when assembly constitutes manufacturing. The department of revenue, in consultation with the climate and rural energy development center at Washington State University's energy extension, will apply this rule on manufacturing when analyzing your request for certification. Further, the climate and rural development center at Washington State University's energy extension may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

For systems installed after the date these rules are adopted, your manufacturer must supply you with a statement delineating your system's level of manufacture in the state of Washington. This manufacturer's statement must be specific

as to what processes were carried out in Washington state to qualify the system for one or more of the multiplying factors discussed in subsection (8) of this section. The manufacturer's statement must be under penalty of perjury and specifically state that the manufacturer understands that the department of revenue will use the statement in deciding whether customer incentive payments and corresponding tax credits are allowed under the renewable energy system cost recovery incentive payment program. You must retain this documentation for five years after the receipt of your last incentive payment from your light and power business.

(11) **What are the limitations on the incentive payments?** No individual, business, or local governmental entity is eligible for incentive payments in excess of two thousand dollars per year. However, as an example, if a customer installs a system on his or her home and then further installs two other separate systems on two separate business properties with different UBI numbers, then the customer is allowed the full two thousand dollar annual limit of the incentive payments for each property owned by an individual and each of the two separate businesses. In this example there are three qualifying systems on three separate properties owned by three separate entities allowing the full two thousand dollar limit on all three properties. If, however, the two business properties belong to only one business operating under one UBI number, then there are only allowed incentive payments

up to the two thousand dollar annual limit for his or her home and for the one business. This is true even if the business operates from more than one location with qualifying renewable energy systems at each location because the two thousand dollar annual limit is allowed once to each individual and each business. Thus, in this case the individual and his or her one business are each only allowed one full two thousand dollar annual limit on their qualifying properties.

The issuing of incentive payments by participating light and power businesses is limited by the greater of:

(a) Twenty-five one hundredths of one percent (0.25%) of the light and power business' prior year's taxable sales under Washington state's law; or

(b) Twenty-five thousand dollars (\$25,000.00).

Based on this public utility tax credit limitation, your and all other qualifying customers' incentive payments may be proportionally reduced.

The light and power business must measure the actual kilowatt-hours of your renewable energy system's generated electricity using an electric production meter. If your renewable energy system is a hybrid system of combined solar and wind, it will be classified as a solely wind system for purposes of the incentive payment program, unless the solar and wind productions are separately metered. Systems that are interconnected to gas, diesel, ethanol, natural gas or other similarly fueled generators do not qualify for the incentive payment program. If a customer has an older system not manufactured in Washington and a separate new system manufactured in Washington on the same property, both systems will be classified as not made in Washington, unless the old and new systems' production are separately metered.

(12) Does the light and power business serving my property have to participate in the incentive payment program? No, each light and power business will have the discretion to decide whether to be part of the incentive payment program.

(13) If I install a qualified renewable energy system on the apartment building where I am a tenant, can I submit for incentive payments? No, you must own the property which is served by your renewable energy system. Even if your renewable energy system meets all requirements, except that it is installed on a building where you have a leasehold interest, it will not qualify for incentive payments.

(14) May an individual, business, or local governmental entity involved in the light and power business or in the gas distribution business apply for incentive payments? No, the law excludes both light and power businesses and gas distribution businesses from participating in the incentive payment program.

(15) Must I retain all my records, which substantiate my claim of eligibility for incentive payments? Yes, you and all other customers applying for and receiving incentive payments must retain the records substantiating your right to receive the incentive payments and the correct amount for five years. The light and power business that made the payment or the department of revenue may examine the records upon five working days' notice. If the records show that you received an overpayment, the light and power business may assess you for the amount of the overpayment. Conversely, if an underpayment has occurred, the light and power business

may authorize a further payment to cover the prior deficiency. Interest will be added to overpayments of incentive payments to you and other customers. The amount of interest you would owe on an overpayment is calculated in the same manner that the department of revenue assesses interest upon delinquent taxes under RCW 82.32.050.

(16) Is there also a public utility tax credit associated with the incentive payments? Yes, the tax credit is for the benefit of the participating light and power business. Your light and power company is allowed a credit on its Washington state public utility taxes equal to the actual amount paid out as incentive payments to its customers under this law. The maximum amount of this credit is limited (see subsection (11) of this section).

(17) Does the department of revenue consider the incentive payment I receive taxable income? No, the department of revenue characterized the payment you receive, paid by your light and power company, as a subsidy or rebate for the purchase or installation of an energy conservation measure. Therefore, the department does not characterize the incentive payment as income under Washington state's law.

(18) How is my incentive payment from the light and power business handled if the incentive is paid in the form of a credit against my power bill? If your light and power business chooses this method, your incentive payment will be shown on your customer billing statement as a credit offsetting the amount you owe to the light and power business. The incentive payment is not a discount. Thus, the light and power business will only be allowed to claim a public utility tax credit for the incentive payments actually made, and is not also allowed a discount deduction.

(19) Is the federal government eligible to participate in the incentive payment program? No, only individuals, businesses, and local governments whose properties and renewable energy systems are located in the state of Washington are eligible to participate in the incentive payment program.

(20) Are individuals, businesses and local governments that are not interconnected to the electric transmission and distribution system and who are not customers of a light and power business eligible for the incentive payment program? No, only qualifying renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible for participation in the incentive payment program. The term property means within the established boundaries of the lot served by the light and power business. However, the renewable energy system generating the electricity does not itself have to be interconnected to the electric transmission and distribution system as long as it is located on a property served by a light and power business.

For example, if a customer of a light and power business living in a home connected to the power grid builds a studio addition served by a renewable energy system that is not connected to the power grid, that customer is eligible for the incentive payment program.

Another example, if a customer of a light and power business owning a manufacturing facility connected to the power grid builds an unattached vehicle garage on the same

lot that the factory is located and the garage is not interconnected, the renewable energy system supplying electricity to this garage is eligible for the incentive payment program.

If the facts are the same as above, but the manufacturing facility's owner buys a new lot across the street and the only improvement on this separate lot is the unattached vehicle garage that is not connected to the power grid, then the renewable energy system attached to the garage would not be eligible for the incentive payment program.

(21) **Does the law require that light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system and if so, how does that affect me as a customer?** Yes, the law does require that light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system. However, the renewable energy tax credit implementation advisory committee, consisting of the department of revenue, department of community, trade, and economic development, utilities and transportation commission, and the climate and rural energy development center at Washington State University's energy extension, has made a determination that for purposes of this incentive payment program, that the customer load requirement has been met. This decision, once made, is binding for the incentive payment program until its expiration, including any possible extensions. Thus, this requirement has no effect on any customer, when deciding whether to participate in this incentive payment program.

WSR 06-16-106
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 1, 2006, 8:56 a.m., effective September 1, 2006]

Effective Date of Rule: September 1, 2006.

Purpose: The purpose of this rule making is to adopt the hexavalent chromium rule identical to the Occupational Safety and Health Administration (OSHA) rule. On February 28, 2006, OSHA issued a final standard addressing occupational exposure to hexavalent chromium, also known as Cr(VI). Cr(VI) is a natural metal used in a wide variety of industrial activities, including the manufacture of stainless steel, welding, painting and pigment application, electroplating, and other surface coating processes. The department's new standard covers the general industry, construction, and shipyards sectors and will protect workers against exposure to hexavalent chromium, while providing employers with adequate time to transition to the new requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 296-24-680 Welding, cutting, and brazing, 296-155-400 Gas welding and cutting, and 296-304-040 Welding, cutting and heating—Scope and application.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 06-10-068 on May 2, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 14, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 3, Repealed 0.

Date Adopted: August 1, 2006.

Gary Weeks
Director

NEW SECTION

WAC 296-62-08003 Hexavalent chromium. Scope.

This standard applies to occupational exposures to chromium (VI) in all forms and compounds in general industry; construction; shipyards, marine terminals, and longshoring, except:

- Agricultural operations covered by chapter 296-307 WAC, Safety standards for agriculture.
- Exposures that occur in the application of pesticides regulated by the Washington state department of agriculture or another federal government agency (e.g., the treatment of wood with preservatives);
- Exposures to portland cement; or
- Where the employer has objective data demonstrating that a material containing chromium or a specific process, operation, or activity involving chromium cannot release dusts, fumes, or mists of chromium (VI) in concentrations at or above 0.5 (mu)g/m\3\ as an 8-hour time-weighted average (TWA) under any expected conditions of use.

NEW SECTION

WAC 296-62-08005 Definitions. For the purposes of this section the following definitions apply:

Action level means a concentration of airborne chromium (VI) of 2.5 micrograms per cubic meter of air (2.5 (mu)g/m\3\) calculated as an 8-hour time-weighted average (TWA).

Chromium (VI) (hexavalent chromium or Cr(VI)) means chromium with a valence of positive six, in any form and in any compound.

Emergency means any occurrence that results, or is likely to result, in an uncontrolled release of chromium (VI). If an incidental release of chromium (VI) can be controlled at the time of release by employees in the immediate release area, or by maintenance personnel, it is not an emergency.

Employee exposure means the exposure to airborne chromium (VI) that would occur if the employee were not using a respirator.

High-efficiency particulate air (HEPA) filter means a filter that is at least 99.97 percent efficient in removing mono-dispersed particles of 0.3 micrometers in diameter or larger.

Historical monitoring data means data from chromium (VI) monitoring conducted prior to July 31, 2006, obtained during work operations conducted under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Objective data means information such as air monitoring data from industry-wide surveys or calculations based on the composition or chemical and physical properties of a substance demonstrating the employee exposure to chromium (VI) associated with a particular product or material or a specific process, operation, or activity. The data must reflect workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Physician or other licensed health care professional (PLHCP) is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by WAC 296-62-08023.

Regulated area means an area, demarcated by the employer, where an employee's exposure to airborne concentrations of chromium (VI) exceeds, or can reasonably be expected to exceed, the PEL.

NEW SECTION

WAC 296-62-08007 Permissible exposure limit (PEL). Permissible exposure limit (PEL). The employer shall ensure that no employee is exposed to an airborne concentration of chromium (VI) in excess of 5 micrograms per cubic meter of air ($5 \mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average (TWA).

NEW SECTION

WAC 296-62-08009 Exposure determination. (1) General. Each employer who has a workplace or work operation covered by this section shall determine the 8-hour TWA exposure for each employee exposed to chromium (VI). This determination shall be made in accordance with either subsection (2) or (3) of this section.

(2) Scheduled monitoring option.

(a) The employer shall perform initial monitoring to determine the 8-hour TWA exposure for each employee on the basis of a sufficient number of personal breathing zone air samples to accurately characterize full shift exposure on each shift, for each job classification, in each work area. Where an employer does representative sampling instead of sampling all employees in order to meet this requirement, the employer shall sample the employee(s) expected to have the highest chromium (VI) exposures.

(b) If initial monitoring indicates that employee exposures are below the action level, the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.

(c) If monitoring reveals employee exposures to be at or above the action level, the employer shall perform periodic monitoring at least every six months.

(d) If monitoring reveals employee exposures to be above the PEL, the employer shall perform periodic monitoring at least every three months.

(e) If periodic monitoring indicates that employee exposures are below the action level, and the result is confirmed by the result of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(f) The employer shall perform additional monitoring when there has been any change in the production process, raw materials, equipment, personnel, work practices, or control methods that may result in new or additional exposures to chromium (VI), or when the employer has any reason to believe that new or additional exposures have occurred.

(3) Performance-oriented option. The employer shall determine the 8-hour TWA exposure for each employee on the basis of any combination of air monitoring data, historical monitoring data, or objective data sufficient to accurately characterize employee exposure to chromium (VI).

(4) Employee notification of determination results.

(a) In general industry where the exposure determination indicates that employee exposure exceeds the PEL, within fifteen working days the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

(b) In construction and shipyards, marine terminals, and longshoring where the exposure determination indicates that employee exposure exceeds the PEL, as soon as possible but not more than five working days later the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

(c) Whenever the exposure determination indicates that employee exposure is above the PEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the PEL.

(5) Accuracy of measurement. Where air monitoring is performed to comply with the requirements of this section, the employer shall use a method of monitoring and analysis that can measure chromium (VI) to within an accuracy of plus or minus twenty-five percent and can produce accurate measurements to within a statistical confidence level of ninety-five percent for airborne concentrations at or above the action level.

(6) Observation of monitoring.

(a) Where air monitoring is performed to comply with the requirements of this section, the employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to chromium (VI).

(b) When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with clothing and equipment and shall assure that the observer uses

such clothing and equipment and complies with all other applicable safety and health procedures.

NEW SECTION

WAC 296-62-08011 Regulated areas.

Exemption: This section does not apply to construction, shipyards, marine terminals or longshoring.

(1) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of chromium (VI) is, or can reasonably be expected to be, in excess of the PEL.

(2) Demarcation. The employer shall ensure that regulated areas are demarcated from the rest of the workplace in a manner that adequately establishes and alerts employees of the boundaries of the regulated area.

(3) Access. The employer shall limit access to regulated areas to:

(a) Persons authorized by the employer and required by work duties to be present in the regulated area;

(b) Any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring procedures under WAC 296-62-08009;

(c) Any person authorized by the Washington Industrial Safety and Health Act (WISHA) or regulations issued under it to be in a regulated area.

NEW SECTION

WAC 296-62-08013 Methods of compliance. (1) Engineering and work practice controls.

(a) Except as permitted in (c) of this subsection, the employer shall use engineering and work practice controls to reduce and maintain employee exposure to chromium (VI) to or below the PEL unless the employer can demonstrate that such controls are not feasible. Wherever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer shall use them to reduce employee exposure to the lowest levels achievable, and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-08015.

Exemption: This (b) does not apply to construction, shipyards, marine terminals and longshoring.

(b) Where painting of aircraft or large aircraft parts is performed in the aerospace industry, the employer shall use engineering and work practice controls to reduce and maintain employee exposure to chromium (VI) to or below 25 (mu)g/m³ unless the employer can demonstrate that such controls are not feasible. The employer shall supplement such engineering and work practice controls with the use of respiratory protection that complies with the requirements of WAC 296-62-08015 to achieve the PEL.

(c) Where the employer can demonstrate that a process or task does not result in any employee exposure to chromium (VI) above the PEL for thirty or more days per year (twelve consecutive months), the requirement to implement

engineering and work practice controls to achieve the PEL does not apply to that process or task.

(2) Prohibition of rotation. The employer shall not rotate employees to different jobs to achieve compliance with the PEL.

NEW SECTION

WAC 296-62-08015 Respiratory protection. (1) General. The employer shall provide respiratory protection for employees during:

(a) Periods necessary to install or implement feasible engineering and work practice controls;

(b) Work operations, such as maintenance and repair activities, for which engineering and work practice controls are not feasible;

(c) Work operations for which an employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL;

(d) Work operations where employees are exposed above the PEL for fewer than thirty days per year, and the employer has elected not to implement engineering and work practice controls to achieve the PEL; or

(e) Emergencies.

(2) Respiratory protection program. Where respirator use is required by this section, the employer shall institute a respiratory protection program in accordance with chapter 296-842 WAC, Respirators.

NEW SECTION

WAC 296-62-08017 Protective work clothing and equipment. (1) Provision and use. Where a hazard is present or is likely to be present from skin or eye contact with chromium (VI), the employer shall provide appropriate personal protective clothing and equipment at no cost to employees, and shall ensure that employees use such clothing and equipment.

(2) Removal and storage.

(a) The employer shall ensure that employees remove all protective clothing and equipment contaminated with chromium (VI) at the end of the work shift or at the completion of their tasks involving chromium (VI) exposure, whichever comes first.

(b) The employer shall ensure that no employee removes chromium (VI) contaminated protective clothing or equipment from the workplace, except for those employees whose job it is to launder, clean, maintain, or dispose of such clothing or equipment.

(c) When contaminated protective clothing or equipment is removed for laundering, cleaning, maintenance, or disposal, the employer shall ensure that it is stored and transported in sealed, impermeable bags or other closed, impermeable containers.

(d) Bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal shall be labeled in accordance with the requirements of WAC 296-800-170, Employer chemical hazard communication.

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this section as needed to maintain its effectiveness.

(b) The employer shall prohibit the removal of chromium (VI) from protective clothing and equipment by blowing, shaking, or any other means that disperses chromium (VI) into the air or onto an employee's body.

(c) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with chromium (VI) of the potentially harmful effects of exposure to chromium (VI) and that the clothing and equipment should be laundered or cleaned in a manner that minimizes skin or eye contact with chromium (VI) and effectively prevents the release of airborne chromium (VI) in excess of the PEL.

NEW SECTION

WAC 296-62-08019 Hygiene areas and practices. (1)

General.

(a) General industry, shipyards, marine terminals and longshoring. Where protective clothing and equipment is required, the employer shall provide change rooms in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures. Where skin contact with chromium (VI) occurs, the employer shall provide washing facilities in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures. Eating and drinking areas provided by the employer shall also be in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures.

(b) Construction. Where protective clothing and equipment is required, the employer shall provide change rooms in conformance with WAC 296-155-17321, Hygiene facilities and practices. Where skin contact with chromium (VI) occurs, the employer shall provide washing facilities in conformance with WAC 296-155-17321, Hygiene facilities and practices. Eating and drinking areas provided by the employer shall also be in conformance with WAC 296-155-17321, Hygiene facilities and practices.

(2) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for protective clothing and equipment and for street clothes, and that these facilities prevent cross-contamination.

(3) Washing facilities.

(a) The employer shall provide readily accessible washing facilities capable of removing chromium (VI) from the skin, and shall ensure that affected employees use these facilities when necessary.

(b) The employer shall ensure that employees who have skin contact with chromium (VI) wash their hands and faces at the end of the work shift and prior to eating, drinking, smoking, chewing tobacco or gum, applying cosmetics, or using the toilet.

(4) Eating and drinking areas.

(a) Whenever the employer allows employees to consume food or beverages at a worksite where chromium (VI) is present, the employer shall ensure that eating and drinking areas and surfaces are maintained as free as practicable of chromium (VI).

(b) The employer shall ensure that employees do not enter eating and drinking areas with protective work clothing or equipment unless surface chromium (VI) has been removed from the clothing and equipment by methods that do not disperse chromium (VI) into the air or onto an employee's body.

(5) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in areas where skin or eye contact with chromium (VI) occurs; or carry the products associated with these activities, or store such products in these areas.

NEW SECTION

WAC 296-62-08021 Housekeeping.

Exemption: This section does not apply to construction, shipyards, marine terminals and longshoring.

(1) General. The employer shall ensure that:

(a) All surfaces are maintained as free as practicable of accumulations of chromium (VI).

(b) All spills and releases of chromium (VI) containing material are cleaned up promptly.

(2) Cleaning methods.

(a) The employer shall ensure that surfaces contaminated with chromium (VI) are cleaned by HEPA-filter vacuuming or other methods that minimize the likelihood of exposure to chromium (VI).

(b) Dry shoveling, dry sweeping, and dry brushing may be used only where HEPA-filtered vacuuming or other methods that minimize the likelihood of exposure to chromium (VI) have been tried and found not to be effective.

(c) The employer shall not allow compressed air to be used to remove chromium (VI) from any surface unless:

(i) The compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air; or

(ii) No alternative method is feasible.

(d) The employer shall ensure that cleaning equipment is handled in a manner that minimizes the reentry of chromium (VI) into the workplace.

(3) Disposal. The employer shall ensure that:

(a) Waste, scrap, debris, and any other materials contaminated with chromium (VI) and consigned for disposal are collected and disposed of in sealed, impermeable bags or other closed, impermeable containers.

(b) Bags or containers of waste, scrap, debris, and any other materials contaminated with chromium (VI) that are consigned for disposal are labeled in accordance with the requirements of WAC 296-800-170, Employer chemical hazard communication.

NEW SECTION

WAC 296-62-08023 Medical surveillance. (1) General.

(a) The employer shall make medical surveillance available at no cost to the employee, and at a reasonable time and place, for all employees:

(i) Who are or may be occupationally exposed to chromium (VI) at or above the action level for thirty or more days a year;

(ii) Experiencing signs or symptoms of the adverse health effects associated with chromium (VI) exposure; or

(iii) Exposed in an emergency.

(b) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a PLHCP.

(2) Frequency. The employer shall provide a medical examination:

(a) Within thirty days after initial assignment, unless the employee has received a chromium (VI) related medical examination that meets the requirements of this paragraph within the last twelve months;

(b) Annually;

(c) Within thirty days after a PLHCP's written medical opinion recommends an additional examination;

(d) Whenever an employee shows signs or symptoms of the adverse health effects associated with chromium (VI) exposure;

(e) Within thirty days after exposure during an emergency which results in an uncontrolled release of chromium (VI); or

(f) At the termination of employment, unless the last examination that satisfied the requirements of WAC 296-62-08023, Medical surveillance was less than six months prior to the date of termination.

(3) Contents of examination. A medical examination consists of:

(a) A medical and work history, with emphasis on: Past, present, and anticipated future exposure to chromium (VI); any history of respiratory system dysfunction; any history of asthma, dermatitis, skin ulceration, or nasal septum perforation; and smoking status and history;

(b) A physical examination of the skin and respiratory tract; and

(c) Any additional tests deemed appropriate by the examining PLHCP.

(4) Information provided to the PLHCP. The employer shall ensure that the examining PLHCP has a copy of this standard, and shall provide the following information:

(a) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to chromium (VI);

(b) The employee's former, current, and anticipated levels of occupational exposure to chromium (VI);

(c) A description of any personal protective equipment used or to be used by the employee, including when and for how long the employee has used that equipment; and

(d) Information from records of employment-related medical examinations previously provided to the affected employee, currently within the control of the employer.

(5) PLHCP's written medical opinion.

(a) The employer shall obtain a written medical opinion from the PLHCP, within thirty days for each medical examination performed on each employee, which contains:

(i) The PLHCP's opinion as to whether the employee has any detected medical condition(s) that would place the

employee at increased risk of material impairment to health from further exposure to chromium (VI);

(ii) Any recommended limitations upon the employee's exposure to chromium (VI) or upon the use of personal protective equipment such as respirators;

(iii) A statement that the PLHCP has explained to the employee the results of the medical examination, including any medical conditions related to chromium (VI) exposure that require further evaluation or treatment, and any special provisions for use of protective clothing or equipment.

(b) The PLHCP shall not reveal to the employer specific findings or diagnoses unrelated to occupational exposure to chromium (VI).

(c) The employer shall provide a copy of the PLHCP's written medical opinion to the examined employee within two weeks after receiving it.

NEW SECTION

WAC 296-62-08025 Communication of chromium (VI) hazards to employees. (1) General. In addition to the requirements of WAC 296-800-170, Employer chemical hazard communication, employers shall comply with the following requirements.

(2) Employee information and training.

(a) The employer shall ensure that each employee can demonstrate knowledge of at least the following:

(i) The contents of this section; and

(ii) The purpose and a description of the medical surveillance program required by (a)(i) of this subsection.

(b) The employer shall make a copy of this section readily available without cost to all affected employees.

NEW SECTION

WAC 296-62-08027 Recordkeeping. (1) Air monitoring data.

(a) The employer shall maintain an accurate record of all air monitoring conducted to comply with the requirements of this section.

(b) This record shall include at least the following information:

(i) The date of measurement for each sample taken;

(ii) The operation involving exposure to chromium (VI) that is being monitored;

(iii) Sampling and analytical methods used and evidence of their accuracy;

(iv) Number, duration, and the results of samples taken;

(v) Type of personal protective equipment, such as respirators worn; and

(vi) Name, Social Security number, and job classification of all employees represented by the monitoring, indicating which employees were actually monitored.

(c) The employer shall ensure that exposure records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(2) Historical monitoring data.

(a) Where the employer has relied on historical monitoring data to determine exposure to chromium (VI), the employer shall establish and maintain an accurate record of the historical monitoring data relied upon.

(b) The record shall include information that reflects the following conditions:

(i) The data were collected using methods that meet the accuracy requirements of WAC 296-62-08009(5);

(ii) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which exposure is being determined;

(iii) The characteristics of the chromium (VI) containing material being handled when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined;

(iv) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception.

(c) The employer shall ensure that historical exposure records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(3) Objective data.

(a) The employer shall maintain an accurate record of all objective data relied upon to comply with the requirements of this section.

(b) This record shall include at least the following information:

(i) The chromium (VI) containing material in question;

(ii) The source of the objective data;

(iii) The testing protocol and results of testing, or analysis of the material for the release of chromium (VI);

(iv) A description of the process, operation, or activity and how the data support the determination; and

(v) Other data relevant to the process, operation, activity, material, or employee exposures.

(c) The employer shall ensure that objective data are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(4) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under WAC 296-62-08023, Medical surveillance.

(b) The record shall include the following information about the employee:

(i) Name and Social Security number;

(ii) A copy of the PLHCP's written opinions;

(iii) A copy of the information provided to the PLHCP as required by WAC 296-62-08023(4).

(c) The employer shall ensure that medical records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

NEW SECTION

WAC 296-62-08029 Dates. (1) For employers with twenty or more employees, all obligations of this section, except engineering controls required by WAC 296-62-08013, commence November 27, 2006.

(2) For employers with nineteen or fewer employees, all obligations of this section, except engineering controls required by WAC 296-62-08013, commence May 30, 2007.

(3) For all employers, engineering controls required by WAC 296-62-08013 shall be implemented no later than May 31, 2010.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-680 Welding, cutting, and brazing. You are required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-155-400 Gas welding and cutting. (1) Transporting, moving, and storing compressed gas cylinders.

(a) Valve protection caps shall be in place and secured.

(b) When cylinders are hoisted, they shall be secured on a cradle, slingboard, or pallet. They shall not be hoisted or transported by means of magnets or choker slings.

(c) Cylinders shall be moved by tilting and rolling them on their bottom edges. They shall not be intentionally dropped, struck, or permitted to strike each other violently.

(d) When cylinders are transported by powered vehicles, they shall be secured in a vertical position.

(e) Valve protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve protection caps to pry cylinders loose when frozen. Warm, not boiling, water shall be used to thaw cylinders loose.

(f) Unless cylinders are firmly secured on a special carrier intended for this purpose, regulators shall be removed and valve protection caps put in place before cylinders are moved.

(g) A suitable cylinder truck, chain, or other steadying device shall be used to keep cylinders from being knocked over while in use. Such cylinders are not considered to be "in storage."

(h) When a job is finished, when cylinders are empty or when cylinders are moved at any time, the cylinder valve shall be closed.

(i) Compressed gas cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(j) Oxygen. Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet or by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(2) Placing cylinders.

(a) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag, or flame will not reach them. When this is impractical, fire resistant shields shall be provided.

(b) Cylinders shall be placed where they cannot become part of an electrical circuit. Electrodes shall not be struck against a cylinder to strike an arc.

(c) Fuel gas cylinders shall be placed with valve end up whenever they are in use. They shall not be placed in a location where they would be subject to open flame, hot metal, or other sources of artificial heat.

(d) Cylinders containing oxygen or acetylene or other fuel gas shall not be taken into confined spaces.

(3) Treatment of cylinders.

(a) Cylinders, whether full or empty, shall not be used as rollers or supports.

(b) No person other than the gas supplier shall attempt to mix gases in a cylinder. No one except the owner of the cylinder or person authorized by the owner, shall refill a cylinder. No one shall use a cylinder's contents for purposes other than those intended by the supplier. All cylinders used shall meet the department of transportation requirements, Specification for Cylinders, (49 CFR Part 178, Subpart C).

(c) No damaged or defective cylinder shall be used.

(4) Use of fuel gas. The employer shall thoroughly instruct employees in the safe use of fuel gas, as follows:

(a) Before a regulator to a cylinder valve is connected, the valve shall be opened slightly and closed immediately. (This action is generally termed "cracking" and is intended to clear the valve of dust or dirt that might otherwise enter the regulator.) The person cracking the valve shall stand to one side of the outlet, not in front of it. The valve of a fuel gas cylinder shall not be cracked where the gas would reach welding work, sparks, flame, or other possible sources of ignition.

(b) The cylinder valve shall always be opened slowly to prevent damage to the regulator. For quick closing, valves on fuel gas cylinders shall not be opened more than 1 1/2 turns. When a special wrench is required, it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel gas flow can be shut off quickly in case of an emergency. In the case of manifolded or coupled cylinders, at least one such wrench shall always be available for immediate use. Nothing shall be placed on top of a fuel gas cylinder, when in use, which may damage the safety device or interfere with the quick closing of the valve.

(c) Fuel gas shall not be used from cylinders through torches or other devices which are equipped with shutoff valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(d) Before a regulator is removed from a cylinder valve, the cylinder valve shall always be closed and the gas released from the regulator.

(e) If, when the valve on a fuel gas cylinder is opened, there is found to be a leak around the valve stem, the valve shall be closed and the gland nut tightened. If this action does not stop the leak, the use of the cylinder shall be discontinued, and it shall be properly tagged and removed from the work area. In the event that fuel gas should leak from the cylinder valve, rather than from the valve stem, and the gas cannot be shut off, the cylinder shall be properly tagged and removed from the work area. If a regulator attached to a cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the work area.

(f) If a leak should develop at a fuse plug or other safety device, the cylinder shall be removed from the work area.

(g) Cylinders not having fixed hand wheels shall have keys, handles, or nonadjustable wrenches on valve stems while in service. In multiple cylinder installations one and only one key or handle is required for each manifold.

(5) Fuel gas and oxygen manifolds.

(a) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least 1-inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(b) Fuel gas and oxygen manifolds shall be placed in safe, well ventilated, and accessible locations. They shall not be located within enclosed spaces.

(c) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(d) When not in use, manifold and header hose connections shall be capped.

(e) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(6) Hose.

(a) Fuel gas hose and oxygen hose shall be easily distinguishable from each other. The contrast may be made by different colors or by surface characteristics readily distinguishable by the sense of touch. Oxygen and fuel gas hoses shall not be interchangeable. A single hose having more than one gas passage shall not be used.

(b) When parallel sections of oxygen and fuel gas hose are taped together, not more than 4 inches out of 12 inches shall be covered by tape.

(c) All hose in use, carrying acetylene, oxygen, natural or manufactured fuel gas, or any gas or substance which may ignite or enter into combustion, or be in any way harmful to employees, shall be inspected at the beginning of each working shift. Defective hose shall be removed from service.

(d) Hose which has been subject to flashback, or which shows evidence of severe wear or damage, shall be tested to twice the normal pressure to which it is subject, but in no case less than 300 p.s.i. Defective hose, or hose in doubtful condition, shall not be used.

(e) Hose couplings shall be of the type that cannot be unlocked or disconnected by means of a straight pull without rotary motion.

(f) Boxes used for the storage of gas hose shall be ventilated.

(g) Hoses, cables, and other equipment shall be kept clear of passageways, ladders and stairs.

(7) Torches.

(a) Clogged torch tip openings shall be cleaned with suitable cleaning wires, drills, or other devices designed for such purpose.

(b) Torches in use shall be inspected at the beginning of each working shift for leaking shutoff valves, hose couplings, and tip connections. Defective torches shall not be used.

(c) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

(8) Regulators and gauges. Oxygen and fuel gas pressure regulators, including their related gauges, shall be in proper working order while in use.

(9) Oil and grease hazards. Oxygen cylinders and fittings shall be kept away from oil or grease. Cylinders, cylinder caps and valves, couplings, regulators, hose, and apparatus shall be kept free from oil or greasy substances and shall not be handled with oily hands or gloves. Oxygen shall not be directed at oily surfaces, greasy clothes, or within a fuel oil or other storage tank or vessel.

(10) Additional rules. For additional details not covered in this Part, applicable portions of American National Standards Institute, Z49.1-1973, Safety in Welding and Cutting, shall apply.

You are also required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-040 Welding, cutting and heating—Scope and application. All sections of this chapter which include WAC 296-304-040 in the section number apply to welding, cutting and heating.

You are also required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

WSR 06-16-117

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed August 1, 2006, 12:38 p.m., effective September 1, 2006]

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

Purpose: The purpose of this rule is to: (1) Retain HIV case reports by name through a confidential name-based reporting system; and (2) expand HIV laboratory reporting to include all HIV-related laboratory tests results. This rule: (1) Allows Washington to maintain its current level of federal funding for HIV prevention and care services; (2) enhance HIV reporting accuracy to determine HIV service delivery needs; and (3) provide streamlined control of HIV by local-level names retention.

Citation of Existing Rules Affected by this Order: Amending WAC 246-101-201, 246-101-520, and 246-101-635.

Statutory Authority for Adoption: RCW 70.24.125.

Adopted under notice filed as WSR 06-10-018 on August [May] 1, 2006.

Changes Other than Editing from Proposed to Adopted Version: New language in WAC 246-101-520 (1)(b) and (c) clarifies that local health jurisdictions can maintain asymptomatic HIV case data through a name-based surveillance system as long as Center for Disease Control and Preven-

tion's (CDC) confidentiality and security standards for HIV name-based reporting are followed and they cooperate with the department in biennial reviews. New language in WAC 246-101-635(12) also requires the department to report to the board if CDC no longer requires name-based HIV reporting.

A final cost-benefit analysis is available by contacting Jessica Peterson, DOH IDRH, P.O. Box 47838, Olympia, WA 98504-7838, phone (360) 236-3412, fax (360) 586-5440, e-mail Jessica.Peterson@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: August 1, 2006.

Craig McLaughlin

Executive Director

AMENDATORY SECTION (Amending WSR 05-03-055, filed 1/11/05, effective 2/11/05)

WAC 246-101-201 Notifiable conditions and laboratories. This section describes the conditions about which Washington's laboratories must notify public health authorities of on a statewide basis. The board finds that the conditions in the table below (Table Lab-1) are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington. The board also finds that submission of specimens for many of these conditions will further prevent the spread of disease. Laboratory directors (~~shall~~) **must** notify public health authorities of positive cultures and preliminary test results as individual case reports and provide specimen submissions using procedures described throughout this chapter. Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.

WAC 246-101-205, 246-101-210, 246-101-215, 246-101-220, 246-101-225, and 246-101-230 also include requirements for how notifications and specimen submissions are made, when they are made, the content of these notifications and specimen submissions, and how information regarding notifiable conditions cases must be handled and may be disclosed.

Table Lab-1 (Conditions Notifiable by Laboratory Directors)

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Arboviral Disease (Isolation; Detection of Viral Nucleic Acid or Antibody)	2 days	√		
Blood Lead Level	Elevated Levels – 2 Days Nonelevated Levels – Monthly		√	
Botulism (Foodborne)	Immediately	√		Serum and Stool - If available, submit suspect foods (2 days)
Botulism (Infant)	Immediately	√		Stool (2 days)
Botulism (Wound)	Immediately	√		Culture, Serum, Debrided tissue, or Swab sample (2 days)
Brucellosis (<i>Brucella</i> species)	2 days	√		Subcultures (2 days)
CD4+ (T4) lymphocyte counts (less than 200) and/or CD4+ (T4) (percent less than fourteen percent of total lymphocytes) (patients aged thirteen or older)	Monthly	Only when the local health department is designated by the Department of Health	√ (<u>Except King County</u>)	
<i>Chlamydia trachomatis</i> infection	2 days	√		
Cholera	Immediately	√		Culture (2 days)
Cryptosporidiosis	2 days	√		
Cyclosporiasis	2 days	√		Specimen (2 days)
Diphtheria	2 days	√		Culture (2 days)
Disease of Suspected Bioterrorism Origin (examples): • Anthrax • Smallpox	Immediately	√		Culture (2 days)
Enterohemorrhagic <i>E. coli</i> (shiga-like toxin producing infections only) such as <i>E. coli</i> O157:H7 Infection	2 days	√		Culture (2 days)
Gonorrhea	2 days	√		
Hepatitis A (IgM positive)	2 days	√		
Hepatitis B	Monthly	√		
Hepatitis C	Monthly	√		

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Human immunodeficiency virus (HIV) infection ((including)) <u>for example, positive Western Blot assays, P24 antigen or viral culture tests)</u>	2 days	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Human immunodeficiency virus (HIV) infection ((positive results on HIV-nucleic acid tests (RNA or DNA))) <u>all viral load detection test results - detectable and undetectable)</u>	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Listeriosis	2 days	√		
Measles (rubeola)	Immediately	√		Serum (2 days)
Meningococcal disease	2 days	√		Culture (Blood/CSF or other sterile sites) (2 days)
Pertussis	2 days	√		
Plague	Immediately	√		Culture or other appropriate clinical material (2 days)
Rabies (human or animal)	Immediately	√ (Pathology Report Only)		Tissue or other appropriate clinical material (Upon request only)
Salmonellosis	2 days	√		Culture (2 days)
Shigellosis	2 days	√		Culture (2 days)
Syphilis				Serum (2 days)
Tuberculosis	2 days		√	Culture (2 days)
Tuberculosis (Antibiotic sensitivity for first isolates)	2 days		√	
Tularemia				Culture or other appropriate clinical material (2 days)
Other rare diseases of public health significance	Immediately	√		

Additional notifications that are requested but not mandatory include:

(1) Laboratory directors may notify either local health departments or the department or both of other laboratory results through cooperative agreement.

(2) Laboratory directors may submit malaria cultures to the state public health laboratories.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-101-520 Special conditions—AIDS and HIV. (1) The local health officer and local health department personnel shall maintain individual case reports for AIDS and HIV as confidential records consistent with the requirements of this section. The local health officer and local health department personnel (~~shall~~) must:

(a) Use identifying information on HIV-infected individuals only:

(i) For purposes of contacting the HIV-positive individual to provide test results and post-test counseling; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention; or

(iv) As specified in WAC 246-100-072; or

(v) To provide case reports to the state health department.

(b) Destroy case report identifying information on asymptomatic HIV-infected individuals received as a result

of this chapter within three months of receiving a complete case report(-

~~(e))~~, or maintain HIV case reports in secure systems that meet the following standards and are consistent with the 2006 *Security and Confidentiality Guidelines* developed by the Centers for Disease Control and Prevention:

(i) Secure systems must be described in written policies that are reviewed annually by the local health officer;

(ii) Access to case report information must be limited to health department staff who need it to perform their job duties and a current list of these staff must be maintained by the local health officer;

(iii) All physical locations containing electronic or paper copies of surveillance data must be enclosed in a locked, secured area with limited access and not accessible by window;

(iv) Paper copies or electronic media containing surveillance information must be housed inside locked file cabinets that are in the locked, secured area;

(v) A crosscut shredder must be available for destroying information and electronic media must be appropriately sanitized prior to disposal;

(vi) Files or data bases containing confidential information must reside on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software and firewall protection;

(vii) Electronic communication of confidential information must be protected by encryption standards that are reviewed annually by the local health officer;

(viii) Locking briefcases must be available for transporting confidential information;

(c) If maintaining identifying information on asymptomatic HIV-infected individuals more than ninety days following receipt of a completed case report, cooperate with the department of health in biennial review of system security measures described in (b) of this subsection.

(d) Destroy documentation of referral information established in WAC 246-100-072 (~~and this subsection~~) containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first unless such documentation is being used in an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.

~~((d))~~ (e) Not disclose identifying information received as a result of this chapter unless:

(i) Explicitly and specifically required to do so by state or federal law; or

(ii) Authorized by written patient consent.

(2) Local health department personnel are authorized to use HIV identifying information obtained as a result of this chapter only for the following purposes:

(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;

(b) Referral of the infected individual to social and health services;

(c) Linkage to other public health data bases, provided that the identity or identifying information on the HIV-

infected person is not disclosed outside of the health department; and

(d) Investigations pursuant to RCW 70.24.022 or 70.24.024.

(3) Public health data bases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or data bases maintained by law enforcement officials.

(4) Local health officials will report (~~asymptomatic~~) HIV infection cases to the state health department (~~(according to a standard code developed by the state health department)~~).

(5) Local health officers (~~shall~~) must require and maintain signed confidentiality agreements with all health department employees with access to HIV identifying information. These agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the department.

(6) Local health officers (~~shall~~) must investigate potential breaches of the confidentiality of HIV identifying information by health department employees. All breaches of confidentiality (~~shall~~) must be reported to the state health officer or their designee for review and appropriate action.

(7) Local health officers and local health department personnel must assist the state health department to reascertain the identities of previously reported cases of HIV infection.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-635 Special conditions—AIDS and HIV. The following provisions apply for the use of AIDS and HIV notifiable conditions case reports and data:

(1) Department personnel (~~shall~~) must not disclose identifying information received as a result of receiving information regarding a notifiable conditions report of a case of AIDS or HIV unless:

(a) Explicitly and specifically required to do so by state or federal law; or

(b) Authorized by written patient consent.

(2) Department personnel are authorized to use HIV identifying information received as a result of receiving information regarding a notifiable conditions report of a case of AIDS or HIV only for the following purposes:

(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;

(b) Referral of the infected individual to social and health services; and

(c) Linkage to other public health data bases, provided that the identity or identifying information on the HIV-infected person is not disclosed outside of the health department.

(3) For the purposes of this chapter, public health data bases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or data bases maintained by law enforcement officials.

(4) The state health officer (~~shall~~) must require and maintain signed confidentiality agreements with all depart-

ment employees with access to HIV identifying information. These agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the department.

(5) The state health officer ~~((shall))~~ must investigate potential breaches of the confidentiality of HIV identifying information by department employees. All breaches of confidentiality shall be reported to the state health officer or their authorized representative for review and appropriate action.

(6) The department must maintain all HIV case reports in a name-based surveillance system solely for the purpose of complying with HIV reporting guidelines from the federal Centers for Disease Control and Prevention, and must not disclose or otherwise use any information contained in that system for any other purpose, except as expressly permitted by this section.

(7) Authorized representatives of the department must review available records to reascertain the identities of previously reported cases of asymptomatic HIV infection and retain those cases in a confidential name-based system.

(8) The department must maintain HIV case reports in secure systems that meet the following standards and are consistent with the 2006 Security and Confidentiality Guidelines developed by the Centers for Disease Control and Prevention:

(a) Secure systems must be described in written policies that are reviewed annually by the overall responsible party;

(b) Access to case report information must be limited to health department staff who need it to perform their job duties and a current list of these staff must be maintained by the overall responsible party;

(c) All physical locations containing electronic or paper copies of surveillance data must be enclosed in a locked, secured area with limited access and not accessible by window;

(d) Paper copies or electronic media containing surveillance information must be housed inside locked file cabinets that are in the locked, secured area;

(e) A crosscut shredder must be available for destroying information and electronic media must be appropriately sanitized prior to disposal;

(f) Files or data bases containing confidential information must reside on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software and firewall protection;

(g) Electronic communication of confidential information must be protected by encryption standards that are reviewed annually by the overall responsible party;

(h) Locking briefcases must be available for transporting confidential information.

(9) The state health officer or designee must conduct a biennial review of system security measures described in WAC 246-101-520 (1)(b) at local health jurisdictions that are maintaining records by name.

(10) When providing technical assistance to a local health department, authorized representatives of the department may temporarily and subject to the time limitations in WAC ~~((246-101-525(2)))~~ 246-101-520 receive the names of reportable cases of ~~((asymptomatic))~~ HIV infection for the

purpose of ~~((HIV surveillance,))~~ partner notification, or special studies. Upon completion of the activities by representatives of the state health department, named information will be~~((:~~

~~((a)))~~ provided to the local health department subject to the provisions of WAC ~~((246-101-525(2); and~~

~~((b) Converted to code and maintained as code only until the person is diagnosed with AIDS))~~ 246-101-520.

~~((7) Within twelve months of the effective date of the HIV infection notification system (by September 1, 2000), established in this chapter,))~~ (11) By December 2007, the state health officer, in cooperation with local health officers, will report to the board on:

(a) The ability of the HIV reporting system to meet surveillance performance standards established by the federal Centers for Disease Control and Prevention;

(b) The cost of the reporting system for state and local health departments;

(c) The reporting system's effect on disease control activities; ~~((and))~~

(d) The impact of HIV reporting on HIV testing among persons at increased risk of HIV infection; and

(e) The availability of anonymous HIV testing in the state.

(12) The state health officer must provide a report to the state board of health if federal policy no longer requires that HIV surveillance systems be name-based.

WSR 06-16-118

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 1, 2006, 12:40 p.m., effective September 1, 2006]

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

Purpose: The department is proposing amendments to the current fee structure, supporting past construction review services program (CRS) charging practices, which appropriately reflect fees and refunds. Additionally, updates were necessary to clarify and capture all types of facilities receiving CRS services.

Citation of Existing Rules Affected by this Order: Amending chapter 246-314 WAC.

Statutory Authority for Adoption: RCW 43.70.110.

Adopted under notice filed as WSR 06-12-112 on June 7, 2006.

Changes Other than Editing from Proposed to Adopted Version: No substantive changes other than minor technical edits for clarification and accuracy.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 3, Repealed 0.

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Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

Date Adopted: August 1, 2006.

M. C. Selecky
Secretary

Chapter 246-314 WAC

~~((FACILITY))~~ CONSTRUCTION REVIEW SERVICES

AMENDATORY SECTION (Amending Order 185, filed 8/7/91, effective 9/7/91)

WAC 246-314-001 Purpose. The purpose of this chapter is to establish fees ~~((for reviewing and approving))~~ to support the department's predesign, subsequent review, approval activities, and to enable the department to provide technical assistance for health and residential care facility construction projects.

AMENDATORY SECTION (Amending Order 185, filed 8/7/91, effective 9/7/91)

WAC 246-314-010 Definitions. For the purpose of this chapter the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

(1) ~~((Department))~~ "Certified" means facilities that must be certified to participate in Medicare or Medicaid programs and meet physical environment minimum standards as required in the Code of Federal Regulations.

(2) "Change of approved use only" means a change in the function of a room that does not alter the physical elements.

(3) "Interior finishes" means products such as carpet, vinyl wall covering, wall paper, or paneling applied to an existing surface as the exposed surface.

(4) "Licensed" means facilities licensed from the state department of health (DOH) or state department of social and health services (DSHS) that must obtain approval from construction review services before licensure activity.

(5) "Permit" means a recommendation to the licensing or certifying authority from construction review services indicating that a facility meets the physical environment rules and the plan review process is complete.

(6) "Program" means the Washington state department of health, construction review services.

~~((2))~~ (7) "Project" means a ((construction endeavor)) change to a facility including new construction, replacement, alterations, additions, expansions, conversions, change of approved use, improvements, remodeling, renovating, and upgrading of the following types of facilities:

(a) ~~((Adult residential rehabilitation center" as defined under chapters 71.12 RCW and 246-325 WAC;))~~ "Ambulatory surgery center" defined as a facility that is required to be certified for participation in Medicare or Medicaid;

(b) "Boarding homes" ((as defined)) licensed under chapters 18.20 RCW and ((246-316)) 388-78A WAC;

(c) "Correctional facilities" as defined under RCW 43.70.130(8);

(d) "Hospice care center" licensed under chapters 70.127 RCW and 246-335 WAC;

(e) "Hospitals" licensed under chapters 70.41 RCW and 246-320 WAC;

(f) "Maternity homes" and "childbirth centers" ((as defined)) licensed under chapters 18.46 RCW and 246-329 WAC;

~~((d))~~ (g) "Migrant worker housing" licensed under chapter 246-359 WAC. Plan review fees for migrant worker housing are set in chapters 246-358, 246-359, and 246-361 WAC;

(h) "Nursing homes" ((as defined)) licensed under chapters 18.51 RCW and ((248-14)) 388-97 WAC;

~~((e))~~ (i) "Private alcoholism hospitals" licensed under chapters 71.12 RCW and 246-324 WAC;

(j) "Private psychiatric hospitals" ((as defined)) licensed under chapters 71.12 RCW and 246-322 WAC; and

~~((f))~~ "Private alcoholism hospitals" as defined under chapters 71.12 RCW and 246-324 WAC;

(g) "Private alcoholism treatment facilities" as defined under chapters 71.12 RCW and 246-326 WAC;

(h) "Residential treatment facilities for psychiatrically impaired children and youth" as defined under chapters 71.12 RCW and 246-323 WAC;

(i) "Hospitals" as defined under chapters 70.41 RCW and 246-318 WAC; and

(j) "Hospice care center" as defined under chapters 70.126 RCW and 246-321 WAC.

(3) "Project sponsor" means the person, persons or organization, planning and contracting for the design and construction of facilities, generally the owner or the owner's representative.

(4) "Project cost" means all costs, except taxes, directly associated with the project, initially estimated and corrected by certification to the date of completion of the project and including:

(a) All architectural engineering designs, plans, drawings, and specifications;

(b) All fixed and installed equipment in the project; and

(c) Contractor supervision, inspection, and overhead.)

(k) "Residential treatment facilities" licensed under chapters 71.12 RCW and 246-337 WAC.

(8) "Project cost" means all costs directly associated with the project, initially estimated and corrected by certification to the date of completion of the project and including all fixed and installed clinical equipment in the project and contractor supervision, inspection, and overhead. This cost does not include:

(a) Taxes;

(b) Architectural or engineering fees; and

(c) Land acquisition fees.

(9) "Project sponsor" means the person, persons or organization, planning and contracting for the design and construction of facilities, generally the owner or the owner's representative.

(10) "Technical assistance" means assistance provided by the program to facilities either at the program offices or at the project location including:

(a) Information on the laws, rules and compliance methods and technologies applicable to the regulations;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits, licensure or certification;

(d) Information on the mission, goals, and objectives of the program; and

(e) Assistance to parties constructing projects not required to be licensed or certified and voluntarily wish to comply with rules or guidelines in the interest of safety or best practices.

(11) "Value of existing construction" means the value of an existing building or portion thereof at the time of project submission, based on the current market value of the structure as documented by the project sponsor, or, as determined by assigning a cost per square foot value.

(c) The first submission for review and approval of the site installation of a mobile unit, four hundred seventy dollars. Each additional submission of the same project, two hundred eighty-five dollars;

(d) The first submission for review and approval of the equipment supplier of a mobile unit, four hundred seventy dollars. Each additional submission of the same project, two hundred eighty-five dollars;

(e) Each eight staff hours or fraction thereof for technical assistance, four hundred ten dollars. For technical assistance requiring travel, the program may increase the fee to include travel.

(3) Building conversion fees will be based on the value of existing construction and derived from the fee schedule. The existing construction value is based on the local area cost data. Current cost data will be made available and posted on the construction review services web site. Project sponsors may submit specific cost data that accurately describes the estimate good faith value for the program's consideration.

CONSTRUCTION FEE TABLE

NEW SECTION

WAC 246-314-015 Application requirements. The project sponsor shall submit to the program:

(1) An estimated permit value at the time of application. Permit valuations include the total value of work, including materials and labor, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If the program determines the valuation is underestimated, the program shall deny the application unless the applicant can show detailed estimates to meet the program's approval. Final building permit valuation is set by program;

(2) A completed project review application form with project documents for review;

(3) Documentation as required by the applicable licensing or certification rules; and

(4) The appropriate fee based upon the initial project construction cost as determined from the construction fee table in WAC 246-314-990.

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-314-990 Construction review fees. (1) ~~((The project sponsor shall submit to the department:~~

~~(a) A completed project review application form along with project documents for review; and~~

~~(b) The appropriate fee based upon the initial project construction cost as determined from the following construction fee table:)) Upon prior approval by the program the project sponsor may exclude from the "project cost" the cost for fixed or installed technologically advanced clinical equipment such as but not limited to: Lithotripters, CT scans, linear accelerators, and MRIs.~~

(2) The program shall charge a flat fee for the review of the following projects:

(a) Installation of interior finishes only, one hundred twenty dollars;

(b) Change of approved use only, one hundred twenty dollars;

Project Cost		Project Review Fee
\$		\$
0 to	\$ 999	120
1,000 to	1,999	250
2,000 to	2,999	325
3,000 to	4,999	410
5,000 to	9,999	530
10,000 to	19,999	665
20,000 to	29,999	820
30,000 to	39,999	975
40,000 to	49,999	1,125
50,000 to	64,999	1,325
65,000 to	79,999	1,535
80,000 to	99,999	1,845
100,000 to	124,999	2,200
125,000 to	149,999	2,550
150,000 to	199,999	2,970
200,000 to	249,999	3,325
250,000 to	324,999	3,650
325,000 to	449,999	4,100
450,000 to	574,999	4,600
575,000 to	699,999	5,200
700,000 to	849,999	5,825
850,000 to	999,999	6,550
1,000,000 to	1,249,999	7,150
1,250,000 to	2,499,999	7,850
2,500,000 to	2,999,999	8,550
3,000,000 to	3,499,999	9,300
3,500,000 to	4,999,999	10,750
5,000,000 to	6,999,999	12,200
7,000,000 to	9,999,999	13,800
10,000,000 to	14,999,999	15,850

CONSTRUCTION FEE TABLE

Project Cost	Project Review Fee
15,000,000 to 19,999,999	17,850
20,000,000 to 29,999,999	19,900
30,000,000 to 39,999,999	23,000
40,000,000 to 59,999,999	25,600
60,000,000 and over	28,700

~~((2) The department shall charge a flat fee of eighty dollars for a project involving installation of carpet only.~~

~~(3) The project sponsor may request a reduction in the project review fee for fixed or installed technologically advanced diagnostic or treatment equipment projects including lithotripters, CT scans, linear accelerators, or MRI's.~~

~~(4) The department may adjust the project review fee if:~~

~~(a) The final project cost changes as evidenced on the certificate of project completion card; or~~

~~(b) The project sponsor requests a reduction in the fee according to subsection (3) of this section.)~~ **(4) Fee reductions.** The program may decrease the project review fees, when:

(a) The project sponsor requests a reduction in the fee according to subsection (1) of this section;

(b) The project is prepared by a state licensed architect or engineer when architectural or engineering services are not required by rule. In this case the project may qualify for a reduction of up to fifteen percent;

(c) A facility is converted from another occupancy as defined by the state building code; a facility is converted from one license to another; or, a facility that is currently unlicensed, but was previously licensed through the DOH or DSHS, wishes to be reviewed for licensure, then the construction review fee reduction of up to fifty percent from that shown on the construction review fee schedule shall be allowed. The amount of fee reduction will be determined by the estimated amount of systems review required to ensure that the rules have been met;

(d) Total fee reductions may not exceed seventy percent of the original estimated review fee.

(5) Refunds. The program shall refund fees paid when requested by the applicant as follows:

(a) The final project cost as shown on the project completion card is less than the project cost shown on the application.

(b) If an application and fee has been received but no plan review or technical assistance has been performed by the program, three-fourths of the fees paid;

(c) If an application and fee has been received and plan review or technical assistance has been performed by the department, one-half of the fees paid;

(d) No fees paid by the applicant will be refunded if any of the following applies:

(i) More than two on-site visits, conferences, or plan reviews for any purpose have been performed by the program;

(ii) One year has elapsed since an application and fee is received by the program, but no permit is issued because applicant failed to complete requirements for permit;

(iii) The amount to be refunded as calculated by (a), (b), or (c) of this subsection is one hundred twenty dollars or less;

(iv) Approval or authorization to begin construction has been given or construction has commenced; or

(v) A request has not been received to cancel the project.

WSR 06-16-119

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 1, 2006, 12:42 p.m., effective September 1, 2006]

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

Purpose: The amendment revises the fee structure for illegal drug manufacturing and storage sites (aka clandestine drug lab) certifications for contractors, workers, supervisors, and training providers. The fees support the department of health (DOH) activities to assure training course providers, contractors and their staff demonstrate essential skills and knowledge necessary for the cleanup of illegal drug labs or storage sites.

Citation of Existing Rules Affected by this Order: Amending WAC 246-205-990.

Statutory Authority for Adoption: RCW 43.70.250 and 64.44.060.

Adopted under notice filed as WSR 06-12-114 on June 7, 2006.

Changes Other than Editing from Proposed to Adopted Version: Changes were made in response to comments received:

- The renewal fee for training providers was reduced from \$1000 to \$750 per year. The initial fee was retained at \$1000.
- The fee for annual refresher training was dropped. Fees will not be charged for this DOH-sponsored activity.

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

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

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

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

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

Date Adopted: August 1, 2006.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-13-123, filed 6/18/03, effective 7/19/03)

WAC 246-205-990 Fees. (1) The department ~~((shall))~~ charges the following fees for ~~((issuance))~~ issuing and ~~((renewal-of))~~ renewing certificates. ~~((The department shall set the fees by rule.))~~

(2) The fees ~~((shall))~~ must cover the cost of issuing certificates, filing papers and notices, and administering this chapter. The costs ~~((shall))~~ include reproduction, travel, per diem, and administrative and legal support costs.

(3) Fees are nonrefundable and ~~((shall be in the form of))~~ must be paid by check or money order made payable to the department.

(4) ~~((The department shall require payment of))~~ An applicant must pay the following fees ~~((upon receipt of))~~ when submitting an application:

(a) ~~((Twenty-eight dollars shall be assessed))~~ \$100 for each initial, renewal, or reciprocal worker certificate application.

(b) ~~((Twenty-eight dollars shall be assessed))~~ \$200 for each initial, renewal, or reciprocal supervisor certificate application.

(c) ~~((Five hundred seventy dollars shall be assessed))~~ \$1,125 for each initial, renewal, or reciprocal authorized contractor certificate application. The applicant's certificate shall expire annually on the expiration date of the contractor's license issued under ~~((the provisions of))~~ chapter 18.27 RCW.

(d) ~~((Two hundred seventeen dollars shall be assessed))~~ \$1,000 for each initial application and \$750 for each renewal application ~~((and fifty-two dollars shall be assessed for each renewal application for illegal drug manufacturing or storage site decontamination training course approval))~~ for training provider certification for the worker drug lab decontamination course.

(e) \$1,000 for each initial application and \$750 for each renewal application for training provider certification for the supervisor drug lab decontamination course.

(f) To be certified as a training provider for the refresher training course, applicants must be certified as a training provider for the worker and supervisor courses. There is no fee for application as a training provider for the refresher training course.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-260-990 and 246-262-990.

Statutory Authority for Adoption: RCW 70.90.150.

Adopted under notice filed as WSR 06-12-110 on June 7, 2006.

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

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

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

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

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

Date Adopted: August 1, 2006.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-14-146, filed 7/2/03, effective 8/2/03)

WAC 246-260-9901 Fees. (1) CONSTRUCTION PERMIT FEES. The department establishes the fees listed in Table 990.1 for construction permits for carrying out its duties under WAC ~~((246-260-030))~~ 246-260-021.

(a) The applicant must submit the base fee to the department prior to plan review initiation.

(b) Hourly charges for plan review will be charged regardless of whether the construction permit is issued or not.

(c) The department will issue the construction permit once full payment has been received.

(d) The applicant must pay the costs of a safety engineer to review plans when department determines need per WAC 246-260-021(4).

WSR 06-16-120

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 1, 2006, 12:44 p.m., effective September 1, 2006]

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

Purpose: The amendments revise the fee structure for review of construction permits for water recreation facilities such as swimming pools, spa pools, wading pools and spray pools, as well as for recreational water part [park] facilities such as water slides, wave pools and other innovative design features. The fee increases are intended to recover 100% of the cost of conducting the construction permit process.

**TABLE 990.1
CONSTRUCTION PERMIT FEES**

TYPE OF FACILITY	CONSTRUCTION PERMIT PLAN REVIEW FEES
I. Swimming Pools ((a) 125,000) 100,000 gallons or more in volume	((\$ 568.00)) \$ 800.00 plus \$ 99/hr. for all hours of review time greater than 8 hours
((b) Greater than 75,000 gallons and less than 125,000 gallons	\$ 339.00
((c) Greater than 40,000 gallons and less than 75,000 gallons	\$ 223.00
((d) Less than 40,000 gallons	\$ 170.00))
II. <u>Swimming Pools less than 100,000 gallons, Spa Pools, and Recirculating Spray Pools</u>	((\$ 170.00)) \$ 400.00 plus \$ 99/hr. for all hours of review time greater than 4 hours
III. <u>Wading Pools and Nonrecirculating Spray Pools</u>	((\$ 111.00)) \$ 200.00 plus \$ 99/hr. for all hours of review time greater than 2 hours
((IV. Spray Pools	\$ 84.00))
((V.)) Alterations, renovations, or modifications to existing swimming, spa, wading or spray pools <u>IV. of new construction permit fees, or \$68/hour (whichever is less))</u> \$ 100.00 plus \$ 99/hr. for all hours of review time greater than 1 hour.	((not to exceed two thirds
((VI. The fees for multiple pools at the same location will be based upon the highest fee for one facility and two thirds of the fee for each additional facility. For example: The fee for a 100,000 gallon swimming pool, a 60,000 gallon swimming pool, and a spa pool will be: \$339 + \$149 + \$113 = \$601. The fees for a small 30,000 gallon swimming pool and a spa pool will be \$170 + \$113 = \$283.))	

(2) OPERATING PERMIT FEES The department establishes the fees listed in Table 990.2 for operating permits for carrying out its duties under WAC ~~((246-260-040))~~ 246-260-101.

**TABLE 990.2
FEE SCHEDULE
OPERATING PERMITS
Type + Number of Facilities**

	Single Swim Pool	Single Spa Pool	Single Wading Pool	Spray Pool or Pools	Each Additional Swim, Spa, or Wading Pool
Operating Permit 0-6 month	\$ 291.00	\$ 255.00	\$ 211.00	\$ 105.00	\$ 63.00
Operating Permit 6-12 months	\$ 477.00	\$ 424.00	\$ 371.00	\$ 159.00	\$ 84.00

(3) Other Terms and Conditions:

- ~~((1))~~ (a) The department may charge an additional fee of \$87 plus associated laboratory costs for any inspections beyond those provided under the annual operating permit when necessary due to violations of such items as (a) noncompliance with water quality standards, and (b) failure to comply with operational requirements for health and safety.
- ~~((2))~~ (b) The department may charge an alternate annual fee for an operating permit based on direct and indirect costs associated with issuance of the permit when arrangements are made with local health jurisdictions to administer all or portions of the duties associated with the operating permit. Except, that the fee for this operating permit cannot exceed the cost established by the previous portions of this regulation, but the fee may be less.
- ~~((3))~~ (c) During the first year of development of the operating permit and for new pool facilities built hereafter, or pools temporarily closed (significant period of several months) and reopened, there are provisions for prorating the costs for the operating permits.
- ~~((4))~~ (d) A reduction in fees, up to but not exceeding thirty percent, may be granted by the

department when a facility operator can demonstrate a satisfactory level of training in pool safety, water quality, maintenance and operations. The department will develop criteria for ~~((such))~~ these fee reductions within six months of the adoption of this regulation.

~~((5))~~ (e) For limited use facilities requiring operating permits which are serving less than fifteen living units, the operating permit shall be fifty percent of the fee. However, the department may charge a reinspection fee~~((s when))~~ if necessary~~((, will be charged as noted in condition (1))~~ under (a) of other terms and conditions.

~~((6))~~ (f) Fees for multiple facilities at the same physical location shall have a maximum FEE CAP as follows: Seasonal (0-6 months) WRF's: \$774 NOTE: The third and subsequent pool/spa at the same location will be charged \$51 for each ~~((such))~~ additional pool/spa.

Year around (>6 months) WRF's \$1032 NOTE: The third and subsequent pool/spa at the same physical location will be charged \$67 for each ~~((such))~~ additional pool/spa.

(4) Examples of Fees Charged:

~~((1))~~ (a) If more than one pool at a facility and one is a year-round pool and another is a seasonal pool—year-round pool is base cost, seasonal pool is charged at additional fee charge. For example: Year-round spa = \$424 plus seasonal swimming pool is \$63 = \$487 total operating permits.

~~((2))~~ (b) If a single swimming pool and a single spa pool is used at the facility, the fee schedule will include fees as noted. For a 0-6 month permit, the primary fee for the single swimming would be \$291 and the spa pool would be viewed as the second pool at the facility and would have a fee of \$63, total operating permit fees would be \$354.

~~((3))~~ (c) If there are 12 pools/spas at a single year-around pool facility, the FEE CAP would apply and the maximum fee of \$1032 would be charged. (\$477 base fee, \$84 for first additional pool/spa, \$67 for the remaining ten year-around pools/spas (10 x \$67 = \$670)) Total fee before fee cap = \$477 + \$84 + \$670 = \$1231. After FEE CAP the total fee = \$1032. If approved training were credited to this facility for the maximum 30% discount, the 30% would be applied to the FEE CAP fee of \$1032; \$1032 - 30% = \$723.

AMENDATORY SECTION (Amending WSR 03-14-146, filed 7/2/03, effective 8/2/03)

WAC 246-262-990 Fees. (1) The fee for plan review of a new recreational water contact facility ~~((containing a single attraction))~~ shall be ~~((two))~~ four hundred ~~((six))~~ dollars base fee plus an hourly rate of ninety-nine dollars for all hours of review beyond four hours plus the safety engineer reviewer's cost as billed.

(a) The base fee must be provided to the department prior to initiating plan review.

(b) Hourly fees for plan review will be charged regardless of whether the plans are approved or not.

(c) The construction permit will not be issued until after full payment is received.

(2) ~~((The fee for plan review of a new recreational water contact facility containing more than one attraction shall be two hundred six dollars plus the cost of the safety engineer reviewer's cost as billed plus seventy-seven dollars for each attraction.~~

~~((3))~~ (3) The fee for review of plans for alterations or modifications of an existing recreational water contact facility shall be the ~~((total of direct and indirect costs, not to exceed one half of the fee for review of a new project))~~ hourly rate of ninety-nine dollars.

~~((4))~~ (3) The annual fee for an operating permit for a recreational water contact facility containing one attraction shall be one hundred eighty dollars.

~~((5))~~ (4) The annual fee for an operating permit for a recreational water contact facility containing more than one attraction shall be one hundred eighty dollars for the first attraction plus fifty-one dollars for each additional attraction up to a maximum fee of three hundred thirty-five dollars.

~~((6))~~ (5) The department may charge an additional fee of fifty-one dollars plus associated laboratory costs for inspections beyond those provided under the annual operating permit when necessary due to violations of such items as:

(a) Noncompliance with water quality standards; and

(b) Failure to comply with operational requirements for health and safety.

**WSR 06-16-133
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-181—Filed August 2, 2006, 9:16 a.m., effective September 2, 2006]

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

Purpose: Amend WAC 232-12-068 Nontoxic shot requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-068.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 06-13-100 on June 21, 2006.

A final cost-benefit analysis is available by contacting Morris Barker, 600 Capitol Way North, Olympia, WA

98501-1091, phone (360) 902-2826, fax (360) 902-2155, e-mail barkemwb@dfw.wa.gov.

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

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

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

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

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

Date Adopted: July 25, 2006.

J. P. Koenigs, Ph.D.
 Director
 by Larry Peck

AMENDATORY SECTION (Amending Order 05-174, filed 8/15/05, effective 9/15/05)

WAC 232-12-068 Nontoxic shot requirements. It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes (~~steel shot, bismuth tin shot (97 parts bismuth: 3 parts tin with <1 percent residual lead), tungsten iron shot (2 types - 40 parts tungsten: 60 parts iron with <1 percent residual lead, and 22 parts tungsten: 78 parts iron with <1 percent residual lead), tungsten polymer shot (95.5 parts tungsten: 4.5 parts nylon 6 or 11 with <1 percent residual lead), tungsten matrix shot (95.9 parts tungsten: 4.1 parts polymer with <1 percent residual lead), tungsten iron nickel tin shot (65% tungsten: 10.4% iron: 2.8% nickel: 21.8% tin, with <1 percent residual lead), tungsten nickel iron shot (20-70% tungsten: 10-40% nickel: 10-70% iron with <1 percent residual lead), tungsten tin bismuth shot (49-71% tungsten, 29-51% tin, 0.5-6.5% bismuth with <1 percent residual lead), and tungsten bronze shot (51.1% tungsten, 44.4% copper, 3.9% tin, 0.6% iron with <1 percent residual lead).~~) the following approved types:

<u>Approved Nontoxic Shot Type*</u>	<u>Percent Composition by Weight</u>
<u>bismuth-tin</u>	<u>97 bismuth, 3 tin</u>
<u>iron (steel)</u>	<u>iron and carbon</u>
<u>iron-tungsten</u>	<u>any proportion of tungsten, >=1 iron</u>
<u>iron-tungsten-nickel</u>	<u>>=1 iron, any proportion of tungsten, up to 40 nickel</u>
<u>tungsten-bronze</u>	<u>51.1 tungsten, 44.4 copper, 3.9 tin, 0.6 iron; and 60 tungsten, 35.1 copper, 3.9 tin, 1 iron</u>

<u>Approved Nontoxic Shot Type*</u>	<u>Percent Composition by Weight</u>
<u>tungsten-iron-copper-nickel</u>	<u>40-76 tungsten, 37 iron, 9-16 copper, 5-7 nickel</u>
<u>tungsten-matrix</u>	<u>95.9 tungsten, 4.1 polymer</u>
<u>tungsten-polymer</u>	<u>95.5 tungsten, 4.5 nylon 6 or 11</u>
<u>tungsten-tin-iron</u>	<u>any proportions of tungsten and tin, >=1 iron</u>
<u>tungsten-tin-bismuth</u>	<u>any proportions of tungsten, tin, and bismuth</u>
<u>tungsten-tin-iron-nickel</u>	<u>65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel</u>
<u>*Coatings of copper, nickel, tin, zinc, zinc chloride, and zinc chrome on approved nontoxic shot types also are approved.</u>	

The director may adopt additional nontoxic shot types consistent with federal regulations.

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot in the following areas:

- Bridgeport Bar segment of the Well's Wildlife Area
- Cowlitz Wildlife Area
- Lake Terrell Wildlife Area (including Tennant Lake and other segments)
- Shillapoo Wildlife Area
- Skagit Wildlife Area (all segments)
- Snoqualmie Wildlife Area (all segments)
- Sunnyside Wildlife Area
- The Driscoll Island, Hegdahl, and Kline Parcel segments of the Sinlahekin Wildlife Area
- Vancouver Lake Wildlife Area

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for game birds or game animals in the following areas:

- Chehalis River pheasant release site
- Dungeness Recreation Area
- Hunter Farms pheasant release site
- Raymond Airport pheasant release site
- Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge
- All Whidbey Island pheasant release sites

WSR 06-16-137
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed August 2, 2006, 10:54 a.m., effective September 2, 2006]

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

Purpose: Under RCW 43.20A.725 and 80.36.430, the department is required to annually determine the tax rates imposed on switched access lines to fund the telephone relay service program and the Washington telephone assistance program. Each tax rate is determined by dividing the respective program budgets by the number of switched access lines reported to the department in the prior calendar year. The

department retains no discretion in the determination of these tax rates, the amount of which is explicitly dictated by the statutory formulas and inputs provided to the department.

The department has revised WAC 458-20-270 to provide these tax rates for the July 1, 2006, through June 30, 2007, fiscal year. WAC 458-20-270 was previously revised as an emergency rule to provide these rates by the required July 1, 2006, effective date. This action will adopt a permanent rule.

The tax rates being adopted in this permanent rule are the same as those in the emergency rule.

Citation of Existing Rules Affected by this Order:
Amending WAC 458-20-270 Telephone program excise tax rates.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 43.20A.725 and 80.36.430.

Adopted under notice filed as WSR 06-11-015 on May 4, 2006.

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

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

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

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

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

Date Adopted: August 2, 2006.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 05-18-017, filed 8/26/05, effective 9/26/05)

WAC 458-20-270 Telephone program excise tax rates. RCW 82.72.020 requires the department of revenue (department) to collect certain telephone program excise taxes. Those taxes include the tax on switched access lines imposed by RCW 43.20A.725 (telephone relay service—TRS) and 80.36.430 (Washington telephone assistance program—WTAP). Pursuant to those statutes, the department must annually determine the rate of each respective tax according to the statutory formulas.

For the period July 1, ~~((2005))~~ 2006, through June 30, ~~((2006))~~ 2007, the monthly telephone program excise tax rates are as follows:

TRS	((40)) 2 cents per switched access line
WTAP	14 cents per switched access line