

**WSR 12-09-077**  
**PERMANENT RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**

[Filed April 17, 2012, 3:38 p.m., effective June 1, 2012]

Effective Date of Rule: June 1, 2012.

Purpose: Currently, the executive director of the gorge commission must review a development review application for completeness within fourteen days after receiving it, and must issue a decision on a standard development review application within seventy-two days after accepting the application as complete and an expedited review application within thirty days. The rule changes those time periods into goals that the executive director will attempt to make. The rule also eliminates the requirement that the commission publish notices of development review applications in the local newspaper and send a notice to the local library. Finally, the rule incorporates changes to the management plan for the special management areas that the forest service provided to the commission in 2011 and the commission adopted without change.

Citation of Existing Rules Affected by this Order: Amending 350-81-020, 350-81-036, 350-81-038, 350-81-042, 350-81-054, 350-81-082, 350-81-190, 350-81-370, 350-81-550, 350-81-600, and 350-81-620.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: ORS 196.150; 16 U.S.C. §§ 544d (c)(5)(A), 544e (c)(1), 544f(l).

Adopted under notice filed as WSR 11-21-002 on October 5, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 5, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 10, 2012.

Nancy A. Andring  
Rules Coordinator

### **Amendatory Section**

#### **350-081-0036**

##### **Acceptance of Application**

~~Within 14 days of the receipt of an application, t~~The Executive Director shall review the application for completeness and if complete, shall accept the application for review.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all

omissions and deficiencies in writing ~~within 14 days of receipt of the application~~. The Executive Director shall review supplemental application materials ~~within 14 days after receipt of the materials~~ to determine if the application is complete.

(2) No application for a proposed use, which is explicitly prohibited by this ordinance, shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Executive Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

(3) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental materials within 14 days of receipt. The 14-day time periods in this rule are effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

**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**

#### **350-081-0042**

##### **Decision of the Executive Director**

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 72 days after

~~acceptance of the application, within 72 days after acceptance of the application except in one or more of the following situations:~~

(a) The applicant consents to an extension of time.

(b) The Executive Director determines that additional information is required pursuant to Commission Rule 350-81-040.

(c) The Executive Director determines that additional information is necessary to evaluate land use issues and the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) The 72-day time period in this rule is effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

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

## Amendatory Section

### **350-081-0054**

#### **Procedures for Expedited Review Process**

##### **(1) Applications**

(a) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-81-054.

(b) The Executive Director shall accept and review the application pursuant to 350-81-054 for consistency with the appropriate guidelines of this rule.

(c) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(d) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices for which this ordinance is effective and the Forest Service.

(e) Applications for uses eligible for expedited review shall include the information required for review uses listed in 350-81-032(5). They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

##### **(2) Acceptance of Application**

~~(a) Within 14 days of the receipt of an application, t~~The Executive Director shall review the application for completeness, and if complete, shall accept the application for review.

(b) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing ~~within 14 days of receipt of the application~~. The Executive Director shall review supplemental application materials ~~within 14 days after receipt of the materials~~ to determine if the application is complete.

(c) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental application materials within 14 days of receipt of the materials.

##### **(3) Notice of Development Review**

(a) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(A) The name of the applicant;

(B) The general and specific location of the subject property;

(C) A brief description of the proposed action;

(D) The deadline for ~~rendering issuing~~ a decision; and

(E) The deadline for filing comments on the proposed action.

(b) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

~~(c) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~

(d) The notice shall be mailed to the Forest Service, the four Indian tribal governments, applicable county or city planning office(s), libraries and other agencies and interested parties that request a notice or that the Executive Director determines should be notified.

(e) A copy of the notice shall be filed in the records of the Commission posted on the Commission's website.

(4) Comment Period: Any interested person or party shall submit written comments within 10 days from the date a notice is sent.

##### **(5) Written Decision**

(a) In making a decision on a proposed use or development the Executive Director shall:

(A) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(B) Consider information submitted by the applicant and all other relevant information available;

(C) Consider all comments submitted pursuant to 350-81-054(4); and

(D) Solicit and consider the comments of the Forest Service.

(b) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(A) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(B) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(c) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81 ~~within 30 days after acceptance of the application~~. As a goal, the Executive Director shall attempt to issue a decision within 30 days after acceptance of the application.

(d) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

**(6) Notice of Decision and Opportunity to Appeal**

(a) The Executive Director shall send a copy of a decision issued under the expedited review process to the four Indian tribal governments, the Forest Service, landowners within 200 feet of the perimeter of the subject parcel, and anyone who submitted comments pursuant to 350-81-054(4).

(b) Any person shall be allowed to appeal a decision issued under the expedited review process in accordance with Commission Rule 350-70.

(7) Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses (Commission Rule 350-81-044, above).

(8) Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses (Commission Rule 350-81-046, above).

(9) The time periods in this rule are effective retroactively to all expedited review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

**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**

#### **350-081-0038**

#### **Notice of Development Review**

(1) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

- (a) The name of the applicant;
- (b) The general and specific location of the subject property;
- (c) A brief description of the proposed action;
- (d) The deadline for ~~rendering issuing~~ a decision; and
- (e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

~~(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, the four Indian tribal governments, and the applicable county ~~and/or city planning office~~; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-81-630; and

(c) Other agencies and interested parties which request a notice or which the Executive Director determines should be notified.

~~(5) The notice shall be posted at the Commission and shall be sent to the Forest Service offices, and the applicable county or city planning office(s) and libraries.~~

~~(6) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.~~

~~(57) A copy of the notice shall be filed in the records of the Commission posted on the Commission's website.~~

**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**

#### **350-081-0190**

#### **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, recon-touring 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 significantly 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 (2)(y).

(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.

(D) Minimum parcel size of 40 contiguous acres.

(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, recon-touring 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) Removal/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

#### 350-081-0370

#### 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 not less than 40 contiguous acres. 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)(y).

(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) Removal/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 brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

### **Amendatory Section**

#### **350-081-0082**

#### **Existing Uses and Discontinued Uses**

(1) Right to Continue Existing Uses and Structures

(a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

**(2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster**

(a) Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

**(3) Replacement of Existing Structures Damaged or Destroyed by Disaster**

(a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

(B) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:

(i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

(C) The replacement structure shall be the same size and height as the original structure, provided:

(i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(ii) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(D) The replacement structure shall only be subject to the following scenic resources standards:

(i) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(iii) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(I) Except as provided in 350-81-082 (3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(II) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(III) To help determine how much vegetation may be required under 350-81-082 (3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

(1) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

(2) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

(3) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(IV) The height of any new trees shall not be required to exceed 5 feet.

(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(iv) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(I) The *Scenic Resources Implementation Handbook* shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(II) The height of any new trees shall not be required to exceed 5 feet.

(III) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(E) The replacement structure shall be subject to 350-81-082 (2)(a)(A), (B), and (C) above if it would not comply with 350-81-082 (3)(a)(B) and (C).

(F) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

#### (4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.

**(A) Expansion of Existing Commercial and Multifamily Residential Uses:** In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.

**(AB) Conversion of Existing Industrial Uses in the GMA:** In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

**(BE) Existing Development or Production of Mineral Resources in the GMA:** In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(i) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(ii) The site has not maintained a required state permit.

(iii) The site has not operated legally within 5 years before October 15, 1991.

**(CD) Existing Development or Production of Mineral Resources in the SMA:** Uses involving the exploration, development, or production of sand, gravel, or crushed rock

in the SMA may continue if both of the following conditions exist:

(i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.

(ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

#### (5) Discontinuance of Existing Uses and Structures

(a) Except as provided in 350-81-082 (3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

**(A) Multiple Uses:** An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

**(B) Change in Use:** An existing use or structure shall become discontinued if the use or use of the structure changes.

#### (6) Discontinued Uses and Structures:

(a) Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

**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

#### 350-081-0620

#### Special Management Area Recreation Resource Review Criteria

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services and motorized wheelchairs.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in 350-81-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same recreation intensity class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Executive Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites offering similar opportunities, including those in Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part 1 of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(G) Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.

## (2) Special Management Areas Recreation Intensity Class Guidelines

### (a) Recreation Intensity Class 1 (Very Low Intensity)

Emphasis is to provide opportunities for semi-primitive recreation.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

#### (C) The following uses may be permitted:

(i) Trails and trailheads.

(ii) Parking areas.

(iii) Dispersed campsites accessible only by a trail.

(iv) Viewpoints and overlooks.

(v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Restrooms.

### (b) Recreation Intensity Class 2 (Low Intensity)

Emphasis is to provide opportunities for semi-primitive recreation.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity for parking areas shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campgrounds ~~with vehicle access for twenty (20) units or less, tent sites only~~.

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

### (c) Recreation Intensity Class 3 (Moderate Intensity)

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) The maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity for parking areas shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(i) Campgrounds with improvements that may include vehicle access, water, power, and sewage dump stations.

(ii) Boat anchorages designed for not more than 15 boats.

(iii) Public visitor, interpretive, historic, and environmental education facilities.

(iv) Full-service restrooms, may include showers.

(v) Boat ramps.

(vi) Riding stables.

### (d) Recreation Intensity Class 4 (High Intensity)

Emphasis is on providing roaded natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1,000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation

Intensity Class 4 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

**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**

### **350-081-0550**

#### **Special Management Area Cultural Resource Review Criteria.**

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa and 36 CFR 296.18.

(b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in 350-81-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(e) Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

(2) The procedures and guidelines in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The procedures and guidelines in 36 CFR 800 and 350-81-550(4) shall be used by the Executive Director and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

(4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources shall be used to assess potential effects to cultural resources.

##### **(a) Literature Review and Consultation**

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to iden-

tify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service or the Executive Director determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

##### **(b) Field Inventory**

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Executive Director for review.

## (c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Executive Director shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service or the Executive Director determines that the inventoried cultural resources are significant.

## (d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Executive Director shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to Resolve Adverse Effects").

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

## (e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Executive Director shall review all mitigation proposals for adequacy.

## (5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Executive Director if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Executive Director shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to 350-81-550 (4)(c) and report the results to the Forest Service or the Executive Director.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Executive Director determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to 350-81-550 (4)(e) if the Forest Service or the Executive Director determines that the cultural resource is significant.

**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****350-081-0600****Special Management Areas Natural Resource Review Criteria**

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and fed-

eral agencies shall be carefully considered. (Site plans are described in 350-81-032).

(2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

(a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(II) The wetland is not critical habitat.

(III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(C) The buffer width shall be increased for the following:

(i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project appli-

cant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(F) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

(b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

(d) Wetlands Boundaries shall be delineated using the following:

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the *'1987 Corps of Engineers Wetland Delineation Manual* (on-line Edition)'.

(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

(e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(f) The Executive Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Executive Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(h) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: wetlands, streams, ponds, lakes, riparian areas and their buffer zones.

(3) Wildlife and Plants

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(A) Identify/verify the precise location of the wildlife and/or plant area or site,

(B) Determine if a field survey will be required,

(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed

use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and

(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached

(d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.

(B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

Priority Habitats Table	
Priority Habitats	Criteria
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(g) The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision.

Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(h) The Executive Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

(i) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: sites within 1,000 feet of sensitive wildlife areas and sites; and 2) sites within 1,000 feet of rare plants.

(4) Soil Productivity

(a) Soil productivity shall be protected using the following guidelines:

(A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(B) New developments and land uses shall control all soil movement within the area shown on the site plan.

(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

#### **Practicable Alternative Test**

(1) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

(a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

#### **Mitigation Plan**

(1) Mitigation Plan shall be prepared when:

(a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).

(b) There is no practicable alternative (see the "practicable alternative" test).

(2) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(3) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

(4) The applicant shall submit the mitigation plan to the Executive Director. The Executive Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife

agency/heritage program, the Executive Director shall justify how the opposite conclusion was reached.

(5) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(6) Mitigation plans shall include maps, photographs, and text. The text shall:

(a) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

(b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(c) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(d) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

(e) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(7) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(8) A final monitoring report shall be submitted to the Executive Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Executive Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Executive Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(9) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, nat-

ural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

(a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the Executive Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

(e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.

(C) Fish passage shall be protected from obstruction.

(D) Restoration of fish passage should occur wherever possible.

(E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation),

natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

(g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

(h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline (9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

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

### **Amendatory Section**

#### **350-081-0020**

##### **Definitions**

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

(1) **Accepted agricultural practice:** A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

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

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

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

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

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

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

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

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

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

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

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

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

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

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

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

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

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

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

(16) **Best management practices:** Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse

affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

mit requirements, land use regulations and other laws that were in effect at the time the change was established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(87) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Con-

federated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

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

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

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

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

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

(a) Historic Columbia River Highway;

(b) Crown Point;

(c) Highway I-84, including rest stops;

(d) Multnomah Falls;

(e) Washington State Route 14;

(f) Beacon Rock;

(g) Panorama Point Park;

(h) Cape Horn;

(i) Dog Mountain Trail;

(j) Cook-Underwood Road;

(k) Rowena Plateau and Nature Conservancy Viewpoint;

(l) Portland Women's Forum State Park;

(m) Bridal Veil State Park;

(n) Larch Mountain;

(o) Rooster Rock State Park;

(p) Bonneville Dam Visitor Centers;

(q) Columbia River;

(r) Washington State Route 141;

(s) Washington State Route 142;

(t) Oregon Highway 35;

(u) Sandy River;

(v) Pacific Crest Trail;

(w) SMA only;

(x) Old Washington State Route 14 (County Road 1230);

(y) Wyeth Bench Road;

(z) Larch Mountain Road;

(aa) Sherrard Point on Larch Mountain.

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

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

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

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

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

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

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

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

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

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

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

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

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

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

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

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

(104) **Natural resource-based recreation (SMA):** Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation

facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

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

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

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

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

(109) **Ordinary high water mark:** The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

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

(111) **Overstory (SMA):** For forest practices, the tall or mature trees that rise above the shorter or immature under-story trees.

#### (112) **Parcel:**

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

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

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

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

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

(B) Lies in different counties;

(C) Lies in different sections or government lots;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent

human encounters, and dominant resource modifications encroaching into the rural landscape.

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

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

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

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

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

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

Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

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

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

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

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

(131) **Road:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel

between places by means of vehicles. "Road" includes, but is not limited to:

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

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

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

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

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

(134) **Secretary:** The Secretary of Agriculture.

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

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

(136) **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

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

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

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

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

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

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

(142) **Sign:** Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal,

ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

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

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

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

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

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

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

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

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

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

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

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

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

(154) **Suitability:** The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155) **Thinning (SMA):** A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156) **Total canopy closure (SMA):** For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157) **Travelers accommodations:** Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158) **Treatment (SMA):** For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159) **Treaty rights or other rights:** Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160) **Tributary fish habitat:** Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161) **Understory (SMA):** For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162) **Undertaking:** Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

(163) **Unimproved lands:** Lands that generally do not have developments such as buildings or structures.

(164) **Upland:** Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165) **Uses allowed outright:** New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166) **Utility facility:** Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167) **Vested right:** The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168) **Viewshed:** A landscape unit seen from a key viewing area.

(169) **Visual quality objective (VQO):** A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170) **Visually subordinate:** A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171) **Water-dependent:** Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(172) **Water-related:** Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173) **Wetlands:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(174) **Wetlands functions:** The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and

fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175) **Winery:** An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176) **Wine sales/tasting room:** A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-81-108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177) **Woody plant:** A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

**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.

### WSR 12-11-005 PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 12-70—Filed May 2, 2012, 4:46 p.m., effective June 2, 2012]

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

**Purpose:** Agency reason for adopting: WAC 232-12-047 Unlawful methods for hunting, rule making was initiated at the request of the hunters who would be governed by those rules.

WAC 232-12-054 Archery requirements—Archery special use permits, rule making was initiated at the request of the hunters who would be governed by those rules.

WAC 232-12-243 Public safety cougar removals, these rule amendments better align the WAC language and actions with the terms used in the RCW authority.

WAC 232-12-257 Use of decoys and calls, rule making was initiated at the request of the hunters who would be governed by those rules. [Agency did not include this section in their permanent filing.]

WAC 232-12-264 Baiting of game birds—Unlawful, these rule amendments facilitate consistent enforcement of state and federal baiting rules by the department and United States Fish and Wildlife Service.

WAC 232-28-273 2012-2014 Moose, bighorn sheep, and mountain goat seasons and permit quotas, this rule incorporates permit level changes based on the population objectives and harvest criteria in the game management plan (2009).

WAC 232-28-296 Landowner hunting permits, this rule expands the number of special hunting opportunities available on private lands for hunters, in accordance with fish and

wildlife commission policy, by adding two additional cooperators to the landowner hunting permit program.

WAC 232-28-297 2012-2013, 2013-2014, 2014-2015 Cougar hunting seasons and regulations, this rule establishes the cougar hunting seasons, hunt areas, and associated harvest guidelines to provide recreational opportunity, while maintaining stable population and age structures equally distributed across the state.

WAC 232-28-337 Deer and elk area descriptions, these rule amendments allow the commission to distribute hunters in targeted areas to address property damage or achieve harvest objectives at a smaller scale within a game management unit.

WAC 232-28-342 2012-2013, 2013-2014, 2014-2015 Small game seasons, these rule amendments provide for the continuation of hunting seasons on small game species to provide recreational opportunity and depredation control.

WAC 232-28-357 2012-2014 Deer general seasons and definitions, this rule provides recreational deer hunting opportunity, protects deer from overharvest, and helps address deer damage problems through the establishment of 2012-2014 general deer hunting seasons.

WAC 232-28-358 2012-2014 Elk general seasons and definitions, this rule provides recreational elk hunting opportunity, protects elk from overharvest, and helps address elk damage problems through the establishment of 2012-2014 general elk hunting seasons.

WAC 232-28-359 2012 Deer special permits, this rule continues to provide recreational deer hunting opportunity, above that offered during general seasons; protects deer from overharvest; and helps minimize agricultural damage.

WAC 232-28-360 2012 Elk special permits, this rule continues to provide recreational elk hunting opportunity, above that offered during general seasons; protects elk from overharvest; and helps minimize agricultural damage.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 232-28-272, 232-28-287, 232-28-295, 232-28-351, 232-28-352, 232-28-355 and 232-28-356; and amending WAC 232-12-047, 232-12-054, 232-12-243, 232-12-257 [agency did not include this section in their permanent filing], 232-12-264, 232-28-273, 232-28-337, and 232-28-342.

**Statutory Authority for Adoption:** RCW 77.12.047.

Adopted under notice filed as WSR 12-04-098 on February 1, 2012.

**Changes Other than Editing from Proposed to Adopted Version:** *WAC 232-12-047 Unlawful methods for hunting.*

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Under subsection (4)(a), we are reversing our draw weight recommendation back to 125 pounds. This change is in response to input from hunters who may have difficulty drawing greater weights and the lethality of 125 pounds.
- Under subsection (4)(b), we are reversing our bolt weight recommendation back to 350 grains. The reduction in bolt weight is consistent with the 125 draw weight.
- Under subsection (5), change the sentence to read: "Hunters with disabilities may also use a crossbow dur-

ing archery seasons with a special use permit as conditioned in WAC 232-12-054." This change was made to clarify the intent of this section.

**WAC 232-12-054 Archery requirements—Archery special use permits.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Under subsection (1)(b), strike the last four words: "except for illuminated nocks." After considering the information presented and the public input received, the fish and wildlife commission voted against this proposed amendment.
- The language under subsection (2)(a) was changed to read as follows:

(2)(a) It is unlawful for any person to hunt big game animals with a bow that does not produce a minimum of 40 pounds of pull measured at twenty-eight inches or ((less)) at full draw ((length)).

The reason for the change is to clarify that 40 pounds of pull is required at whatever length full draw occurs for a hunter.

**WAC 232-12-243 Public safety cougar removals.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- None.

**WAC 232-12-257 Use of decoys and calls.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Under subsection (1), reinstate the word waterfowl, so that the first sentence now reads: "It is unlawful to hunt waterfowl, wild turkeys, or deer with the use of aid of battery-powered or other electronic devices as decoys. After considering the information presented and the public input received, the fish and wildlife commission voted against this proposed amendment.

**WAC 232-12-264 Baiting of game birds—Unlawful.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- None.

**WAC 232-28-273 2012-2014 Moose, bighorn sheep, and mountain goat seasons and permit quotas.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Change the permit level for Cleman Mountain A from 3 to 6; change the permit level for Cleman Mountain B from 2 to 6. The reason is that recent surveys indicate the population has increased.
- Change the name of the Methow North mountain goat hunt name to "Methow" because the goat hunt area is not just the north Methow area.
- Change the subpopulations open to goat hunting to:
  - Wolf Creek and West Fork Methow in the Methow hunt.
  - Railroad Creek, Pyramid Mountain, and Box Canyon in the South Lake Chelan hunt.

**WAC 232-28-296 Landowner hunting permits.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Change the number of antlerless elk permits that the Blackrock Ranches LHP provides from 4 to 2. The landowner requested this change based on their management needs and ability to accommodate the hunters.
- Change the number of permits that the Washington department of fish and wildlife (WDFW) draws for the Blackrock Ranches LHP for antlerless elk from 2 to 1 in two locations in the table. The landowner requested this change based on their management needs and ability to accommodate the hunters.
- Change the November start dates for the Pine Mountain Ranch LHP for deer and elk from November 2 to November 5 in two locations in the table. This corrects a previous error.
- Change all references to Grande Ronde Vista to 4-0 Ranch. This change was made at the landowner's request.
- Change the number of permits and season dates for the Columbia Plateau Wildlife Management Association LHP for elk to:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
CPWMA	2	Jan. 1-Mar. 31	Antlerless	CPWMA
CPWMA Raf-fle 1	2	Jan. 1-15	Antlerless	CPWMA
CPWMA Raf-fle 2	2	Jan. 16-31	Antlerless	CPWMA
CPWMA Raf-fle 3	3	Feb. 1-14	Antlerless	CPWMA
CPWMA Raf-fle 4	2	Feb. 15-28	Antlerless	CPWMA
CPWMA Raf-fle 5	2	Mar. 1-15	Antlerless	CPWMA
CPWMA Raf-fle 6	2	Mar. 16-31	Antlerless	CPWMA
CPWMA Raf-fle 7	2	Jan. 1-31	Any bull	CPWMA

The landowner requested these changes based on WDFW's recommended reinstatement of the December Master Hunter hunt in this area, their management needs, and ability to accommodate the LHP hunters.

- The landowner's phone number has also changed. This change reflects the new contact number.
- Change the number of permits and season dates for the Columbia Plateau Wildlife Management Association LHP for elk to:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
CPWMA 1	3	Jan. 1-15	Antlerless	CPWMA
CPWMA 2	2	Jan. 16-31	Antlerless	CPWMA
CPWMA 3	3	Feb. 1-14	Antlerless	CPWMA
CPWMA 4	2	Feb. 15-28	Antlerless	CPWMA
CPWMA 5	3	Mar. 1-15	Antlerless	CPWMA
CPWMA 6	2	Mar. 16-31	Antlerless	CPWMA
CPWMA 7	1	Jan. 1-31	Any Bull	CPWMA

- The landowner requested these changes based on WDFW's recommended reinstatement of the December Master Hunter hunt in this area, their management needs, and ability to accommodate the LHP hunters.
- The landowner's phone number has also changed. This change reflects the new contact number.

**WAC 232-28-297 2012-2013, 2013-2014, 2014-2015 Cougar hunting seasons and regulations.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Change subsection (2)(b) from:  
"In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been killed or March 31 of the following year, whichever occurs first."

To:

"In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been met and the director has closed the cougar late hunting season, or March 31, whichever occurs first." These changes were made to clarify that the season was intended to last three months rather than a year and three months, and that once the harvest guideline was reached the director would close the cougar late hunting season.

- Under subsection (4)(e), a couple of grammatical edits were made to improve readability and understanding of the rule.

**WAC 232-28-337 Deer and elk area descriptions.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Reinstate the boundary for Elk Area 3068 Klickitat Meadows. Initially the department was proposing dropping the special permit elk hunts that occur in this elk area. That is no longer the case, so the elk area boundary language needs to be retained in order to conduct the special permit hunts.
- Delete the boundary language for new Deer Area 1016. There was a miscommunication between staff.

**WAC 232-28-342 2012-2013, 2013-2014, 2014-2015 Small game seasons.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Change the WAC title to read: "Small game and other wildlife seasons and regulations." Rather than create a separate rule for unclassified wildlife regulations, the title was changed to allow the department to retain the rules for coyotes and other unclassified or predatory wildlife.
- Proposed crow season dates have been changed from Sept. 1, 2012 - Dec. 31, 2013; Sept. 1, 2013 - Dec. 31, 2014; and Sept. 1, 2014 - Dec. 31, 2015 to Sept. 1, 2012 - Dec. 31, 2012; Sept. 1, 2013 - Dec. 31, 2013; and Sept. 1, 2014 - Dec. 31, 2014 to accurately reflect calendar date adjustments.

- Proposed turkey youth season dates have been changed to April 6-7, 2013, and April 5-6, 2014 to accurately reflect calendar date adjustments.
- Spring 2012 turkey season dates (April 7-8, 2012, and April 15-May 31, 2012) were inadvertently deleted from the CR-102 and were added back into the draft rule.
- A new fall permit season has been added for GMU 335 (Teanaway) during Nov. 15 - Dec. 15 in 2012, 2013, and 2014, with 50 permits and a bag limit of 1 turkey (either sex), because of increased turkey numbers in this area.
- Spring 2012 turkey season dates for hunter education instructor incentive permits (April 15 - May 31, 2012) were inadvertently deleted from the CR-102 and were added back into the draft rule.
- A senior hunt for pheasants in eastern Washington was added and runs concurrent with the western Washington season. This proposal was inadvertently left out of the initial proposal.
- Proposed eastern Washington pheasant season closing dates have been changed from Jan. 14, 2013, Jan. 13, 2014, and Jan. 12, 2015, to Jan. 13, 2013, Jan. 12, 2014, and Jan. 11, 2015 to end the seasons on Sundays.
- The emergency authority of the director is provided in statute and does not need to be repeated in WAC. Therefore, we are deleting this language from the WAC, but will include it in the pamphlet.

**WAC 232-28-357 2012-2014 Deer general seasons and definitions.**

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Move 157 (Mill Creek Watershed) from the section listing GMUs closed to deer hunting to the section listing the GMUs open only to permit hunting. Special permit hunts are now offered for deer in GMU 157 so the definition change is required.
- Under modern firearm, both early and late seasons, western Washington black-tailed deer:
  - Move GMU 454 from "any deer" to "any buck." This change corrects an oversight/error.
- Under modern firearm, late general season, eastern Washington white-tailed deer:
  - Move the hunts specific to Deer Area 1050 and Deer Areas 1060, 1070 and 1080 to the Hunters 65 and over, Disabled or Youth section. These hunts were intended, under the original recommendation from the Region, to give more opportunity to youth hunters, senior hunters, and hunters with disabilities. This change corrects a typographical error.
- Under Hunters 65 and over, Disabled, or Youth general seasons:
  - For GMUs 101, 105, 108, 111, 113, 117, and 121, restore the 4-day season. For 2012, change the season dates from Oct. 19-21 to Oct. 18-21; for 2013, change the season dates from Oct. 18-20 to Oct. 17-20; and for 2014, change the season dates from Oct. 17-19 to Oct. 16-19. The original recommendation was to reduce these hunts by 1 day, but after further

- deliberation and public comment, that recommendation was removed.
- Under early archery general, eastern Washington mule deer:
  - Shift GMUs 162, 163, and 178 from the longer to the shorter early archery time frame. This shift eliminates an overlap between the modern firearm special permit season and the archery general season.
  - Shift GMU 172 from the shorter to the longer early archery time frame. There is no overlap with modern firearm seasons in GMU 172, and therefore, this GMU doesn't need to be included in the shorter time frame.
  - Delete Deer Area 1010 from early archery, eastern Washington mule deer, 3 pt. min. or antlerless. Deer Area 1010 is in GMU 162 and the season does not need to be inconsistent with GMU 162 at this time.
- Under early archery general, eastern Washington white-tailed deer:
  - Shift GMUs 162, 163, and 178 from the longer to the shorter early archery time frame. This shift eliminates an overlap between the modern firearm special permit season and the archery general season.
  - Delete Deer Area 1010 from early archery, eastern Washington white-tailed deer, 3 pt. min. or antlerless. Deer Area 1010 is in GMU 162 and the season does not need to be inconsistent with GMU 162 at this time.
  - Shift GMU 172 from the shorter to the longer early archery time frame. There is no overlap with modern firearm seasons in GMU 172, and therefore, this GMU doesn't need to be included in the shorter time frame.
- Under late archery, eastern Washington white-tailed deer:
  - For GMUs 105 and 108, restore the any white-tailed deer season that runs from Nov. 25-Dec. 15. The original recommendation was to reduce the antlerless opportunity to 6 days, but upon further deliberation and public input from a variety of sources, that recommendation was removed.
- Under early muzzleloader, eastern Washington mule deer:
  - Shift GMU 379 from 3 pt. min. or antlerless to 3 pt. min. Antlerless opportunity was offered in this GMU to mitigate damage complaints. Damage complaints are down and the antlerless harvest is no longer necessary.

***WAC 232-28-358 2012-2014 Elk general seasons and definitions.***

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- Under modern firearm, archery and muzzleloader modify the footnote that pertains to Elk Area 3911 to read as follows:  
\*\* Master Hunters who hunt in Elk Area 3911 may purchase a master hunter, Elk Area 3911, second elk transport tag. Only one (1) **antlerless** elk may be taken from

**Elk Area 3911 unless drawn for an antlerless elk special permit.** Any legal weapon may be used. Master hunter, Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 - October 26, 2012, August 1 - October 25, 2013, and August 1 - October 24, 2014. All hunters participating in the Elk Area 3911 hunt must wear hunter orange.

This change more specifically spells out the recommended rules and restrictions that will apply to Master Hunters participating in this hunt.

- Under modern firearm, eastern Washington:
  - Restore the Dec. 9-31, Master Hunter only hunt in GMUs 127 and 130, but for antlerless elk only. The original recommendation was to eliminate this hunt entirely, but after receiving input from the master hunters the recommendation was changed. The antlerless only hunts recommended are more in keeping with the intent of the master hunter program and dealing with damage issues.
- Under late archery general seasons:
  - For GMUs 101, 105, 108, 117, 121, 204, 124, 127, 373, and 388, change the date to a standardized start date of Nov. 25. This provides a predictable start and end date for this season. The change also eliminates an overlap between archery and modern firearm special permit hunts.
  - For Master Hunters only, Elk Area 3911, antlerless only, change the dates to Nov. 10-Dec. 16 for 2012; Nov. 9-Dec. 15 for 2013; and Nov. 8-Dec. 14 for 2014. This change corrects a typographical error and makes the season consistent with the modern firearm and muzzleloader seasons, as well as continuing the approach used last year.
- Under late muzzleloader general seasons:
  - Shift GMU 204 out of the "any elk" season and move it to the "any bull" season. This change corrects a typographical error and is consistent with the changes made in GMU 204 for modern firearm and archery.
  - For Master Hunters only, Elk Area 3911, antlerless only, change the dates to Nov. 10-Dec. 16 for 2012; Nov. 9-Dec. 15 for 2013; and Nov. 8-Dec. 14 for 2014. This change corrects a typographical error and makes the season consistent with the modern firearm and archery seasons, as well as continuing the approach used last year.

***WAC 232-28-359 2012 Deer special permits.***

**Changes, if any, from the text of the proposed rule and reasons for difference:**

- The following Quality mule deer hunt dates have been changed from Nov. 20-24 to Nov. 10-20: Kelly Hill, Douglas, Aladdin, Selkirk, 49 Degrees North, and Huckleberry. The former date was too late for mule deer. Last year hunters were snowed out and mule deer were not accessible for a quality hunt.
- The following Quality modern firearm special permit hunts have had their permit numbers changed because higher deer numbers allow for more opportunity, or the permit allocation formula calculated different permit numbers from the previous year, or both.

- Dayton, change from 3 to 5 permits.
- Tucannon, change from 1 to 2 permits.
- Sinlahekin, change from 5 to 10 permits.
- Pogue, change from 15 to 20 permits.
- Chiwawa, change from 24 to 28 permits.
- Slide Ridge, change from 9 to 11 permits.
- Ritzville, change from 10 to 12 permits.
- Desert, Oct. 27-Nov 4, change from 15 to 17 permits.
- Desert, Nov. 17-25, change from 4 to 5 permits.
- Naneum, change from Nov. 15 to 14 permits.
- The following Quality modern firearm special permit hunts have had their permit numbers changed because higher deer numbers allow for more opportunity, or the permit allocation formula calculated different permit numbers from the previous year, or both.
  - o Teanaway, change from 15 to 14 permits.
  - o L.T. Murray, change from 2 to 5 permits.
  - o Alkali, change from 5 to 6 permits.
- Under Quality, modern firearm:
  - o Change the date for Green River from Nov. 12-18 to Oct. 27-Nov. 2. The hunting dates for Green River are negotiated between the department, the Muckleshoot Indian Tribe and Tacoma Watershed.
- The following Quality archery special permit hunts have had their permit numbers changed because higher deer numbers allow for more opportunity, or the permit allocation formula calculated different permit numbers from the previous year, or both.
  - Slide Ridge, change from 2 to 3 permits.
  - Desert, change from 20 to 29 permits.
  - Naneum, change from 8 to 6 permits.
  - Quilomene, change from 9 to 6 permits.
  - Teanaway, change from 13 to 9 permits.
- The following Quality muzzleloader special permit hunts have had their permit numbers changed because a change in deer numbers changes the level of opportunity, or the permit allocation formula calculated different permit numbers from the previous year, or both.
  - Chiwawa, change from 2 to 3 permits.
  - Mission, change from 17 to 15 permits.
  - Desert, change from 2 to 3 permits.
  - L. T. Murray, change from 2 to 1 permit.
  - Bald Mountain, change from 10 to 2 permits.
  - Quilomene, change from 3 to 6 permits.
- The following Bucks modern firearm special permit hunt has had its permit number changed because a change in deer numbers changes the level of opportunity, or the permit allocation formula calculated a different permit number from the previous year, or both.
  - o Pogue, change from 15 to 20 permits.
- The following Bucks archery special permit hunt has had its permit number changed because a change in deer numbers changes the level of opportunity, or the permit allocation formula calculated a different permit number from the previous year, or both.
  - Ritzville, change from 5 to 4 permits.
- Under the Bucks archery category, add Whitcomb, Sept. 10-15, 10 permits and Paterson, Sept. 10-15, 10 permits. These opportunities on these two deer areas are alternated between archery and muzzleloaders
  - annually, per an agreement with United States Fish and Wildlife Service (USFWS) who is the primary land manager.
- The following Bucks muzzleloader special permit hunt has had its permit number changed because a change in deer numbers changes the level of opportunity, or the permit allocation formula calculated a different permit number from the previous year, or both.
  - o Ritzville, change from 5 to 1 permit.
- Under the Bucks muzzleloader category, remove Whitcomb, Sept. 10-15, 10 permits and Paterson, Sept. 10-15, 10 permits. These opportunities on these two Deer Areas are alternated between archery and muzzleloaders annually, per an agreement with USFWS who is the primary land manager.
- Under the Antlerless modern firearm category, clarify that the Blue Creek, Dayton, and Marengo hunts are specific to white-tailed deer.
- Under the Antlerless archery category, remove Whitcomb, Sept. 15-23, and Paterson, Sept. 15-23, and add them to the Antlerless [Antlerless] muzzleloader category. These opportunities on these two deer areas are alternated between archery and muzzleloaders annually, per an agreement with USFWS who is the primary land manager. Also, change the number of permits for Whitcomb from 7 to 10 to provide additional opportunity.
- Under the Antlerless muzzleloader category, change the dates on Whitcomb, Sept. 1-9, to Sept. 16-21, and change the permits from 7 to 10. This change was based on landowner input and the need to remove animals more effectively.
- Under the Antlerless muzzleloader category, change the dates on Paterson, Sept. 1-9, to Sept. 16-21. This change was made based on landowner input.
- Under the 2nd Deer modern firearm category, change the date from Jan. 1-20, 2012 to Jan. 1-20, 2013. This change corrects an oversight of the calendar date adjustments.
- Under the 2nd Deer modern firearm category, increase the permits for the following hunts. The increase is needed for population control and to help mitigate damage.
  - o Steptoe, change from 150 permits to 200 permits.
  - o Almota, change from 100 permits to 150 permits.
- Under Youth, modern firearm, clarify that Tucannon, Oct. 13-21, is for white-tailed antlerless deer only.
- Under Youth, modern firearm, change the Green River season dates from Nov. 12-18 to Oct. 27-Nov. 2, and change the legal deer from Any buck to Any deer. The hunting dates for Green River are negotiated between the department, the Muckleshoot Indian Tribe, and Tacoma Watershed. The change to Any deer provides more potential opportunity for Youth.
- Under Youth, modern firearm, change the Skookumchuck, any buck, season dates from Oct. 6-31 to Oct. 6-12. This change corrects a typographical error.
- Under Senior 65+, modern firearm, change the dates on the following two hunts:
  - o Horse Heaven Hills, change from Oct. 15-28, to Oct. 13-26.

- o Kahlotus, change from Oct. 15-23, to Oct. 13-21. These changes correct an oversight of the calendar date adjustments.
- Under Senior 65+, modern firearm, delete the Green River hunt. This hunt is alternated each year between the Senior and Hunters with Disabilities categories.

Green River	Modern	Hunter with Disability	Oct. 27-Nov. 2	Antlerless	GMU 485	5
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- This hunt is alternated each year between the Senior and Hunters with Disabilities categories.
- Under the Master Hunters category:
    - o For Region 1 Central, change from 10<sup>HC</sup> permits to 20<sup>HC</sup> permits.
    - o For Region 1 South, change from 10<sup>HC</sup> permits to 20<sup>HC</sup> permits.
    - o For Region 3, change from Unlimited permits to 20<sup>HC</sup> permits.
    - o Delete the Miller hunt. The removals needed at this location are of a sensitive nature and include a local airport. Region 6 staff determined that using USDA, APHIS, Wildlife Services will be the best approach to dealing with this problem.
    - o For Region 5, change from Unlimited permits to 20<sup>HC</sup> permits.
    - o For Region 6, change from Unlimited permits to 20<sup>HC</sup> permits.

The permit changes address concerns expressed by Master Hunters and Enforcement. The date change corrects an oversight of the calendar date adjustments.

  - Under Hunter Education Instructor Incentive Permits:
    - o Reinstate a Region 2 hunt, providing 2 permits for any white-tailed deer in GMUs 204-215. This hunt was dropped in error.

#### ***WAC 232-28-360 2012 Elk special permits.***

#### **Changes, if any, from the text of the proposed rule and reasons for difference:**

- Under the Quality category:
  - o Remove the CPWMA hunt. This hunt appears in the Landowner Hunting Permit WAC and does not need to be in the special permit WAC.
  - o Change the date for Prescott from Sept. 21-24 to Sept. 24-28. This change avoids an overlap between modern firearm and archery seasons.
  - o Change the number of permits for Prescott, Oct. 22-Nov. 4, from 2 permits to 4 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the date for Blue Creek from Sept. 21-25 to Sept. 24-28. This change avoids an overlap between modern firearm and archery seasons.
  - o Change the number of permits for Blue Creek, Oct. 22-Nov. 4, from 6 permits to 5 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Under the Quality modern firearm category:
  - Change the number of permits for Dayton, Oct. 22-Nov. 4, from 17 permits to 26 permits. This change

- Under Hunters with Disabilities, modern firearm, change the dates on the following hunt:
  - o Horse Heaven Hills, change from Oct. 15-28 to Oct. 13-26.
- Under Hunters with Disabilities, add the following hunt:

is the result of allocating special permits to the three primary user groups using the permit allocation formula.

- Change the date for Ten Ten from Sept. 21-24 to Sept. 24-28. This change avoids an overlap between modern firearm and archery seasons.
- Change the number of permits for Ten Ten, Oct. 22-Nov. 4, from 14 permits to 12 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Tucannon, Oct. 22-Nov. 4, from 13 permits to 14 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Wenaha West, Oct. 22-Nov. 4, from 13 permits to 15 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Wenaha East, Oct. 22-Nov. 4, from 16 permits to 21 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Mountain View, Oct. 22-Nov. 4, from 13 permits to 20 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Lick Creek, Oct. 22-Nov. 4, from 4 permits to 10 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the date for Peola from Sept. 21-24 to Sept. 24-28. This change avoids an overlap between modern firearm and archery seasons.
- Change the number of permits for Peola, Oct. 22-Nov. 4, from 1 permit to 2 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Couse, Oct. 22-Nov. 4, from 2 permits to 3 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
- Change the number of permits for Colockum, Oct. 22-Nov. 4, from 2 permits to 7 permits. This change is the result of allocating special permits to the three

- primary user groups using the permit allocation formula.
- Add GMU 335 to Colockum, Sept. 24-28. This change would make the GMUs open on the September rifle hunt consistent with the other Colockum special permit hunts.
  - Change the number of permits for Little Naches, Oct. 1-10, from 7 permits to 10 permits. This change is the result of more bulls available for harvest based on the February aerial surveys.
  - Move the two modern firearm Margaret hunts from the Quality category to the Bulls category. Because of private land access issues, these hunts no longer meet the criteria for Quality.
  - Change the number of permits for Toutle, Nov. 3-14, from 209 permits to 129 permits. This change is intended to reduce overcrowding during the quality hunt, but still maintain the level of harvest in 2010.
  - Under the Quality archery category:
    - Change the number of permits for Blue Creek, Sept. 1-19, from 4 permits to 3 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Dayton, Sept. 1-19, from 7 permits to 14 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Ten Ten, Sept. 1-19, from 7 permits to 8 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Tucannon, Sept. 1-19, from 7 permits to 8 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Wenaha West, Sept. 1-19, from 4 permits to 5 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Wenaha East, Sept. 1-19, from 6 permits to 11 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Mountain View, Sept. 1-19, from 8 permits to 11 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Lick Creek, Sept. 1-19, from 3 permits to 11 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Colockum, Sept. 4-16, from 2 permits to 6 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Peaches Ridge, Sept. 4-16, from 81 permits to 101 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Observatory, Sept. 4-16, from 89 permits to 130 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Goose Prairie, Sept. 4-16, from 70 permits to 65 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Bethel, Sept. 4-16, from 25 permits to 29 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Rimrock, Sept. 4-16, from 85 permits to 97 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Change the number of permits for Cowiche, Sept. 4-16, from 11 permits to 19 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Reinstate the Klickitat Meadows, Oct. 11-21, hunt with 1 permit. Region 3 anticipated removing this hunt but upon further deliberation, changed their position.
  - Move the archery Margaret hunt from the Quality category to the Bulls category. Because of private land access issues this hunt no longer meets the criteria of Quality. Change the number of permits for Margaret, Sept. 8-23 and Dec. 1-15, from 23 permits to 29 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula, and at the same time, keeping hunter crowding down.
  - Change the number of permits for Toutle, Sept. 8-23 and Dec. 1-15, from 124 permits to 80 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula, and at the same time, keeping hunter crowding down.
  - Under the Quality muzzleloader category:
    - Change the number of permits for Blue Creek, Oct. 1-12, from 2 permits to 1 permit. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Dayton, Oct. 1-12, from 3 permits to 5 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.

- mary user groups using the permit allocation formula.
- o Change the number of permits for Ten Ten, Oct. 1-12, from 3 permits to 6 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Wenaha West, Oct. 1-12, from 2 permits to 3 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Wenaha East, Oct. 1-12, from 2 permits to 3 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Mountain View West, Oct. 1-12, from 4 permits to 8 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Lick Creek, Oct. 1-12, from 1 permit to 2 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Peaches Ridge, Oct. 1-10, from 20 permits to 26 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Observatory, Oct. 1-10, from 17 permits to 21 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Goose Prairie, Oct. 1-10, from 13 permits to 15 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Bethel, Oct. 1-10, from 13 permits to 14 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Rimrock, Oct. 1-10, from 17 permits to 13 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Change the number of permits for Cowiche, Oct. 1-10, from 6 permits to 10 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - o Reinstate the Klickitat Meadows, Oct. 1-10, hunt with 1 permit. Region 3 anticipated removing this hunt but upon further deliberation, changed their position.
  - o Move the muzzleloader Margaret hunt to the Bulls category. Because of private land access issues this hunt no longer meets the criteria for Quality. Change the number of permits for Margaret, Oct. 6-12, from 13 permits to 14 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula, and at the same time, keeping hunter crowding down.
  - o Change the number of permits for Toutle, Oct. 6-12, from 46 permits to 28 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula, and at the same time, keeping hunter crowding down.
- Under the Bull modern firearm category:
    - o Change the number of permits for Teanaway, Dec. 17-31, from 8 permits to 10 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for Observatory, Oct. 22-Nov. 4, from 63 permits to 64 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for Goose Prairie, Oct. 22-Nov. 4, from 77 permits to 74 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for Bethel, Oct. 22-Nov. 4, from 61 permits to 63 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for Rimrock, Oct. 22-Nov. 4, from 114 permits to 120 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for Cowiche, Oct. 22-Nov. 4, from 17 permits to 22 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Reinstate the Klickitat Meadows, Oct. 22-Nov. 4, hunt with 1 permit. Region 3 anticipated removing this hunt, but upon further deliberation, changed their position.
    - o Remove Alkali, Oct. 13-Nov. 2, Any elk, 20 permits. This hunt was converted to an antlerless only hunt.
    - o Change the number of permits for Olympic, Nov. 3-14, from 14 permits to 20 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - o Change the number of permits for White River, Nov. 3-14, from 30 permits to 24 permits. This change is the result of allocating special permits to the three

- primary user groups using the permit allocation formula.
- Under the Bulls, archery category:
    - Change the number of permits for Teanaway, Nov. 21-Dec. 8, from 10 permits to 8 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
    - Change the number of permits for Skokomish, Sept. 4-16, from 1 permit to 2 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Under Bulls, muzzleloader category:
    - Change the number of permits for Teanaway, Dec. 9-16, from 6 permits to 16 permits. This change is the result of allocating special permits to the three primary user groups using the permit allocation formula.
  - Under Antlerless, modern firearm category:
    - Add North Half, Oct. 22-Nov. 4, 10 permits. This new hunt is designed to provide limited antlerless opportunity to replace general season either sex opportunity.
    - Add Stevens, Oct. 22-Nov. 4, 10 permits. This new hunt is designed to provide limited antlerless opportunity to replace general season either sex opportunity.
    - Change the first Prescott hunt, Oct. 13-21, to Blue Creek, GMU 154. This corrects an error and prevents duplication of another hunt.
    - For Marengo-Dayton, Oct. 27-Nov. 4, change the Elk Area from 1011 to 1010. This change corrects a typographical error.
    - Change the number of permits for Teanaway, Dec. 17-31, from 50 permits to 30 permits. This change is in response to decreasing antlerless elk available for harvest.
    - Change the number of permits for Taneum, Oct. 31-Nov. 4, from 150 permits to 200 permits. This change is in response to increasing antlerless elk available for harvest.
    - Change the number of permits for Manastash, Oct. 31-Nov. 4, from 250 permits to 275 permits. This change is in response to increasing antlerless elk available for harvest.
    - Change the number of permits for Umtanum, Oct. 31-Nov. 4, from 200 permits to 250 permits. This change is in response to increasing antlerless elk available for harvest.
    - Change the number of permits for Little Naches, Oct. 31-Nov. 4, from 150 permits to 250 permits. This change is in response to increasing antlerless elk available for harvest.
    - Change the number of permits for Nile, Oct. 31-Nov. 4, from 5 permits to 20 permits. This change is in response to increasing antlerless elk available for harvest.
    - Change the number of permits for Bumping, Oct. 31-Nov. 4, from 5 permits to 25 permits. This
  - Under Antlerless, archery category:
    - Add Colockum, Sept. 4-16, 50 antlerless permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Add Nile, Sept. 4-16, 50 antlerless permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Add Bumping, Sept. 4-16, 50 antlerless permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Reinstate the Klickitat Meadows, Oct. 31-Nov. 4, hunt with 5 antlerless permits. Region 3 anticipated removing this hunt but upon further deliberation, changed their position.
  - Under Antlerless muzzleloader category:
    - Add North Half, Oct. 1-7, 10 permits. This new hunt is designed to provide limited antlerless opportunity to replace general season either sex opportunity.
    - Add Stevens, Oct. 1-7, 10 permits. This new hunt is designed to provide limited antlerless opportunity to replace general season either sex opportunity.
    - Change the number of permits for Nile, Oct. 6-12, from 5 permits to 20 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Change the number of permits for Bumping, Oct. 6-12, from 5 permits to 30 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Change the number of permits for Bethel, Oct. 6-12, from 5 permits to 20 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - Change the number of permits for Cowiche, Oct. 6-12, from 200 permits to 250 permits. This change is in response to an increasing number of antlerless elk available for harvest.

- o Change the number of permits for Teanaway, Dec. 9-16, from 6 permits to 10 permits. This change is in response to an increasing number of antlerless elk available for harvest.
  - o Reinstate the Klickitat Meadows, Oct. 1-10, hunt with 5 antlerless permits. Region 3 anticipated removing this hunt, but upon further deliberation, changed their position.
  - o Change the dates for Ceweeman from Nov. 21-Dec. 30 to Nov. 21-Dec. 15. This change corrects a typographical error.
  - Under the Youth category:
    - o Change the dates for Dungeness from Nov. 1-Dec. 31 to Oct. 1-Dec. 31. More time was recommended for this hunt by Region 6 to better accommodate elk movements and elk distribution.
  - Under the 65+ Senior category:
    - o Change the number of permits for Taneum, Oct. 31-Nov. 11, from 15 permits to 25 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - o Change the number of permits for Manastash, Oct. 31-Nov. 11, from 20 permits to 25 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - o Change the number of permits for Umtanum, Oct. 31-Nov. 11, from 20 permits to 25 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - o Change the number of permits for Cowiche, Oct. 31-Nov. 11, from 15 permits to 25 permits. This change is in response to an increasing number of antlerless elk available for harvest.
    - o Change the date on Centralia Mine from Oct. 20-21 to Jan. 5-6, 2013, and change the number of permits from 3 permits to 4 permits. These changes are negotiated each year with the mining facility.
    - o Change the date on Centralia Mine from Oct. 27-28 to Jan. 12-13, 2013, and change the number of permits from 3 permits to 4 permits. These changes are negotiated each year with the mining facility.
  - Under the Hunters with Disabilities category:
    - o Change the permits for Centralia Mine, Oct. 6-7, from 3 permits to 4 permits. These changes are negotiated each year with the mining facility.
    - o Change the permits for Centralia Mine, Oct. 13-14, from 3 permits to 4 permits. These changes are negotiated each year with the mining facility.
  - Under the Master Hunter category:
    - o For Region 3, change the number of permits from 20<sup>HC</sup> to 75<sup>HC</sup>. These permits will potentially be used for Master Hunter Antlerless hunts on the Arid Lands Ecology Reserve (Hanford). The USFS has not finalized their decision on whether a hunting opportunity would be allowed on Harford [Hanford] this fall. That decision is likely to come after the fish and wildlife commission establishes regulations for the 2012 seasons. Previously, the number of permits for this hunt was changed from Unlimited<sup>HC</sup> (as reflected on the CR-102) to 20<sup>HC</sup>. That change was intended to address concerns expressed by master hunters and enforcement.
    - o Reinstate North Bend, 2<sup>nd</sup> tag, Aug. 15-March 31, 25 permits. This hunt was reinstated when the decision was made to not use an unlimited pool of hunters for Region 4.
    - o Reinstate Skagit River, 2<sup>nd</sup> tag, Aug. 15-March 31, 15 permits. This hunt was reinstated when the decision was made to not use an unlimited pool of hunters for Region 4.
    - o For Region 4 North, change the number of permits from Unlimited<sup>HC</sup> to 20<sup>HC</sup>. This change addresses concerns expressed by master hunters and enforcement.
    - o For Region 4 South, change the number of permits from Unlimited<sup>HC</sup> to 10<sup>HC</sup>. This change addresses concerns expressed by master hunters and enforcement.
    - o For Region 5, change the "weapon/tag" designation to Any western elk tag/2<sup>nd</sup> tag, and change the permits from 20<sup>HC</sup> permits to 40<sup>HC</sup> permits. This change gives Region 5 more flexibility when using this tool to mitigate damage.
    - o For Region 6, change the permits from 10<sup>HC</sup> to 50<sup>HC</sup>. This change gives Region 5 more flexibility when using this tool to mitigate damage.
- 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 6, Amended 8, Repealed 7.
- 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: April 14, 2012.
- Miranda Wecker, Chair  
Fish and Wildlife Commission
- AMENDATORY SECTION** (Amending Order 10-94, filed 4/30/10, effective 5/31/10)
- WAC 232-12-047 Unlawful methods for hunting.** (1) It is unlawful to hunt any big game with:
  - (a) A fully automatic firearm.
  - (b) A centerfire cartridge less than 22 caliber for cougar.
  - (c) A centerfire cartridge less than 24 caliber for any other big game.
  - (d) A shotgun, provided that a 20 gauge, or larger shotgun, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer, bear, and cougar.
  - (e) A shotgun for any other big game, except that a 12 gauge or 10 gauge shotgun using slugs may be used.

(f) A handgun during a modern firearm season that does not meet the following criteria: Have a minimum barrel length of four inches, per manufacturer's specification, and fire a centerfire cartridge.

(g) Any rimfire cartridge.

(2) It is unlawful to hunt game birds with a shotgun capable of holding more than three shells.

(3) It is unlawful to hunt game birds or game animals, except bullfrogs, in a manner other than with a firearm, a bow and arrow, or by falconry, except in those designated areas where crossbows are allowed.

(4) Rules pertaining to crossbows:

(a) It is unlawful to hunt big game animals with a crossbow with a draw weight less than 125 pounds((, a limb width less than 24 inches, a draw length less than 14 inches;)) and a trigger safety that does not work properly.

(b) It is unlawful to hunt big game animals with any arrow or bolt ((measuring less than 16 inches in length and)) weighing less than 350 grains.

(c) ((It is unlawful to hunt game animals or game birds with a crossbow that weighs more than 15 pounds:)

((d))) It is unlawful to hunt big game animals with any arrow or bolt that does not have a sharp broadhead and the broadhead blade or blades are less than seven-eighths inch wide.

((e))) (d) It is unlawful to hunt big game animals with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width and forming a smooth line toward the feather end of the shaft, and such line does not angle toward the point.

((f))) (e) It is unlawful to hunt big game animals with a retractable broadhead.

(5) Hunters with disabilities may also use a crossbow during archery seasons with a special use permit as conditioned in WAC 232-12-054.

(6) It is unlawful to hunt game animals or game birds with a shotgun larger than 10 gauge.

(7) It is unlawful to hunt game birds with a rifle or handgun, with the exception of blue grouse, spruce grouse and ruffed grouse.

(8) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

#### AMENDATORY SECTION (Amending Order 10-94, filed 4/30/10, effective 5/31/10)

#### **WAC 232-12-054 Archery requirements—Archery special use permits.** (1) Rules pertaining to all archery hunting seasons:

(a) It is unlawful for any person to carry or have in his possession any firearm while in the field archery hunting, during an archery season specified for that area, except for modern handguns carried for personal protection. Modern handguns cannot be used to hunt big game or dispatch wounded big game during an archery, big game hunting season.

(b) It is unlawful to have any electrical equipment or electric device(s) attached to the bow or arrow while hunting.

(c) It is unlawful to shoot a bow and arrow from a vehicle or from, across, or along the maintained portion of a public highway, except that persons with a disabled hunter permit may shoot from a vehicle if the hunter is in compliance with WAC 232-12-828.

(d) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position, except that persons with an archery special use permit may hunt game birds or game animals using a device that stabilizes and holds a long bow, recurve bow, or compound bow at a full draw, and may use a mechanical or electrical release.

(e) It is unlawful to hunt wildlife with a crossbow during an archery season. However, disabled hunter permittees in possession of a crossbow special use permit may hunt with a crossbow in any season that allows archery equipment.

(f) It is unlawful to hunt big game animals with any arrow or bolt that does not have a sharp broadhead, and the broadhead blade or blades are less than seven-eighths inch wide.

(g) It is unlawful to hunt big game animals with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width and forming a smooth line toward the feather end of the shaft, and such line does not angle toward the point.

(h) It is unlawful to hunt big game animals with a retractable broadhead.

(i) It is unlawful to hunt wildlife with any bow ((or crossbow)) equipped with a scope. However, hunters with disabilities who meet the definition of being visually impaired in WAC 232-12-828 may receive a special use permit that would allow the use of scopes or other visual aids. A disabled hunter permit holder in possession of a special use permit that allows the use of a scope or visual aid may hunt game birds or game animals during archery seasons.

(2) Rules pertaining to long bow, recurve bow and compound bow archery:

(a) It is unlawful for any person to hunt big game animals with a bow that does not produce a minimum of 40 pounds of pull measured at twenty-eight inches or ((less)) at full draw ((length)).

(b) It is unlawful to hunt big game animals with any arrow measuring less than 20 inches in length or weighing less than 6 grains per pound of draw weight with a minimum arrow weight of 300 grains.

(3) Archery special use permits:

(a) An archery special use permit is available to a person who possesses a valid disabled hunter permit. An archery special use permit application must be signed by a physician stating that the person's disability is permanent and the person has a loss of use of one or both upper extremities, has a significant limitation in the use of an upper extremity, or has a permanent physical limitation, which loss or limitation substantially impairs the ability to safely hold, grasp, or shoot a long bow, recurve bow or compound bow. The loss or limitation may be the result of, but not limited to, amputation, paralysis, diagnosed disease, or birth defect. The approved archery special use permit must be in the physical possession of the person while using adaptive archery equipment as

described in subsection (1)(d) of this section to hunt game birds or game animals.

(b) A crossbow special use permit is available to a person who meets the requirements for an archery special use permit and is unable to use adaptive archery equipment. Adaptive equipment includes, but is not limited to: Cocking devices that hold the bow at full draw; trigger mechanisms that may be released by mouth, or chin, or hand supporting the bow; and devices that assist in supporting the bow. Information describing types of adaptive equipment will be provided to physicians for their assessment of the applicant's ability to utilize adaptive archery equipment. Muscle weakness, impaired range of motion, or unilateral hand weakness disability, of both hands or both arms or both sides of the upper extremity, may result in an inability to use adaptive archery equipment. Standard tests approved by the American Medical Association may be conducted to assess a person's abilities.

(4) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

#### AMENDATORY SECTION (Amending WSR 11-19-074, filed 9/16/11, effective 10/17/11)

#### **WAC 232-12-243 Public safety cougar ((management)) removals.** (1) Definitions:

As used in this section and in the context of public safety cougar ((management)) removals, the following definitions apply:

(a) "Confirmed" means qualified department staff is led to believe a cougar(s) was at the scene of the incident by interview of the complainant or observation of evidence at the scene.

(b) "Human-cougar safety incident" means aggressive or unusual behavior by a cougar which presents an actual or perceived threat to an individual.

(c) "Livestock or pet depredation" means incidents where livestock and/or pets are killed and/or injured by cougar.

(d) "Nuisance activity" means incidents associated with property disturbance, property damage, or livestock/pet harassment.

(e) "Public safety need" means there exists a reasonable threat to human safety or property by one or more cougar, as indicated by the level of confirmed human-cougar safety incidents or livestock/pet depredations((~~-and confirmed cougar sightings or nuisance activities~~)).

(f) "Removal" means the act of killing one or more cougar with the aid of dogs.

(g) "Sighting" means a confirmed direct observation of one or more cougar, in urban or rural settings, near individuals or residences; typically more than chance observations.

(h) "Human-cougar interaction" means a confirmed human-cougar safety incident, or confirmed livestock or pet depredation((~~-confirmed cougar nuisance activity, or confirmed cougar sighting event~~)).

(i) "Dog hunter" means a person that owns and hunts with dogs that are capable of detecting, tracking and treeing a cougar.

(2) Public safety cougar ((management)) removal authorization: The commission authorizes the director to issue public safety cougar ((management)) removal permits consistent with this rule. Prior to issuing public safety cougar ((management)) removal permits, the department shall use other practical alternatives to address a public safety need, including livestock or pet depredations. Other practical alternatives may include, but are not limited to, general cougar hunting seasons, general public information, educational programs, information to recreational hunters, cougar depredation/kill permits, and department capture and relocation/euthanasia of specific cougars.

(3) Public safety cougar ((management)) removal criteria:

(a) The commission determines that when the above practical alternatives have been utilized within a game management unit, an annual or seasonal increase in confirmed human-cougar interactions above the 2005-2010 level, therein demonstrates that the practical alternatives have been inadequate to address the public safety need. The director then is authorized by the commission to remove one or more cougar, with the aid of dogs, in a selected area of that game management unit or nearby geographic area suitable for the use of dogs. The commission authorizes the director to remove one cougar per three hundred square kilometers of complaint area.

(b) If warranted by conditions of this rule, a public safety cougar ((management)) removal(s) will be conducted annually between December 1st and March 31st in selected areas of game management units designated by the director to address a public safety need presented by one or more cougar.

(c) The department shall not target more than one hundred nine cougar during a public safety cougar ((management)) removal period unless otherwise authorized by the commission.

(4) Public safety cougar ((management)) removal permit issuance procedure.

(a) To participate in a public safety cougar ((management)) removal, individuals must request that his/her name be placed on a list of available participants (participant list) by mailing their request to Washington Department of Fish and Wildlife, Enforcement Program - Public Safety Cougar ((Management)) Removal, 600 Capitol Way North, Olympia, WA 98501-1091. The request must include the individual's name, address, phone number, and game management units being applied for. Individuals may apply for no more than four game management units. An individual's request to be placed on a participant list for a removal period must be postmarked no later than October 15, or be received at the department's Olympia office no later than 5:00 p.m. on October 15, during the year the removal period begins.

(b) To be eligible for a public safety cougar ((management)) removal permit (permit), the participant must be a Washington resident dog hunter who, at the time of application for a permit, possesses a valid big game license with cougar as a species option. The permit holder must use dogs while participating in a cougar management removal.

(c) Individuals eligible for participation in a public safety cougar ((management)) removal will be randomly selected

from the participant list. The department will issue a permit to the person whose name is selected from the participant list. Individuals selected will be notified by telephone or mail. Individuals selected must contact the department's enforcement program in Olympia and accept the public safety cougar ((management)) removal permit within fifteen days of being notified. Failure to contact the department will result in forfeiture of the permit and the individual will be placed on the participant list for later selections. Permits may not be sold or reassigned.

(d) Permit holders and all individuals who will accompany the permit holder must complete the department's public safety cougar ((management)) removal education course prior to participating in a public safety cougar ((management)) removal.

(5) Public safety cougar ((management)) removals: Quota system and participation in public safety cougar removal.

(a) This is a ((management)) public safety cougar removal administrated by a WDFW designated coordinator. Permit holders will be contacted on an as-needed basis to conduct removals in portions of GMUs. Not all permit hunters will be contacted in a given year.

(b) Public safety cougar removals will be based on a quota system, where permit holders may hunt cougar until the allotted numbers of cougar have been killed from each game management unit or March 31, whichever is first.

(c) To verify if the public safety cougar removal season is open or closed in each game management unit, the permit holders shall notify the department's enforcement program in Olympia within twenty-four hours prior to exercising a public safety cougar ((management)) removal permit.

(d) No more than four total individuals may participate per public safety cougar ((management)) removal, including the permit holder(s). Only the permit holder, whose name appears on the permit, may take a cougar.

(e) Hunters killing a cougar during a public safety cougar ((management)) removal must notify the department's enforcement program in Olympia within twenty-four hours after harvesting the cougar.

(f) The department reserves the right to accompany permit holders while participating in a public safety cougar ((management)) removal.

(6) Public safety cougar ((management)) removal general requirements.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens. Individuals selected for a public safety cougar ((management)) removal permit may take one cougar per permit.

(c) Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting cougar. The use of dogs to hunt cougar is prohibited except during a public safety cougar ((management)) removal.

(d) Any person who takes a cougar must notify the department within twenty-four hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within sev-

enty-two hours of the notification of kill. Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(e) The public safety cougar ((management)) removal permit (permit) belongs to the state of Washington. The permit holder may be required to return to or turn over to the department the permit when, in the judgment of the department, the permit holder violates any conditions of the permit, violates trespass laws while acting under this permit, or violates any other criminal law or hunting regulation of the state while acting under this permit. If the permit holder is required to return to or turn over to the department the permit, the permit holder may request an appeal of that action in accordance with chapter 34.05 RCW. Appeal request shall be filed in writing and returned within twenty days of the date of action and be addressed to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.

#### AMENDATORY SECTION (Amending Order 99-118, filed 8/11/99, effective 9/11/99)

#### **WAC 232-12-264 Baiting of game birds—Unlawful.**

It is unlawful to hunt game birds by the aid of baiting, ((or in a)) on or over any baited area, or on or over any area posted as an upland bird feeding site, where a person knows or reasonably should know that the area is or has been baited. As used in this section, the following definitions apply:

"Baited area" means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

"Baiting" ((or "baited area")) means the direct or indirect placing, exposing, depositing, distributing or scattering of ((corn, wheat or other)) salt, grain, or other feed ((so as to constitute for such birds)) that could serve as a lure or attraction for game birds to, on or over areas where hunters are attempting to take them. ((Any such area will remain a baited area for ten days following the complete removal of all such grain or other feed.))

"Manipulation" means the alteration of natural vegetation or agricultural crops by activities that include, but are not limited to, mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. The term manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

"Natural vegetation" means any nonagricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. The term natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered natural vegetation.

"Normal agricultural operation" means a normal agricultural planting, harvesting, post-harvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the

Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal agricultural planting, harvesting, or post-harvest manipulation" means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal soil stabilization practice" means a planting for agricultural soil erosion control or postmining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture for agricultural soil erosion control.

Nothing in this section shall ((not)) prohibit hunting of game birds((;)) on or over the following lands or areas that are not otherwise baited areas:

(1) Standing crops, or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested crop lands((, grain crops properly harvested on the field where grown)); or lands or areas where seeds or grains ((found)) have been scattered solely as the result of normal agricultural planting ((or)), harvesting, post-harvest manipulation, or normal soil stabilization practice;

(2) From a blind or other place of concealment camouflaged with natural vegetation;

(3) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(4) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

Nothing in this section shall prohibit hunting of any game bird, except waterfowl and coots, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

AMENDATORY SECTION (Amending Order 11-86, filed 5/6/11, effective 6/6/11)

**WAC 232-28-273 ((2009-2011)) 2012-2014 Moose, bighorn sheep, and mountain goat seasons and permit quotas.** It is unlawful to fail to comply with the provisions of this section. A violation of species, sex, size, number, area, season, or eligibility requirements is punishable under RCW 77.15.410.

**(1) Moose Permit Hunts**

**Who May Apply:** Anyone may apply, EXCEPT those who harvested a moose previously in Washington state. An individual may only harvest one moose during their lifetime (except waived for antlerless only hunts, master hunter hunts, and raffle and auction hunts).

**Bag Limit:** One moose.

**Weapon Restrictions:** Permit holders may use any legal weapon.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	Permits
Kettle Range/East Okanogan	Oct. 1 - Nov. 30	GMUs 101, 105, 204	Any Moose	((8)) <u>10</u>
Selkirk Mtns. A	Oct. 1 - Nov. 30	GMU 113	Any Moose	((+7)) <u>15</u>
Selkirk Mtns. B <sup>d</sup>	Oct. 1 - Nov. 30	GMU 113	Antlerless Only	2
Mt. Spokane <u>South</u> A	Oct. 1 - Nov. 30	((GMU 124 east of Hwy 395)) <u>Moose Area 1</u>	Any Moose	((+2)) <u>8</u>
Mt. Spokane <u>South</u> B	Oct. 1 - Nov. 30	((GMU 124 east of Hwy 395)) <u>Moose Area 1</u>	Antlerless Only	((+4)) <u>8</u>
<u>Mt. Spokane North A</u>	<u>Oct. 1 - Nov. 30</u>	<u>Moose Area 2</u>	<u>Any Moose</u>	<u>8</u>
<u>Mt. Spokane North B</u>	<u>Oct. 1 - Nov. 30</u>	<u>Moose Area 2</u>	<u>Antlerless Only</u>	<u>7</u>
<u>Mt. Spokane North C<sup>b</sup></u>	<u>Oct. 1 - Nov. 30</u>	<u>Moose Area 2</u>	<u>Antlerless Only</u>	<u>1</u>
Mt. Spokane <sup>HC</sup>	Dec. 1 - Mar. 31	GMUs 124, 127, and 130 within Spokane County	Antlerless Only	20 <sup>HC</sup>
Mt. Spokane <u>South - Youth Only<sup>a</sup></u>	Oct. 1 - Nov. 30	((GMU 124 east of Hwy 395)) <u>Moose Area 1</u>	Antlerless Only	((+0)) <u>8</u>
<u>Mt. Spokane North - Youth Only<sup>a</sup></u>	<u>Oct. 1 - Nov. 30</u>	<u>Moose Area 2</u>	<u>Antlerless Only</u>	<u>8</u>
49 Degrees North A	Oct. 1 - Nov. 30	GMU 117	Any Moose	((22)) <u>21</u>
49 Degrees North B <sup>b</sup>	Oct. 1 - Nov. 30	GMU 117	Antlerless Only	3
49 Degrees North C <sup>c</sup>	Oct. 1 - Nov. 30	GMU 117	Antlerless Only	2
49 Degrees North Youth Only <sup>a</sup>	Oct. 1 - Nov. 30	GMU 117	Antlerless Only	2

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	Permits
Three Forks	Oct. 1 - Nov. 30	GMUs 108, 111	Any Moose	6
Hangman A	Oct. 1 - Nov. 30	GMUs 127, 130	Any Moose	7
Hangman B	Oct. 1 - Nov. 30	GMUs 127, 130	Antlerless Only	7
Huckleberry Range A	Oct. 1 - Nov. 30	GMUs 121, 124 west of Hwy 395	Any Moose	((6)) 7
Huckleberry Range B <sup>c</sup>	Oct. 1 - Nov. 30	GMUs 121, 124 west of Hwy 395	Antlerless Only	2

<sup>a</sup>Applicants must be eligible to purchase a youth moose permit application. Youth hunters must be accompanied by an adult during the hunt.

<sup>b</sup>Applicants must possess a Disabled Hunter Permit.

<sup>c</sup>Applicants must be eligible to purchase a 65 years of age or older permit application.

<sup>d</sup>Applicants must be a certified hunter education instructor who meets program-defined eligibility criteria.

<sup>hC</sup>This is a damage hunt administered by a WDFW designated hunt coordinator. Only master hunters may apply, and any weapon may be used. Successful applicants will be contacted on an as-needed basis to help with specific sites of nuisance moose activity in designated areas. Not all successful applicants will be contacted in any given year.

#### Moose Areas:

##### Moose Area 1: South Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, N on Hwy 395 to Deer Park-Milan Rd, E on Deer Park-Milan Rd to Hwy 2, N on Hwy 2 to Idaho-Washington state line, S on Idaho-Washington state line to Blanchard Rd and the point of beginning.

Idaho-Washington state line, N on Idaho-Washington state line to Blanchard Rd and the point of beginning.

##### Moose Area 2: North Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, N on Hwy 395 to Deer Park-Milan Rd, E on Deer Park-Milan Rd to Hwy 2, N on Hwy 2 to Idaho-Washington state line, S on Idaho-Washington state line to Blanchard Rd and the point of beginning.

#### (2) Bighorn Sheep Permit Hunts

**Who May Apply:** Anyone may apply, EXCEPT those who harvested a bighorn sheep previously in Washington state. An individual may only harvest one bighorn sheep during their lifetime (except waived for raffle and auction hunts, and ewe only hunts).

**Bag Limit:** One bighorn ram (except in designated adult ewe hunts, one bighorn adult ewe).

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	Permits
Vulcan Mountain ((A))	Sept. 15 - Oct. 10	Sheep Unit 2	Any Legal Weapon	1
((Vulcan Mountain B*))	Oct. 1-10	Sheep Unit 2	Adult ewe only Any Legal Weapon	((4)) 1
Selah Butte	Nov. ((7)) 5-30	Sheep Unit 4	Any Legal Weapon	((4)) 3
Umtanum	Sept. 15 - Oct. 10	Sheep Unit 5	Any Legal Weapon	((4)) 2
Cleman Mountain A	Sept. 15 - Oct. 10	Sheep Unit 7	Any Legal Weapon	((3)) 6
Cleman Mountain B	Nov. ((7)) 5-30	Sheep Unit 7	Any Legal Weapon	((3)) 6
Mt. Hull A	Sept. 15 - Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Mt. Hull B	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1
Mt. Hull C <sup>b</sup>	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1
Lincoln Cliffs	Sept. 15 - Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene	Sept. 15 - Oct. 10	Sheep Unit 13	Any Legal Weapon	((4)) 3
Swakane	Sept. 15 - Oct. 10	Sheep Unit 14	Any Legal Weapon	1
Tieton A	Sept. 15 - 30	Sheep Unit 15	Any Legal Weapon	((5)) 3
Tieton B	((Oct. 1-14)) Nov. 5-30	Sheep Unit 15	Any Legal Weapon	((5)) 3
Manson	Nov. ((7)) 5-30	Sheep Unit 16	Any Legal Weapon	2
Asotin	Sept. 15 - Oct. 10	Sheep Unit 17	Any Legal Weapon	2

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	Permits
Chelan Butte	Sept. 15 - Oct. 10	Sheep Unit 18	Any Legal Weapon	1
Sinlahekin	Sept. 15 - Oct. 10	Sheep Unit 19	Any Legal Weapon	1

<sup>a</sup>Applicants must be eligible to purchase a 65 years of age or older permit application.

<sup>b</sup>Applicants must be eligible to purchase a youth bighorn sheep permit application. Youth hunters must be accompanied by an adult during the hunt.

#### **Bighorn Sheep Units:**

**Sheep Unit 2 Vulcan Mountain:** Permit Area: Ferry County north of the Kettle River near Curlew.

**Sheep Unit 4 Selah Butte:** Permit Area: That part of Yakima and Kittitas counties between Ellensburg and Yakima east of the Yakima River and north of Selah Creek, west of Interstate 82 and south of Interstate 90.

**Sheep Unit 5 Umtanum:** Permit Area: Those portions of Yakima and Kittitas counties west of the Yakima River, north of Wenas Creek, and east of USFS Road 1701 to Manastash Lake and its drainage; south and east along the South Fork Manastash Creek to Manastash Creek and the Yakima River.

**Sheep Unit 7 Cleman Mountain:** Permit Area: That part of Yakima County south of Wenas Creek and east of USFS Road 1701, north of Highway 410 and Highway 12 and west of the Yakima River.

**Sheep Unit 10 Mt. Hull:** Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

**Sheep Unit 11 Wenaha Wilderness:** Permit Area: That part of GMU 169 within Crooked Creek drainage.

**Sheep Unit 12 Lincoln Cliffs:** Permit Area: That part of Lincoln County north of Highway 2.

**Sheep Unit 13 Quilomene:** Permit Area: GMUs 329, 330, and 251 south of Colockum Creek.

**Sheep Unit 14 Swakane:** Permit Area: GMU 250.

**Sheep Unit 15 Tieton:** Permit Area: GMU 360.

**Sheep Unit 16 Manson:** Permit Area: Beginning at the mouth of Granite Falls Creek on the south shore of Lake Chelan, E across Lake Chelan to Willow Point; NW along the shoreline of Lake Chelan to the mouth of Stink Creek; E along Stink Creek to the intersection with Green's Landing Road; along Green's Landing Road to Manson Boulevard; E on Manson Boulevard to Lower Joe Creek Road; NE on Lower Joe Creek Road to Grade Creek Road; NE on Grade Creek Road to US Forest Service Road 8210; NE on US Forest Service Road 8210 to intersection with US Forest Service Road 8020; W on US Forest Service Road 8020 to Fox Peak; NW along Sawtooth Ridge (Chelan-Okanogan County Line)

to the Lake Chelan National Recreation Area boundary; S along the Lake Chelan National Recreation Area boundary to shore line of Lake Chelan; W across Lake Chelan to the mouth of Riddle Creek on the South Shore; SE along South Shore of Lake Chelan to the point of beginning.

**Sheep Unit 17 Asotin:** Permit Area: GMU 175.

**Sheep Unit 18 Chelan Butte:** Permit Area: Beginning at the intersection of State Hwy 971 and US Hwy 97A, S to the W shoreline of the Columbia River, N along the W shoreline of the Columbia River for 21 miles to the mouth of Antione Creek, W up Antione Creek to where it crosses Apple Acres Rd, W on Apple Acres Rd to the intersection with Washington Creek Rd (US Forest Service Rd 8135), N on Washington Creek Rd to its end and then follow Washington Creek, W on Washington Creek to where it crosses US Forest Service Rd 8010, S on US Forest Service Rd 8010 (transitions into Purtteman Creek Rd) to Purtteman Gulch, S into Purtteman Gulch to the N shoreline of Lake Chelan, S along the shoreline to the S shoreline of Lake Chelan to the mouth of First Creek, S up First Creek to the intersection of State Hwy 971 (Navarre Coulee Rd), S on State Hwy 971 to the point of beginning.

**Sheep Unit 19 Sinlahekin:** Beginning at the eastern boundary of the Pasayten Wilderness border and the US-Canadian border; E on the US-Canadian border to the border station on Similkameen Rd (Co. Rd 4568); SE on the Similkameen Rd (Co. Rd 4568) to the Loomis-Oroville Rd (Co. Rd 9425); E on the Loomis-Oroville Rd (Co. Rd 9425) to US Hwy 97 in Oroville; S on US Hwy 97 to 12th Ave; W on 12th Ave (it curves S and changes to Old Highway 97); S on Old Highway 97 to US Hwy 97; S on US Hwy 97 to the South Pine Creek Rd (Co. Rd 9410); W on the South Pine Creek Rd (Co. Rd 9410) to Fish Lake Rd (Co. Rd 4290); W on Fish Lake Rd (Co. Rd 4290) to South Fish Lake Rd (Co. Rd 4282), along the south shore of Fish Lake; SW on South Fish Lake Rd (Co. Rd 4282), to the Sinlahekin Rd (Co. Rd 4015); SW on the Sinlahekin Rd (Co. Rd 4015), along the north shore of Conconully Lake, to the Salmon Creek North Fork Rd (Co. Rd 2361), at the town of Conconully; N on US Forest Service Rd 38 (Salmon Creek North Fork Rd, Co. Rd 2361) to US Forest Service Rd 3820; N on US Forest Service Rd 3820 over Lone Frank Pass, to US Forest Service Rd 39; N on US Forest Service Rd 39 to the US Forest Service Rd 300 at Long Swamp trailhead; W on the US Forest Service Rd 300 to US Forest Service Trail 342; N on US Forest Service Trail 342 to US Forest Service Trail 343; E on US Forest Service Trail 343 to US Forest Service Trail 341; E on US Forest Service Trail 341 to US Forest Service Trail 375; E on US Forest Service Trail 375 to the eastern boundary of the Pasayten Wilderness Area; N on the Pasayten Wilderness Area boundary to the US-Canadian border and the point of beginning.

**(3) Mountain Goat Permit Hunts**

**Who May Apply:** Anyone may apply, except those who harvested a mountain goat in Washington state after 1998. An individual may only harvest one mountain goat during their lifetime, except for those who harvested a goat prior to 1999. (Except waived for raffle and auction hunts.)

**Bag Limit:** One (1) adult goat of either sex with horns four (4) inches or longer. WDFW urges hunters to refrain from shooting nannies with kids.

Hunt Name	Permit Season <sup>b</sup>	Subpopulations Open to Hunting <sup>a</sup>	Special Restrictions	Permits <sup>a</sup>
Mt. Baker	Sept. 15 - Oct. 31	Chowder Ridge, Coleman Pinnacle, Lava Divide, Black Buttes, Lake Ann, SE Baker	Any Legal Weapon	7
North Lake Chelan	Sept. 15 - Oct. 31	Skookum Pass Mtn., Big Goat Creek	Any Legal Weapon	2
Naches Pass	Sept. 15 - Oct. 31	Fife's East, Fife's Peak, Crystal Mountain, Basin Lake	Any Legal Weapon	1
Bumping River	Sept. 15 - Oct. 31	Nelson Ridge, Cash Prairie, American Ridge, American Lake, Timber Wolf, Russell Ridge	Any Legal Weapon	1
Blazed Ridge	Sept. 15 - Oct. 31	Blowout Mtn., Blazed Ridge, Blazed North, Milk Creek, Rock Creek	Any Legal Weapon	1
Goat Rocks-Tieton River	Sept. 15 - Oct. 31	Chimney Rocks, Goat Lake, McCall Glacier, Gilbert Peak	Any Legal Weapon	3
<u>Methow</u>	<u>Sept. 15 - Oct. 31</u>	<u>Wolf Creek, West Fork Methow</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>South Lake Chelan</u>	<u>Sept. 15 - Oct. 31</u>	<u>Railroad Creek, Pyramid Mountain, Box Canyon</u>	<u>Any Legal Weapon</u>	<u>1</u>

<sup>a</sup>Mountain goat populations are managed as a collection of subpopulations, and the ideal harvest is distributed through all the subpopulations. The director is authorized to open or close subpopulations and reduce permit levels to protect from overharvesting specific areas.

The director is authorized by the commission to identify the hunt area as a condition of the hunt permit. Selected hunters will receive a text description or map of their hunt area.

<sup>b</sup>Permit hunters may start hunting September 1 with archery equipment.

**NEW SECTION**

**WAC 232-28-296 Landowner hunting permits.** A landowner may enter into a contract with the department and establish boundaries and other requirements for hunter access consistent with commission policy.

It is unlawful for hunters to participate in landowner-permit hunts unless the hunters possess both an access permit from the landowner and a hunting permit from the department for the species covered under landowner's contract. A violation of this section is punishable under RCW 77.15.410.

**(1) Buckrun**

Buckrun is located in Grant County, near the town of Wilson Creek.

Hunting on Buckrun is managed for a quality experience by scheduling hunt dates and keeping the number of hunters in the field low. Hunters with limited flexibility for hunt dates may experience scheduling problems. Hunters can generally expect one day hunts during the permit seasons with written authorization from the Buckrun manager. All hunters must check in and out on hunt day. Hunts will be scheduled on a first come basis by calling 509-345-2577 in advance.

**Deer****Buckrun Landowner Hunting Permits**

The manager of Buckrun will distribute these hunting permits. An access fee may be charged in order to utilize these permits. No access fee will be charged for the raffle permit winners. Only hunters possessing a modern firearm deer tag are eligible for permits on Buckrun properties. Contact the manager at 509-345-2577 for additional information.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Buckrun	10	Sept. 1 - Dec. 31	Antlerless Mule Deer or any White-tailed Deer	Buckrun
Buckrun	30	Sept. 1 - Dec. 31	Any deer	Buckrun
Buckrun Raffle	10	Oct. 26 - Dec. 31	Any deer	Buckrun

**Deer****Buckrun Special Hunting Permits**

Hunters apply to the Washington department of fish and wildlife for these permits. Only hunters possessing a modern firearm deer tag are eligible for Buckrun special permits. All hunters must check in and out. Schedule hunts in advance by calling 509-345-2577.

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Buckrun	10	Sept. 1 - Dec. 31	Antlerless Mule Deer or any White-tailed Deer	Buckrun

**(2) Silver Dollar Association**

The Silver Dollar Association is located in Yakima and Benton counties, on the western edge of the Hanford Reservation. A legal description of the property is in the contract between the Silver Dollar Association and the department.

**Silver Dollar Association Landowner Hunting Permits**

The manager of the Silver Dollar Association will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

**Elk**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Silver Dollar	24	Aug. 1 - March 31	Any Elk	Silver Dollar
Silver Dollar	8	Aug. 1 - March 31	Antlerless	Silver Dollar

**Silver Dollar Special Hunting Permits**

Hunters apply to the Washington department of fish and wildlife for these permits. The landowners have requested changing the application criteria to eastside elk tags only.

**Elk**

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Silver Dollar	8	Aug. 1 - March 31	Youth Only, Any Elk	Silver Dollar
Silver Dollar	6	Aug. 1 - March 31	Youth Only, Antlerless Elk Only	Silver Dollar
Antlerless Elk				
Silver Dollar	2	Aug. 1 - March 31	Persons of Disability Only, Antlerless Elk Only	Silver Dollar
Antlerless Elk				

**(3) Blackrock Ranches**

Blackrock Ranches is located in Yakima County, west of the Hanford Reservation. A legal description of the property is in the contract between Blackrock Ranches and the department.

**Blackrock Ranches Landowner Hunting Permits**

The manager of Blackrock Ranches will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

**Elk**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Blackrock Ranches	6	Aug. 1 - March 31	Any Elk	Blackrock Ranches
Blackrock Ranches	2	Aug. 1 - March 31	Antlerless	Blackrock Ranches

**Blackrock Ranches Special Hunting Permits**

Hunters apply to the Washington department of fish and wildlife for these permits. The landowners have requested changing the application criteria to eastside elk tags only.

**Elk**

<b>Hunt Name</b>	<b>Permit Number</b>	<b>Permit Season</b>	<b>Special Restrictions</b>	<b>Boundary Description</b>
Blackrock Ranches	1	Aug. 1 - March 31	Any Elk	Blackrock Ranches
Blackrock Ranches	1	Aug. 1 - March 31	Antlerless Only	Blackrock Ranches
Blackrock Ranches	1	Aug. 1 - March 31	Youth Only, Any Elk	Blackrock Ranches
Blackrock Ranches	1	Aug. 1 - March 31	Youth Only, Antlerless Only	Blackrock Ranches

**(4) Pine Mountain Ranch**

The Pine Mountain Ranch is located in Yakima County, 14 miles west of Yakima. A legal description of the property is in the contract between the Pine Mountain Ranch and the department.

**Pine Mountain Ranch Landowner Hunting Permits**

The manager of the Pine Mountain Ranch will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

**Deer**

<b>Hunt Name</b>	<b>Quota</b>	<b>Access Season</b>	<b>Special Restrictions</b>	<b>Boundary Description</b>
Pine Mountain Ranch	2	Nov. 5 - Dec. 31	Any Buck	Pine Mountain Ranch

**Elk**

<b>Hunt Name</b>	<b>Quota</b>	<b>Access Season</b>	<b>Special Restrictions</b>	<b>Boundary Description</b>
Pine Mountain Ranch	1	Nov. 5 - Dec. 31	Any Bull	Pine Mountain Ranch
Pine Mountain Ranch	2	August 1 - Nov. 4	Antlerless	Pine Mountain Ranch

**Pine Mountain Ranch Special Hunting Permits**

Hunters apply to Washington department of fish and wildlife for these permits.

**Deer**

<b>Hunt Name</b>	<b>Quota</b>	<b>Access Season</b>	<b>Special Restrictions</b>	<b>Boundary Description</b>
Pine Mountain Ranch	2	Nov. 5 - Dec. 31	Youth Only, Any Buck	Pine Mountain Ranch

**Elk**

<b>Hunt Name</b>	<b>Quota</b>	<b>Access Season</b>	<b>Special Restrictions</b>	<b>Boundary Description</b>
Pine Mountain Ranch	1	Nov. 2 - Dec. 31	Youth Only, Any Bull	Pine Mountain Ranch
Pine Mountain Ranch	2	Aug. 1 - Nov. 4	Antlerless	Pine Mountain Ranch

**(5) 4-0 Ranch**

The 4-0 Ranch is located in Asotin County (GMU 172), south of Asotin. A legal description of the property is in the contract between the 4-0 Ranch and the department.

**4-0 Ranch Landowner Hunting Permits**

The manager of the 4-0 Ranch will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

#### **Deer**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
4-0 Ranch A	4	Oct. 13-16	Mule Deer, 3 pt. min	4-0 Ranch
4-0 Ranch	2	Nov. 12-16	Mule Deer, 3 pt. min	4-0 Ranch
4-0 Ranch East B	1	Nov. 16-19	White-tailed, 3 pt. min	4-0 Ranch

#### **Elk**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
4-0 Ranch A	2	Sept. 17-21	Any Bull	4-0 Ranch
4-0 Ranch B	1	Oct. 22-25	Any Bull	4-0 Ranch
4-0 Ranch C	1	Nov. 5-8	Any Bull	4-0 Ranch
4-0 Ranch D	4	Oct. 27-30	Spike Only	4-0 Ranch
4-0 Ranch E	8	Sept. 27-30	Antlerless Only	4-0 Ranch
4-0 Ranch F	2	Oct. 27-30	Antlerless Only	4-0 Ranch
4-0 Ranch G	6	Nov. 22-25	Antlerless Only	4-0 Ranch
4-0 Ranch H				

#### **4-0 Ranch Special Hunting Permits**

Hunters apply to Washington department of fish and wildlife for these permits. Hunters need an Eastside Elk tag to apply for the elk permits.

#### **Deer**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
4-0 Ranch A	1	Oct. 17-21	Mule Deer, 3 pt. min	4-0 Ranch
4-0 Ranch B	1	Nov. 17-21	Mule Deer, 3 pt. min	4-0 Ranch
4-0 Ranch C	1	Nov. 26 - Dec. 2	Whitetail, 3 pt. min	4-0 Ranch

#### **Elk**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
4-0 Ranch A	2	Sept. 22-26	Any Bull	4-0 Ranch
4-0 Ranch B	1	Nov. 9-12	Any Bull	4-0 Ranch
4-0 Ranch C	1	Oct. 31 - Nov. 4	Spike Only	4-0 Ranch
4-0 Ranch D	4	Oct. 5-8	Antlerless Only	4-0 Ranch
4-0 Ranch E	2	Oct. 31 - Nov. 4	Antlerless Only	4-0 Ranch
4-0 Ranch F	2	Nov. 29 - Dec. 2	Antlerless Only	4-0 Ranch

#### **(6) ZMI Ranch**

ZMI Ranch is located in northern Walla Walla County near Lyons Ferry (GMU 149).

#### **Deer**

#### **ZMI Landowner Hunting Permits**

The manager of ZMI Ranch will distribute these hunting permits. An access fee may be charged in order to utilize these permits.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
ZMI A	2	Oct. 22-28	Antlerless, Mule Deer or White-tailed Deer	ZMI
ZMI B	2	Oct. 22-28	3 pt. min	ZMI
ZMI C	4	Nov. 17 - Dec. 9	3 pt. min	ZMI

#### **Deer**

#### **ZMI Special Hunting Permits**

Hunters apply to the Washington department of fish and wildlife for these permits. Only hunters possessing a modern firearm deer tag are eligible for ZMI special permits. All hunters must check in and out and have them provided a scheduled time by the manager.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
ZMI A	2	Oct. 8-12	Antlerless, Mule Deer or White-tailed Deer	ZMI
ZMI B	2	Nov. 2-5	3 pt. min	ZMI

#### (7) Columbia Plateau Wildlife Management Association

The Columbia Plateau Wildlife Management Association (CPWMA) LHP is located in Spokane County (GMU 130), near Turnbull National Wildlife Refuge. Hunting is primarily a damage hunt but managed for a quality experience by keeping the number of hunters in the field low. A legal description of the property is in the contract between the CPWMA and the department.

#### Columbia Plateau Wildlife Management Association Landowner Hunting Permits

The manager of the CPWMA will distribute these hunting permits. No access fee will be charged for the raffle permit winners. Only hunters possessing an elk tag are eligible for permits on CPWMA properties. All successfully drawn permit applicants must have written authorization from the CPWMA manager and must check in and out at the beginning and ending of the scheduled dates. Successful applicants will receive a packet of required information with forms to fill out and a map showing the hunt area. Information must be filled out and returned prior to Sept 30. Applicants may contact the hunt manager at 509-263-4616.

#### Elk

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
CPWMA	2	Jan. 1 - Mar. 31	Antlerless	CPWMA
CPWMA Raffle 1	2	Jan. 1-15	Antlerless	CPWMA
CPWMA Raffle 2	2	Jan. 16-31	Antlerless	CPWMA
CPWMA Raffle 3	3	Feb. 1-14	Antlerless	CPWMA
CPWMA Raffle 4	2	Feb. 15-28	Antlerless	CPWMA
CPWMA Raffle 5	2	Mar. 1-15	Antlerless	CPWMA
CPWMA Raffle 6	2	Mar. 16-31	Antlerless	CPWMA
CPWMA Raffle 7	2	Jan. 1-31	Any bull	CPWMA

#### Columbia Plateau Wildlife Management Association Special Hunting Permits

Hunters apply to the Washington department of fish and wildlife for these permits. All successfully drawn permit applicants must have written authorization from the CPWMA manager and must check in and out at the beginning and ending of the scheduled dates. Successful applicants will receive a packet of required information with forms to fill out and a map showing the hunt area. Information must be filled out and returned prior to Sept 30. Applicants may contact the hunt manager at 509-263-4616.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
CPWMA 1	3	Jan. 1-15	Antlerless	CPWMA
CPWMA 2	2	Jan. 16-31	Antlerless	CPWMA
CPWMA 3	3	Feb. 1-14	Antlerless	CPWMA
CPWMA 4	2	Feb. 15-28	Antlerless	CPWMA
CPWMA 5	3	Mar. 1-15	Antlerless	CPWMA
CPWMA 6	2	Mar. 16-31	Antlerless	CPWMA
CPWMA 7	1	Jan. 1-31	Any bull	CPWMA

#### NEW SECTION

**WAC 232-28-297 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.** (1) As used in this section and in the context of general cougar hunting seasons, "harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline.

(2) Season dates and harvest guidelines for each license year:

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMU 101	7-9	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 105	2	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMUs 108, 111	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 113	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 117	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 121	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 124, 127, 130	7-9	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 149, 154, 157, 162, 163	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 145, 166, 175, 178	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 169, 172, 181, 186	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 203	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 204	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 209, 215	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 218, 231	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 224	2-3	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 233, 239	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 242, 243	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 244, 246, 247	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 245, 250	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 249, 251	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 328, 329, 335	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 336, 340, 342, 346	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 352, 356, 360, 364, 368	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 382, 388	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 407	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 418, 426, 437	11-15	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 448, 450	9-13	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 454	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 460	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 466, 485, 490	2-3	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 501, 504, 506, 530	7-10	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 503, 505, 520, 550	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 510, 513	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 516	3-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 522, 524, 554, 556	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 560	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 564, 568	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 572	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 574, 578	3-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 601, 602, 603, 612	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 607, 615	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 618, 636, 638	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 621, 624, 627, 633	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 642, 648, 651	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMUs 652, 666	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 653, 654	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 658, 660, 663, 672, 673, 681, 684, 699	9-12	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 667	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon

(a) In hunt areas with a harvest guideline, the director may close the cougar late hunting season after January 1st in one or more GMUs if cougar harvest meets or exceeds the guideline.

(b) In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been met and the director has closed the cougar late hunting season, or March 31st, whichever occurs first.

(3) Harvest guideline system:

(a) All cougar killed by licensed hunters during the early and late hunting seasons, and seasons authorized under WAC 232-12-243 shall be counted toward the harvest guideline.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, land-owner kill permits, and WDFW depredation authority regardless of harvest guidelines.

(c) It is each cougar hunter's responsibility to verify if the cougar late hunting season is open or closed in hunt areas with a harvest guideline. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's web site.

(4) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one (1) cougar per license year; excluding removals authorized under WAC 232-12-243. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 232-12-243).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 232-12-024.

(e) A special cougar permit is required to hunt cougar in GMU 485.

**AMENDATORY SECTION** (Amending Order 11-86, filed 5/6/11, effective 6/6/11)

**WAC 232-28-337 Deer and elk area descriptions.**

**ELK AREAS**

**Elk Area No. 1008 West Wenaha (Columbia County):** That part of GMU 169 west of USFS trail 3112 from Tepee Camp (east fork of Butte Creek) to Butte Creek, and west of Butte Creek to the Washington-Oregon state line.

**Elk Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties):** That portion of GMU 169 east of USFS trail 3112 from Tepee Camp (east fork Butte Creek) to Butte

Creek, and east of Butte Creek to the Washington-Oregon state line.

**Elk Area No. 1010 (Columbia County):** GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

**Elk Area No. 1011 (Columbia County):** That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

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

**Elk Area No. 1013 (Asotin County):** GMU 172, excluding National Forest lands.

**Elk Area No. 1014 (Columbia-Garfield counties):** That part of GMU 166 Tucannon west of the Tucannon River and USFS Trail No. 3110 (Jelly Spr.-Diamond Pk. Trail).

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

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

**Elk Area No. 2032 Malaga (Kittitas and Chelan counties):** Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to

Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

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

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

**Elk Area No. 3068 Klickitat Meadows (Yakima County):** Beginning at Darland Mountain, southeast along the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to the point due west of the headwaters of Reservation Creek (Section 18, T12N, R14E); then along a line due west to Spencer Point (as represented in the DNR 100k map); northeast from Spencer Point to US Forest Service (USFS) Trail 1136; north along USFS Trail 1136 to USFS Trail 615; east on USFS Trail 615 to Darland Mountain and the point of beginning.

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

Off Road) to Highway 12; northeast on Highway 12 to the Naches River; southeast down the Naches River to Cowiche Creek; west up Cowiche Creek and South Fork Cowiche Creek to Summitview Avenue; northwest on Summitview Avenue to Cowiche Mill Road; west on Cowiche Mill Road to the power line in the northeast corner of T13N, R15E, SEC 13; southeast along the power line to Ahtanum Creek and the point of beginning.

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

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

**Elk Area No. 3911 Fairview (Kittitas County):** Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and Interstate 90; east along the power lines to Highway 903 (Salmon La Sac Road); northwest along Highway 903 to Pennsylvania Avenue; northeast along Pennsylvania Avenue to No. 6 Canyon Road; northeast along No. 6 Canyon Road to Cle Elum Ridge Road; north along Cle Elum Ridge Road to Carlson Canyon Road; northeast along Carlson Canyon Road to West Fork Teanaway River; east along West Fork Teanaway River to North Fork Teanaway River; north along North Fork Teanaway River to Teanaway Road; southeast on Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; northeast on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to Parke Creek; north on Parke Creek to Whiskey Jim Creek; east on Whiskey Jim Creek to the Wild Horse Wind Farm Boundary; south and East on Wild Horse Wind Farm boundary to the Vantage Highway; east along the Vantage Highway to the first power line crossing; southwest along the

power lines to where they intersect with the second set of BPA power lines in T17N, R21E, Section 18; southeast along the BPA power lines to I-90; west along I-90 to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umtanum Road; north on Umtanum Road to South Branch Canal; west on South Branch Canal to Bradshaw/Hanson Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to Big Creek; north on Big Creek to Nelson Siding Road; west and north on Nelson Siding Road to I-90; east on I-90 to point of beginning.

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

**Elk Area No. 4041 Grandy Creek (Skagit County):** Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road, west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

**Elk Area No. 4601 North Bend (King County):** That portion of GMU 460 beginning at the interchange of State Route (SR) 18 and I-90; W on I-90 to SE 82nd St, Exit 22, at the town of Preston; N on SE 82nd Street to Preston Fall City Rd SE (Old SR 203); N on Preston Fall City Rd SE to SE Fall City Snoqualmie Rd (SR 202) at the town of Fall City; E on SE Fall City Snoqualmie Rd to the crossing of Tokul Creek; N and E up Tokul Creek to its crossing with Tokul Rd SE; S on SE Tokul Rd to SE 53rd Way; E on SE 53rd Way where it

turns into 396th Dr SE then S on 396th Dr SE to SE Reinig Rd; E on SE Reinig Rd to 428th Ave SE; N on 428th Ave SE to where it turns into North Fork Rd SE; N and E on North Fork Rd SE to Ernie's Grove Rd; E on Ernie's Grove Rd to SE 70th St; N on SE 70th St to its ends at Fantastic Falls on the North Fork Snoqualmie River; SW down the North Fork Snoqualmie River to Fantastic Falls and the Mt Si Natural Resource Conservation Area boundary then S and E along the southern boundary of the Mt Si NRCA to the "School Bus" turnaround at SE 114th St; S on 480th Ave SE to SE 130th St; S and E on SE 130th St to its end; SSE overland from the end of SE 130th St, over the Middle Fork Snoqualmie River, to the end of 486th Ave SE; S on 486th Ave SE to the intersection with SE Middle Fork Road; Due S, from said intersection, up Grouse Mountain toward its peak, to the logging road adjacent to Grouse Mountain Peak; S down the logging road to Grouse Ridge Access Rd; W on Grouse Ridge Access Road which becomes SE 146th St; W on SE 146th St to I-90 then east along I-90 to the W boundary of Olallie/Twin Falls State Park then S along the state park western boundary to its most western boundary where it intersects with the boundary of the Iron Horse State Park; W along the boundary of Iron Horse State Park to the boundary of the Rattlesnake Lake Recreation Area; W along the boundary of the Rattlesnake Lake Recreation Area to Cedar Falls Rd SE; N along the Cedar Falls Rd to SE 174th Way; W on SE 174th Way to SE 174th St; W on SE 174th St to SE 173rd St; W on SE 173rd St to SE 170th Pl; W on SE 170th Pl to SE 169th St; W on SE 169th St to 424th Ave SE; N on 424th Ave SE to SE 168th St; W on SE 168th St to 422 Ave SE; N on 422 Ave SE to 426th Way SE; S on 426th Way SE to SE 164th St; E on SE 164th St to Uplands Way SE; W on Uplands Way SE to the crossing with the Power Transmission Lines; W along the Power Transmission Lines to the Winery Rd; NW on the Winery Rd to SE 99th Rd; W and N on SE 99th Rd to the I-90 interchange, at Exit 27; SW on I-90 to the interchange with SR 18 and the point of beginning.

**Elk Area No. 4941 Skagit River (Skagit County):** That portion of GMU 437 beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Cape Horn Road NE; south down Cape Horn Road NE to the power line crossing which passes over the Skagit River; east on the power line to the Skagit River; south and west down the Skagit River to Presentin Creek; south up Presentin Creek to the South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

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

Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

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

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

**Elk Area No. 5051 Green Mountain (Cowlitz County):** Beginning at the junction of the Cowlitz River and the Toutle River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

**Elk Area No. 5052 Mossyrock (Lewis County):** Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway

12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

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

**Elk Area No. 5054 Boistfort (Lewis County):** Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

**Elk Area No. 5056 Grays River Valley (Wahkiakum County):** On or within 3/4 mile of agricultural land in the Grays River Valley within the following sections: T10N, R7W, Sections 8, 9, 17, 18 and T10N, R8W, Sections 13, 23, 24, 26.

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

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

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

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

**Elk Area No. 5061 Wildwood (Lewis County):** Beginning at the junction of the Pacific West Timber (PWT) 600 Road and the Wildwood Road (SE1/4 S29 T11N R3W); southwest on the 600 Road to the 800 Road (NW1/4 S36 T11N R4W); southwest on the 800 Road to the 850 Road (SW1/4 S3 T10N R4W); northwest on the 850 Road to the Weyerhaeuser 4720 Road (S20 T11N R4W); north on the Weyerhaeuser 4720

Road to the Weyerhaeuser 4700 Road (S17 T11N R4W); east on the Weyerhaeuser 4700 Road to the Weyerhaeuser 5822 Road (NW1/4 S16 T11N R4W); east on the Weyerhaeuser 5822 Road to the Weyerhaeuser 5820 Road (NW1/4 S10 T11N R4W); southeast on the Weyerhaeuser 5820 Road to the PWT 574 Road (SE1/4 S10 T11N R4W); south on the PWT 574 Road to the 570 Road (NW1/4 S14 T11N R4W); south on the 570 Road to the 500 Road (NW1/4 S14 T11N R4W); northeast on the 500 Road to the 560 Road (SW1/4 S12 T11N R4W); east on the 560 Road to the 540 Road (SE1/4 S12 T11N R4W); east and south on the 540 Road to the 500 Road (SE1/4 S18 T11N R3W); east on the PWT 500 Road to the Wildwood Road (N1/2 S20 T11N R3W); south on the Wildwood Road to the point of beginning, the PWT 600 Road junction (SE1/4 S29 T11N R3W).

**Elk Area No. 5062 Trout Lake (Klickitat County):** Those portions of GMUs 560 (Lewis River) and 578 (West Klickitat) beginning at the intersection of SR 141 and Sunnyside Road; north on Sunnyside Road to Mount Adams Recreational Area Road; north on Mount Adams Recreational Area Road to USFS Road 23; north on USFS Road 23 to DNR T-4300 Road; west on DNR T-4300 Road to Trout Lake Creek Road; south on Trout Lake Creek Road to SR 141; east and south on SR 141 to the intersection of SR 141 and Sunnyside Road to the point of beginning.

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

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

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

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

**Elk Area No. 5099 Mudflow (Cowlitz County):** That part of GMU 522 beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River to Deer Creek; SE up Deer Creek to Weyerhaeuser (Weyco) 3020 line; NW along Weyco 3020 line to Weyco 3000 line; E along Weyco 3000 line to Weyco 3000P line; E on the 3000P line to Weyco 5600 Line to the Mount Saint Helens National Volcanic Monument Boundary; N on the Mount Saint Helens National Volcanic Monument Boundary to SR 504; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

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

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

**Elk Area No. 6012 Tri Valley (Grays Harbor and Mason counties):** Those portions of GMUs 648 (Wynoochee) and 651 (Satsop) within one mile of Brady-Matlock Road from State Highway 12 north to the junction with Schaefer State Park Road (east Satsop Road) and all lands within one mile of Wynoochee Valley Road from State Highway 12 north to the junction with Cougar Smith Road, and all lands within one mile of Wishkah Valley Road from north Aberdeen city limit to mile post 16 and all lands within 2 miles north of SR 12 between the Satsop River and Schouweiler and Hurd roads and then a line north from the end of Hurd Road to a point 2 miles north of SR 12.

**Elk Area No. 6013 (Pierce County):** That part of GMU 652 beginning at the intersection of Highway 167 and Highway 410; north on Highway 167 to Highway 18; east on Highway 18 to Highway 164; southeasterly on Highway 164 to Highway 410; westerly on Highway 410 to Highway 167 and the point of beginning.

**Elk Area No. 6054 Puyallup River (Pierce County):** That portion of GMU 654 beginning at the intersection of Mount Rainier National Park's western boundary and State Route (SR) 706; W on SR 706 to 278th Ave E; N on 278th Ave E to WA Dept of Natural Resources' (DNR) 1300 Rd; NW on DNR 1300 Rd to Scott Turner Rd; NW on Scott Turner Rd to Alder Cutoff Rd; W and NE on Alder Cutoff Rd to Center St SE in the town of Eatonville; NW on Center St SE to SR 161; N and W on SR 161 to Orville Rd E; N on Orville Rd E, past Lake Ohop and Lake Kapowsin, to the bridge crossing the Puyallup River; SE up the Puyallup River to Mount Rainier

National Park's western boundary; S on Mount Rainier National Park's western boundary to SR 706 and the point of beginning.

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

**Elk Area No. 6062 South Bank (Grays Harbor County):** That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

**Elk Area No. 6063 (Grays Harbor and Jefferson counties):** Private lands within Elk Area 6064 east of Highway 101.

**Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties):** That portion of GMU 638 (Quinault) within the Quinault River watershed east of Gatton Creek and Lake Quinault excluding US Forest Service (USFS) Colonel Bob Wilderness Area.

**Elk Area No. 6066 Chehalis Valley (Grays Harbor County):** That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

**Elk Area No. 6067 North Minot (Grays Harbor County):** The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank to South State Street (Oakville); north on South State Street to U.S. 12; northwest and west on U.S. 12 to State Route 107; south and southwest on SR 107 to the Melbourne A-line and the point of beginning.

**Elk Area No. 6068 Willapa (Grays Harbor County):** That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

**Elk Area No. 6069 Hanaford (Lewis and Thurston counties):** That part of GMU 667 (Skookumchuck) beginning at the intersection of Salzer Valley Rd and S Pearl St (Centralia); N on S Pearl St to N Pearl St; N on N Pearl St to State Hwy 507; W and N on State Hwy 507 to Skookumchuck Rd; E on Skookumchuck Rd to the first bridge over the Skookumchuck River; E along the Skookumchuck River to the Skookumchuck Rd bridge; E on Skookumchuck Rd to the steel tower power line; SW along the power line to Big Hanaford Rd; E and S along Big Hanaford Rd to Weyerhaeuser Rd E150; E on Weyerhaeuser Rd E150 to Weyerhaeuser Rd E247; S and W on Weyerhaeuser Rd E247 to Weyerhaeuser Rd E240; S on Weyerhaeuser Rd E240 to North Fork Rd; S on North Fork Rd to Centralia-Alpha Rd; W on Centralia-Alpha Rd to Salzer Valley Rd and the point of beginning.

**Elk Area No. 6071 Dungeness (Clallam County):** Portions of GMUs 621 (Olympic) and 624 (Coyle) beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan de Fuca to the mouth of Jimmycomelately Creek on Sequim Bay; south and west up Jimmycomelately Creek to US Hwy 101; east on US Hwy 101 to Chicken Coop Road; east and north on Chicken Coop Road to the Clallam-Jefferson county line; south and west along the Clallam-Jefferson county line to the Olympic National Park boundary; north and west along the Olympic Park boundary to McDonald Creek; north along McDonald Creek to US Hwy 101; east along US Hwy 101 to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

**Elk Area No. 6072 Sol Duc Valley (Clallam County):** That portion of GMU 607 (Sol Duc) between the Sol Duc River and Hwy 101 from a point at the Sol Duc River bridge over Hwy 101 approximately 2 miles north of Forks to the westernmost Sol Duc River bridge over Hwy 101 at a point approximately 1 mile east of Lake Pleasant.

**Elk Area No. 6073 Clearwater Valley (Jefferson County):** That portion of GMU 615 (Clearwater) within one mile of the Clearwater Road from the Quinault Indian Reservation boundary to a point 4 miles to the north.

#### DEER AREAS

**Deer Area No. 1008 West Wenaha (Columbia County):** That part of GMU 169 west of USFS trail 3112 from Tepee Camp (east fork of Butte Creek) to Butte Creek, and west of Butte Creek to the Washington-Oregon state line.

**Deer Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties):** That portion of GMU 169 east of USFS trail 3112 from Tepee Camp (east fork Butte Creek) to Butte Creek, and east of Butte Creek to the Washington-Oregon state line.

**Deer Area No. 1010 (Columbia County):** GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

**Deer Area No. 1020 Prescott (Columbia and Garfield counties):** That portion of GMU 149 between Hwy 261 and Hwy 127.

**Deer Area No. 1021 Clarkston (Asotin County):** That portion of GMU 178 beginning at the junction of the Highway 12 bridge and Alpowa Creek; east on Highway 12 to Silcott Road; south and east on Silcott Road to Highway 128; southwest on Highway 128 to McGuire Gulch Road; southeast along the bottom of McGuire Gulch to Asotin Creek; east on Asotin Creek to the Snake River; north and west on the Snake River to Alpowa Creek; southwest of Alpowa Creek to the Highway 12 bridge and the point of beginning.

**Deer Area No. 1030 Republic (Ferry County):** That area within one-half mile surrounding the incorporated town of Republic.

**Deer Area No. 1035 Highway 395 Corridor (Stevens County):** That portion of GMU 121 beginning at the intersection of US Highway (Hwy) 395 (State Route 20) and State Route (SR) 25: S on SR 25 to Old Kettle Rd; E on Old Kettle Rd to Mingo Mountain Rd; S on Mingo Mountain Rd to Greenwood Loop Rd; E on Greenwood Loop Rd to the bridge over the Colville River; S on the Colville River to the bridge over Gold Creek Loop/Valley Westside Rd; W and S on Valley Westside Rd to the Orin-Rice Rd; E on Orin-Rice Rd to Haller Creek Rd; S on Haller Creek Rd to Skidmore Rd; E and S on Skidmore Rd to Arden Hill Rd; E on Arden Hill Rd to Townsend-Sackman Rd; S on Townsend-Sackman Rd to Twelve Mile Rd; S on Twelve Mile Rd to Marble Valley Basin Rd; S on Marble Valley Basin Rd to Zimmer Rd; S on Zimmer Rd to Blue Creek West Rd; E on Blue Creek West Rd to Dry Creek Rd; S on Dry Creek Rd to Duncan Rd; E on Duncan Rd to Tetro Rd; S on Tetro Rd to Heine Rd; E and S on Heine Rd to Farm-to-Market Rd; S on Farm-to-Market Rd to Newton Rd (also known as Rickers Lane); E on Newton Rd to US Hwy 395; N on US Hwy 395 to McLean Rd and Twelve Mile Rd (also known as Old Arden Hwy); N on McLean Rd and Twelve Mile Rd to US Hwy 395; N on US Hwy 395 to Old Arden Hwy (again); N on Old Arden Hwy to US Hwy 395; N on US Hwy 395, through the town of Colville, then W on US Hwy 395 (SR 20) to SR 25 and the point of beginning.

**Deer Area No. 1050 Spokane North (Spokane County):** From the intersection of the Spokane River and the Idaho-Washington state line, N to Hauser Lake Rd, W to Starr Rd, S to Newman Lake Dr, W and N to Foothills Rd, W to Forker Rd, N and W to Hwy 206 (Mt Spokane Park Rd), N to Feehan Rd, N to Randall Rd, W to Day Mt Spokane Rd, N to Big Meadows Rd, W to Madison Rd, N to Tallman Rd, W to Elk-Chattaroy Rd, N to Laurel Rd, E to Conklin Rd, N to Nelson Rd, E to Jackson Rd, N to Oregon Rd, E to Jefferson Rd, N to Fridge Rd, W to Elk-Camden Rd, S to Boundary Rd, N and W to Dunn Rd, S to Oregon Rd, W to Hwy 2, S on US Hwy 2 to the Deer Park-Milan Rd, W on the Deer Park-Milan Rd to US Hwy 395 at the town of Deer Park, NW on US Hwy

395 and W onto Williams Valley Rd, W and S to Hattery Rd (Owens Rd), S and E to Swenson Rd, S to Hwy 291, west to Stone Lodge Rd, west to the Spokane River, E on the Spokane River to the Idaho state border and the point of beginning.

**Deer Area No. 1060 Spokane South (Spokane County):** That part of GMU 127 beginning at the intersection of Spokane River and Barker Rd Bridge, Barker Rd S to 24 Ave, 24 Ave W to Barker Rd, Barker Rd S to 32 Ave, 32 Ave W to Linke Rd, Linke Rd S and E to Chapman Rd, Chapman Rd S to Linke Rd, Linke Rd S to Belmont Rd, Belmont Rd W to Hwy 27, Hwy 27 S to Palouse Hwy, Palouse Hwy W to Valley Chapel Rd, Valley Chapel Rd S to Spangle Creek Rd, Spangle Creek Rd SW to Hwy 195, Hwy 195 N to I-90, I-90 E to Latah Creek at I-90-Latah Creek Bridge, Latah Creek NE to Spokane River, Spokane River E to the Barker Rd Bridge and the point of beginning.

**Deer Area No. 1070 Spokane West (Spokane County):** That part of GMU 130 beginning at the intersection of I-90 and Latah Creek at I-90-Latah Creek Bridge, NE to Hwy 195 S on Hwy 195 S to Paradise Rd, Paradise Rd W to Smythe Road, Smythe Road NW to Anderson Rd, Anderson Rd W to Cheney Spokane Rd, Cheney Spokane Rd SW to Hwy 904/1st St in the town of Cheney, 1st SW to Salnave Rd/Hwy 902, Salnave Rd NW to Malloy Prairie Rd, Malloy Prairie Rd W to Medical Lake Tyler Rd, Medical Lake Tyler Rd N to Gray Rd, Gray Rd W then N to Fancher Rd, Fancher Rd NW to Ladd Rd, Ladd Rd N to Chase Rd, Chase Rd E to Espanola Rd, Espanola Rd N turns into Wood Rd, Wood Rd N to Coulee Hite Rd, Coulee Hite Rd E to Seven Mile Rd, Seven Mile Rd E to Spokane River, Spokane River S to Latah Creek, Latah Creek S to I-90 at the Latah Creek Bridge and the point of beginning.

**Deer Area No. 1080 Colfax (Whitman County):** That part of GMUs 139 and 142 beginning at the intersection of Hwy 195 and Crumbaker Rd, NE on Crumbaker Rd to Brose Rd, E on Brose Rd to Glenwood Rd, S on Glenwood Rd to Hwy 272, SE on Hwy 272 to Clear Creek Rd, SE on Clear Creek Rd to Stueckle Rd, S on Stueckle Rd to ((Paulouse)) Palouse River Rd, E to Kenoyer Rd SE to Abbott Rd, S on Abbott Rd to Parvin Rd, S on Parvin Rd to McIntosh Rd, S on McIntosh Rd to 4 mile Rd/Shawnee Rd, W on Shawnee Rd to Hwy 195, N on Hwy 195 to Prune Orchard Rd, W on Prune Orchard Rd to Almota Rd, S on Almota Rd to Duncan Springs Rd, W and NW on Duncan Springs Rd to Airport Rd, NW on Airport Rd to Fairgrounds Rd, N on Fairgrounds Rd to Endicott Rd, NNW on Endicott Rd to Morley Rd, E and S and E on Morley Rd to Hwy 295 (26), NE on Hwy 295 to West River Dr then follow Railroad Tracks NW to Manning Rd, E on Manning Rd to Green Hollow Rd, E and S on Green Hollow Rd to Bill Wilson Rd, E on Bill Wilson Rd to Hwy 195, S on Hwy 195 to Crumbaker Rd and the point of beginning.

**Deer Area No. 2010 Benge (Adams and Whitman counties):** That part of GMU 284 beginning at the town of Wash-tucna; north on SR 261 to Weber Road; east on Weber Road to Benzel Road; north on Benzel Road to Wellsandt Road; east on Wellsandt Road to Hills Road; south on Hills Road to Urquhart Road; east on Urquhart Road to Harder Road, East

on Harder Road to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to George Knott Road; south on George Knott Road to Rock Creek; south along Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Wash-tucna and the point of beginning.

**Deer Area No. 2011 Lakeview (Grant County):** That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Norton Canyon Road; north on Norton Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

**Deer Area No. 2012 Methow Valley (Okanogan County):** All private land in the Methow Watershed located outside the external boundary of the Okanogan National Forest and north of the following boundary: starting where the Libby Creek Road (County road 1049) intersects the Okanogan National Forest boundary; east on road 1049 to State Hwy 153; north on Hwy 153 to the Old Carlton Road; east on the Old Carlton Road to the Texas Creek Road (County road 1543); east on the Texas Creek Road to the Vintin Road (County road 1552); northeast on the Vintin Road to the Okanogan National Forest boundary.

**Deer Area No. 2013 North Okanogan (Okanogan County):** Restricted to private land only located within the following boundary: Beginning in Tonasket at the junction of Havillah Rd and Hwy 97; NE on Havillah Rd to Dry Gulch Extension Rd; N to Dry Gulch Rd; N on Dry Gulch Rd to Oroville-Chesaw Rd; W on Oroville-Chesaw Rd to Molson Rd; N on Molson Rd to Nine Mile Rd; N and W on Nine Mile Rd to the Canadian border at the old Sidley Town Site; W along the border to the east shore of Lake Osoyoos; S around Lake Osoyoos to the Okanogan River; S along the east bank of the Okanogan River to the Tonasket Fourth Street Bridge; E on Fourth Street to Hwy 97; N on Hwy 97 to point of beginning.

**Deer Area No. 2014 Central Okanogan (Okanogan County):** Restricted to private land only located within the following boundary: Beginning in Tonasket on the Okanogan River at the Fourth Street Bridge; S along Hwy 7 to Pine Creek Rd; W along Pine Creek Rd to Horse Spring Coulee Rd; W and N on Horse Spring Coulee Rd to Beeman Rd; W on Beeman Rd to North Lemanasky Rd; S along North Lemanasky Rd to Pine Creek Rd; S on Pine Creek Rd to Hagood Cut-off Rd; S on Hagood Cut-off Rd to South Pine Creek Rd; E on South Pine Creek Rd to Hwy 97; S on Hwy 97 to Town of Riverside North Main Street junction; SE on North Main Street to Tunk Valley Rd and the Okanogan River Bridge; E on Tunk Creek Rd to Chewiliken Valley Rd; NE along Chewiliken Valley Rd to Talkire Lake Rd; N on Talkire Lake Rd to Hwy 20; W on Hwy 20 to the junction of Hwy 20 and Hwy 97; N on Hwy 97 to Fourth Street; W on Fourth Street to point of beginning.

**Deer Area No. 2015 Omak (Okanogan County):** Restricted to private land only located within the following boundary: Beginning at Hwy 97 and Riverside Cut-off road; west on Riverside Cut-off Rd to Conconully Road; south on Conconully Rd to Danker Cut-off road; west on Danker Cut-off road to Salmon Creek Rd; north on Salmon Creek Rd to Spring Coulee Rd; south on Spring Coulee Rd to B&O Road North Rd; southwest on B&O North Rd to Hwy 20; east on Hwy 20 to B&O Rd; south on B&O Rd to the Town of Malott and the bridge over the Okanogan River; north along the west bank of the Okanogan River to the Town of Riverside and the Tunk Valley road bridge; west on Tunk Valley road to State Street in Riverside; south on State Street to 2nd Street; west on 2nd Street to Hwy 97 and the point of beginning.

**Deer Area No. 2016 Conconully (Okanogan County):** Restricted to private land only located within the following boundary: Beginning at the Conconully town limit at the south edge of Town and the east shore of Conconully Reservoir; south along the east shore of the reservoir to Salmon Creek; south along the east bank of Salmon Creek to Salmon Creek road at the old Ruby Town site; south on Salmon Creek road to Green Lake road; northeast on Green Lake road to Conconully road; north on Conconully road to the south limit of the Town of Conconully and the point of beginning.

**Deer Area No. 3071 Whitcomb (Benton County):** That part of GMU 373 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

**Deer Area No. 3072 Paterson (Benton County):** That part of GMU 373 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

**Deer Area No. 3088 High Prairie (Klickitat County):** That portion of GMU 388 (Grayback) that is south of SR 142.

**Deer Area No. 3682 Ahtanum (Yakima County):** That part of GMU 368 beginning at the power line crossing on Ahtanum Creek in T12N, R16E, Section 15; west up Ahtanum Creek to South Fork Ahtanum Creek; southwest up South Fork Ahtanum Creek to its junction with Reservation Creek; southwest up Reservation Creek and the Yakama Indian Reservation boundary to the main divide between the Diamond Fork drainage and Ahtanum Creek drainage; north along the crest of the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to Darland Mountain; northeast on US Forest Service Trail 615 to US Forest Service Road 1020; northeast on US Forest Service Road 1020 to US Forest Service Road 613; northeast on US Forest Service Road 613 to US Forest Service Trail 1127; northeast on US Forest Service Trail 1127 to US Forest Service Road 1302 (Jump Off Road), southeast of the Jump Off Lookout Station; northeast on US Forest Service Road 1302 (Jump Off Road) to Hwy 12. Northeast on Hwy 12 to the Naches River. Southeast down the Naches River to Cowiche Creek. West up Cowiche Creek and the South Fork Cowiche Creek to Summitview Ave. Northwest on Summitview Ave to Cowiche Mill Road. West on Cowiche Mill Road to the power line in the northeast corner of T13N, R15E, SEC 13. Southeast along the power line to Ahtanum Creek and the point of beginning.

**Deer Area No. 4004 (San Juan County):** That part of GMU 410 made up of Shaw Island.

**Deer Area No. 4005 (San Juan County):** That part of GMU 410 made up of Lopez Island.

**Deer Area No. 4006 (San Juan County):** That part of GMU 410 made up of Orcas Island.

**Deer Area No. 4007 (San Juan County):** That part of GMU 410 made up of Decatur Island.

**Deer Area No. 4008 (San Juan County):** That part of GMU 410 made up of Blakely Island.

**Deer Area No. 4009 (Skagit County):** That part of GMU 410 made up of Cypress Island.

**Deer Area No. 4010 (San Juan County):** That part of GMU 410 made up of San Juan Island.

**Deer Area No. 4011 (Island County):** That part of GMU 410 made up of Camano Island.

**Deer Area No. 4012 (Island County):** That part of GMU 410 made up of Whidbey Island.

**Deer Area No. 4013 (King County):** That part of GMU 454 made up of Vashon and Maury islands.

**Deer Area No. 4926 Guemes (Skagit County):** That part of GMU 407 (North Sound) on Guemes Island.

**Deer Area No. 5064:** That part of GMU 564 in the Columbia River near the mouth of the Cowlitz River made up of Cottonwood Island and Howard Island.

**Deer Area No. 6014 (Pierce County):** That part of GMU 652 made up of Anderson Island.

**Deer Area No. 6020:** Dungeness-Miller Peninsula (Clallam and Jefferson counties): That part of GMU 624 west of Discovery Bay and Salmon Creek.

**AMENDATORY SECTION** (Amending Order 10-94, filed 4/30/10, effective 5/31/10)

**WAC 232-28-342 ((2009-10, 2010-11, 2011-12)) 2012-13, 2013-14, 2014-15 Small game and other wildlife seasons and regulations.** It is unlawful to fail to comply with bag, possession, and season limits except as described below. Violations of this section are punishable under RCW 77.15.245, 77.15.400, and 77.15.430, depending on the species hunted and the violation.

#### STATEWIDE SEASONS:

##### FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Four (4) grouse per day, straight or mixed bag, with a total of twelve (12) grouse in possession at any time.

SEASON DATES: Sept. 1 - Dec. 31, ((2009, 2010, 2011)) 2012, 2013, 2014.

##### BOBCAT

Bag and Possession Limits: No limit.

SEASON DATES: Sept. 1 - Mar. 15, ((2009, 2010, 2011)) 2012, 2013, 2014, 2015.

RESTRICTION: Bobcat may not be hunted with dogs.

##### RACCOON

Bag and Possession Limits: No limit.

OPEN AREA: Statewide, EXCEPT closed on Long Island within Willapa National Wildlife Refuge.

SEASON DATES: Sept. 1 - Mar. 15, ((2009, 2010, 2011)) 2012, 2013, 2014, 2015.

##### FOX

Bag and Possession Limits: No limit.

OPEN AREA: Statewide EXCEPT closed within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407 and 410.

SEASON DATES: Sept. 1 - Mar. 15, ((2009, 2010, 2011)) 2012, 2013, 2014, 2015.

##### COYOTE

Bag and Possession Limits: No limit.

OPEN AREA: Statewide.

SEASON DATES: Year round.

RESTRICTION: Coyote may not be hunted with dogs.

##### COTTONTAIL RABBIT AND SNOWSHOE HARE (OR WASHINGTON HARE)

Bag and Possession Limits: Five (5) cottontails or snowshoe hares per day, with a total of fifteen (15) in possession at any time, straight or mixed bag.

SEASON DATES: Sept. 1, ((2009)) 2012 - Mar. 15, ((2010)) 2013; Sept. 1, ((2010)) 2013 - Mar. 15, ((2011)) 2014; Sept. 1, ((2011)) 2014 - Mar. 15, ((2012)) 2015.

##### CROWS

Bag and Possession Limits: No limit.

SEASON DATES: ((Oct. 1, 2009 - Jan. 31, 2010; Oct. 1, 2010 - Jan. 31, 2011; Oct. 1, 2011 - Jan. 31, 2012)) Sept. 1, 2012 - Dec. 31, 2012; Sept. 1, 2013 - Dec. 31, 2013; Sept. 1, 2014 - Dec. 31, 2014.

##### JACKRABBIT

Season closed statewide.

##### PTARMIGAN, SAGE, AND SHARP-TAILED GROUSE

Season closed statewide.

##### WILD TURKEY:

##### YOUTH SEASON

LEGAL BIRD: Male turkeys and turkeys with visible beards only.

SEASON DATES: April 7-8, 2012; April ((3-4, 2010)) 6-7, 2013; April ((2-3, 2011)) 5-6, 2014; April ((7-8, 2012)) 4-5, 2015.

#### SPRING SEASON

LEGAL BIRD: Male turkeys and turkeys with visible beards only.

SEASON DATES: April 15 - May 31, ((2009, 2010, 2011,)) 2012, 2013, 2014, 2015.

BAG LIMIT: The combined spring/youth season limit is three (3) birds. Only two (2) turkeys may be killed in Eastern Washington, except only one (1) may be killed in Chelan, Kittitas, or Yakima counties. One (1) turkey may be killed per year in Western Washington outside of Klickitat County. Two (2) turkeys may be killed in Klickitat County.

#### FALL NORTHEAST BEARDLESS TURKEY SEASON

LEGAL BIRD: Beardless only.

LEGAL HUNTER: Open to all hunters with a valid turkey tag.

OPEN AREA: GMUs ((105-124)) 105-142.

SEASON DATES: ((Sept. 26 - Oct. 9, 2009; Sept. 25 - Oct. 8, 2010; Sept. 24 - Oct. 7, 2011)) Sept. 22 - Oct. 12, 2012; Sept. 21 - Oct. 11, 2013; Sept. 20 - Oct. 10, 2014.

Hunt Name	Permit Season Dates	Special Restrictions	Boundary Description	Permits	Bag Limit*
Klickitat	Sept. ((26 - Oct. 9, 2009; Sept. 25 - Oct. 8, 2010; Sept. 24 - Oct. 7, 2011)) 22 - Oct. 12, 2012; Sept. 21 - Oct. 11, 2013; Sept. 20 - Oct. 10, 2014	Either sex	GMUs 382, 388, 568-578	150	1
Methow	Nov. 15 - Dec. 15, ((2009, 2010, 2011)) 2012, 2013, 2014	Either sex	GMUs 218-231 and 242	50	1
Teanaway	Nov. 15 - Dec. 15, 2012, 2013, 2014	Either sex	GMU 335	50	1

\*BAG LIMIT: During the early fall general and permit hunting seasons combined.

#### LATE FALL SEASON

LEGAL BIRD: Either sex.

LEGAL HUNTER: Open to all hunters with a valid turkey tag.

OPEN AREA: GMUs ((105-124)) 105-142, 149-154, 162-186.

SEASON DATES: Nov. 20 - Dec. 15, ((2009, 2010, 2011)) 2012, 2013, 2014.

BAG LIMIT: One (1) turkey.

BAG LIMIT: Two (2) beardless turkeys (in addition to other fall turkey harvest).

#### EARLY FALL GENERAL SEASON

LEGAL BIRD: Either sex.

LEGAL HUNTER: Open to all hunters with a valid turkey tag.

OPEN AREA: GMUs 101, ((127-133)) 124-142, 145-154, and 162-186.

SEASON DATES: ((Sept. 26 - Oct. 9, 2009; Sept. 25 - Oct. 8, 2010; Sept. 24 - Oct. 7, 2011)) Sept. 22 - Oct. 12, 2012; Sept. 21 - Oct. 11, 2013; Sept. 20 - Oct. 10, 2014.

BAG LIMIT: One (1) turkey ((during the early fall general and permit hunting seasons combined)) either sex (in addition to other fall turkey harvest).

#### FALL PERMIT SEASONS

LEGAL BIRD: Either sex.

LEGAL HUNTER: All hunters who are selected in the fall turkey special permit drawing and who possess a valid turkey tag.

#### HUNTER EDUCATION INSTRUCTOR INCENTIVE PERMITS

LEGAL BIRD: Male turkeys and turkeys with visible beards only.

LEGAL HUNTER: Qualified hunter education instructors who are selected through a random drawing. Qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing. Instructors who are drawn, accept a permit, and are able to participate in the hunt, will not be eligible for these incentive permits for a period of ten years thereafter.

OPEN AREA: Statewide.

SEASON DATES: April 1 - May 31, ((2009, 2010, 2011,)  
2012, 2013, 2014, 2015).

PERMITS: 2.

#### **OFFICIAL HUNTING HOURS FOR WILD TURKEY:**

HUNTING HOURS: One-half hour before sunrise to sunset during spring and fall seasons.

#### **SPECIAL REGULATIONS FOR WILD TURKEY:**

1. Turkey season is open for shotgun shooting #4 shot or smaller, archery, and muzzleloader shotgun shooting #4 shot or smaller.
2. A turkey tag is required for hunting turkey.
3. It is unlawful to use dogs to hunt turkeys.
4. It is unlawful to bait game birds.

#### **EASTERN WASHINGTON SEASONS:**

##### **RING-NECKED PHEASANT**

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

YOUTH SEASON DATES: ((Sept. 26 and 27, 2009; Sept. 25 and 26, 2010; Sept. 24 and 25, 2011)) Sept. 22 and 23, 2012; Sept. 21 and 22, 2013; Sept. 20 and 21, 2014). Open only to youth hunters accompanied by an adult at least 18 years old.

HUNTERS SIXTY-FIVE YEARS OF AGE OR OLDER SEASON DATES: Sept. 24-28, 2012; Sept. 23-27, 2013; Sept. 22-26, 2014.

REGULAR SEASON DATES: ((Oct. 24, 2009 - Jan. 18, 2010; Oct. 23, 2010 - Jan. 17, 2011; Oct. 22, 2011 - Jan. 16, 2012)  
Oct. 20, 2012 - Jan. 13, 2013; Oct. 19, 2013 - Jan. 12, 2014; Oct. 18, 2014 - Jan. 11, 2015.)

((The director is authorized to close the pheasant season on an emergency basis as conditions warrant, consistent with RCW 34.05.350 and 77.12.150.))

##### **CHUKAR**

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

YOUTH SEASON DATES: ((Sept. 26 and 27, 2009; Sept. 25 and 26, 2010; Sept. 24 and 25, 2011)) Sept. 22 and 23, 2012; Sept. 21 and 22, 2013; Sept. 20 and 21, 2014). Open only to youth hunters accompanied by an adult at least 18 years old.

REGULAR SEASON DATES: ((Oct. 3, 2009 - Jan. 18, 2010; Oct. 2, 2010 - Jan. 17, 2011; Oct. 1, 2011 - Jan. 16, 2012)  
Oct. 6, 2012 - Jan. 21, 2013; Oct. 5, 2013 - Jan. 20, 2014; Oct. 4, 2014 - Jan. 19, 2015.)

##### **GRAY (HUNGARIAN) PARTRIDGE**

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

YOUTH SEASON DATES: ((Sept. 26 and 27, 2009; Sept. 25 and 26, 2010; Sept. 24 and 25, 2011)) Sept. 22 and 23, 2012; Sept.

21 and 22, 2013; Sept. 20 and 21, 2014). Open only to youth hunters accompanied by an adult at least 18 years old.

REGULAR SEASON DATES: ((Oct. 3, 2009 - Jan. 18, 2010; Oct. 2, 2010 - Jan. 17, 2011; Oct. 2, 2011 - Jan. 16, 2012)  
Oct. 6, 2012 - Jan. 21, 2013; Oct. 5, 2013 - Jan. 20, 2014; Oct. 4, 2014 - Jan. 19, 2015.)

##### **MOUNTAIN QUAIL**

Season closed throughout Eastern Washington.

#### **CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE**

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

YOUTH SEASON DATES: ((Sept. 26 and 27, 2009; Sept. 25 and 26, 2010; Sept. 24 and 25, 2011)) Sept. 22 and 23, 2012; Sept. 21 and 22, 2013; Sept. 20 and 21, 2014). Open only to youth hunters accompanied by an adult at least 18 years old.

REGULAR SEASON DATES: ((Oct. 3, 2009 - Jan. 18, 2010; Oct. 2, 2010 - Jan. 17, 2011; Oct. 2, 2011 - Jan. 16, 2012)  
Oct. 6, 2012 - Jan. 21, 2013; Oct. 5, 2013 - Jan. 20, 2014; Oct. 4, 2014 - Jan. 19, 2015.)

##### **WESTERN WASHINGTON SEASONS:**

##### **RING-NECKED PHEASANT**

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

YOUTH SEASON DATES: ((Sept. 26 and 27, 2009; Sept. 25 and 26, 2010; Sept. 24 and 25, 2011)) Sept. 22 and 23, 2012; Sept. 21 and 22, 2013; Sept. 20 and 21, 2014). Open only to youth hunters accompanied by an adult at least 18 years old.

HUNTERS SIXTY-FIVE YEARS OF AGE OR OLDER SEASON DATES: ((Sept. 28 - Oct. 2, 2009; Sept. 27 - Oct. 1, 2010; Sept. 26-30, 2011)) Sept. 24-28, 2012; Sept. 23-27, 2013; Sept. 22-26, 2014.

REGULAR SEASON DATES: ((Oct. 3 - Nov. 30, 2009; Oct. 2 - Nov. 30, 2010; Oct. 1 - Nov. 30, 2011)) Sept. 29 - Nov. 30, 2012; Sept. 28 - Nov. 30, 2013; Sept. 27 - Nov. 30, 2014. 8 a.m. to 4 p.m.; EXCEPT Dungeness Recreation Area Site (Clallam County) starting ((Oct. 3, 2009; Oct. 2, 2010; Oct. 1, 2011)) Oct. 6, 2012; Oct. 5, 2013; Oct. 4, 2014.)

EXTENDED SEASON DATES: Dec. 1-15, ((2009, 2010, 2011)) 2012, 2013, 2014. 8 a.m. to 4 p.m. only on the following release sites: Belfair, Fort Lewis, Kosmos, Lincoln Creek, Scatter Creek, Skookumchuck, and all Whidbey Island release sites EXCEPT Bayview. Pheasants will not be released during the extended season.

SPECIAL RESTRICTION: Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tenant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, all hunting sites on Whidbey Island, and at the Dungeness Recreation Area, and must indicate their choice on the Western Washington Pheas-

ant Permit by choosing "odd" or "even." Hunters who select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old who must have an appropriately marked pheasant permit if hunting.

#### MOUNTAIN QUAIL

**Bag and Possession Limits:** Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

**SEASON DATES:** ((Oct. 3 - Nov. 30, 2009; Oct. 2 - Nov. 30, 2010; Oct. 1 - Nov. 30, 2011)) Sept. 29 - Nov. 30, 2012; Sept. 28 - Nov. 30, 2013; Sept. 27 - Nov. 30, 2014.

#### CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE

**Bag and Possession Limits:** Ten (10) California (valley) quail or northern bobwhite per day, with a total of thirty (30) California (valley) quail or northern bobwhite in possession at any time, straight or mixed bag.

**SEASON DATES:** ((Oct. 3 - Nov. 30, 2009; Oct. 2 - Nov. 30, 2010; Oct. 1 - Nov. 30, 2011)) Sept. 29 - Nov. 30, 2012; Sept. 28 - Nov. 30, 2013; Sept. 27 - Nov. 30, 2014.

#### FALCONRY SEASONS:

##### UPLAND GAME BIRD AND FOREST GROUSE - FALCONRY

**Bag and Possession Limits:** Two (2) pheasants (either sex), six (6) partridge, five (5) California (valley) quail or northern bobwhite, two (2) mountain quail (in Western Washington only), and three (3) forest grouse (blue, ruffed, spruce) per day. Possession limit is twice the daily bag limit.

**OPEN AREA:** Statewide.

**SEASON DATES:** Aug. 1, ((2009)) 2012 - Mar. 15, ((2010)) 2013; Aug. 1, ((2010)) 2013 - Mar. 15, ((2011)) 2014; Aug. 1, ((2011)) 2014 - Mar. 15, ((2012)) 2015.

#### TURKEY - FALCONRY

A turkey tag is required to hunt turkey during the turkey falconry season.

**Bag and Possession Limits:** One (1) turkey (either sex) per turkey tag with a maximum of two (2) turkeys. Possession limit: Two (2).

**OPEN AREA:** Eastern Washington.

**SEASON DATES:** Sept. 1, ((2009)) 2012 - Feb. 15, ((2010)) 2013; Sept. 1, ((2010)) 2013 - Feb. 15, ((2011)) 2014; Sept. 1, ((2011)) 2014 - Feb. 15, ((2012)) 2015.

#### MOURNING DOVE - FALCONRY

**Bag and Possession Limits:** Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons. Possession limit is twice the daily limit.

**OPEN AREA:** Statewide.

**SEASON DATES:** Sept. 1 - Dec. 16, ((2009, 2010, 2011)) 2012, 2013, 2014.

#### COTTONTAIL RABBIT AND SNOWSHOE HARE - FALCONRY

**Bag and Possession Limits:** Five (5) cottontails or snowshoe hares per day, straight or mixed bag. Possession limit: Fifteen (15).

**OPEN AREA:** Statewide.

**SEASON DATES:** Aug. 1, ((2009)) 2012 - Mar. 15, ((2010)) 2013; Aug. 1, ((2010)) 2013 - Mar. 15, ((2011)) 2014; Aug. 1, ((2011)) 2014 - Mar. 15, ((2012)) 2015.

#### OTHER SEASONS:

##### CANADA GOOSE SEPTEMBER SEASON

**Bag and Possession Limits:** Western Washington, except Cowlitz and Wahkiakum counties and that part of Clark County north of the Washougal River: Five (5) Canada geese per day with a total of ten (10) in possession at any time.

Cowlitz and Wahkiakum counties and that part of Clark County north of the Washougal River: Three (3) Canada geese per day with a total of six (6) in possession at any time.

**EASTERN WASHINGTON:** Three (3) Canada geese per day with a total of six (6) in possession at any time.

**EASTERN WASHINGTON SEASON DATES:** Sept. 14-15, 2012, 2013, 2014.

**WESTERN WASHINGTON SEASON DATES:** Sept. 10-15, ((2009, 2010, 2011)) 2012, 2013, and 2014. EXCEPT Pacific County: Sept. 1-15, ((2009, 2010, and 2011)) 2012, 2013, 2014.

#### MOURNING DOVE

**Bag and Possession Limits:** Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

**OPEN AREA:** Statewide.

**SEASON DATES:** Sept. 1-30, ((2009, 2010, 2011)) 2012, 2013, 2014.

#### HIP REQUIREMENTS:

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon) are required to complete a Harvest Information Program (HIP) survey at a license dealer, and possess a Washington Migratory Bird ((validation)) permit as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey, and possess a free Washington Youth Migratory Bird ((validation)) permit as evidence of compliance with this requirement when hunting migratory game birds.

#### BAND-TAILED PIGEON

**Bag and Possession Limits:** Two (2) band-tailed pigeons per day with a total of four (4) band-tailed pigeons in possession at one time.

**OPEN AREA:** Statewide.

SEASON DATES: Sept. 15-23, ((2009, 2010, 2011)) 2012, 2013, 2014.

**WRITTEN AUTHORIZATION REQUIRED TO HUNT BAND-TAILED PIGEONS.**

((All persons hunting band-tailed pigeons in this season are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Application forms must be delivered to a department of fish and wildlife office no later than August 25 or postmarked on or before August 25 in order for applicants to be mailed an authorization before the season starts. Immediately after taking a band-tailed pigeon into possession, hunters must record in ink the information required on the harvest report. By October 15, hunters must return the harvest report to a department of fish and wildlife office, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the following band-tailed pigeon season.))  
Hunters must possess a special migratory bird hunting authorization and harvest record card for band-tailed pigeons when hunting band-tailed pigeons. Immediately after taking a band-tailed pigeon into possession, hunters must record in ink the information required on the harvest record card. Hunters must report harvest information from band-tailed pigeon harvest record cards to WDFW for receipt by September 30 following the current season. Every person issued a migratory bird hunting authorization and harvest record card must return the entire card to the Washington department of fish and wildlife or report the card information at the designated internet site listed on the harvest record card. Any hunter failing to report by the deadline will be in noncompliance of reporting requirements. Beginning with the 2013 license year, hunters who have not reported hunting activity by the reporting deadline for any harvest record card will be required to pay a ten dollar administrative fee before any new migratory bird authorization and harvest record card will be issued. A hunter may only be penalized a maximum of ten dollars during a license year.

**BIRD DOG TRAINING SEASON**

Wild upland game birds may be pursued during the dog-training season, but may not be killed except during established hunting seasons. A small game license is required to train dogs on wild game birds. A Western Washington Pheasant Permit is required to train dogs on pheasants in Western Washington. Captive raised game birds may be released and killed during dog training if proof of lawful acquisition (invoices) are in possession and the birds are appropriately marked (WAC 232-12-271 and 232-12-044).

OPEN AREA: Statewide.

SEASON DATES: Aug. 1, ((2009)) 2012 - Mar. 31, ((2010)) 2013; Aug. 1, ((2010)) 2013 - Mar. 31, ((2011)) 2014; Aug. 1, ((2011)) 2014 - Mar. 31, ((2012)) 2015.

Only youth and seniors may train dogs during their respective seasons on designated Western Washington pheasant release sites.

Bird dog training may be conducted year round on areas posted for bird dog training on portions of: Region One - Espanola (T24N, R40E, E 1/2 of section 16); Region Three - South L. T. Murray Wildlife Area; Region Four - Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area, Fort Lewis Military Base.

**HOUND HUNTING DURING DEER AND ELK HUNTING SEASONS**

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a modern firearm deer or elk season. The use of hounds to hunt black bear, cougar (EXCEPT by public safety cougar removal permit (WAC 232-12-243) or a commission authorized hound permit (WAC 232-28-285)), coyote, and bobcat is prohibited year round.

**YAKAMA INDIAN RESERVATION:**

The ((2009-10, 2010-11, 2011-12)) 2012-13, 2013-14, 2014-15 upland bird seasons within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

**COLVILLE INDIAN RESERVATION:**

The ((2009-10, 2010-11, 2011-12)) 2012-13, 2013-14, 2014-15 upland bird seasons within the Colville Indian Reservation shall be the same as the season established by the Colville Indian Tribe.

**NEW SECTION**

**WAC 232-28-357 2012-2014 Deer general seasons and definitions.** It is unlawful to fail to comply with bag, possession, and season limits except as described below. Violations of this section are punishable under RCW 77.15.-410.

**Bag Limit:** One (1) deer per hunter during the license year except where otherwise permitted by fish and wildlife commission rule.

**Hunting Method:** Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

**Any Buck Deer Seasons:** Open only to the taking of deer with visible antlers (buck fawns illegal).

**Antler Point:** To qualify as an antler point, the point must be at least one inch long measured on the longest side.

**Antler Restrictions:** APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON AND DESIGNATED SPECIAL PERMIT SEASONS. Buck deer taken in antler restricted GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Eye guards are antler points when they are at least one inch long.

**2 Point minimum GMUs:** 437, 636, 654, and 681.

**3 Point minimum GMUs:** All mule deer in 100, 200, and 300 series GMUs; white-tailed deer in GMUs 127, 130, 133,

136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, 186, and black-tailed deer in GMU 578.

**Permit Only Units:** The following GMUs require a special permit to hunt deer: 157 (Mill Creek Watershed), 290 (Desert), 329 (Quilomene), 371 (Alkali), and 485 (Green River).

**GMUs Closed to Deer Hunting:** 490 (Cedar River) and 522 (Loo-wit).

**Black-tailed Deer:** Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

**Mule Deer:** Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the

Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

**White-tailed Deer:** Means any white-tailed deer (member of the species *Odocoileus virginianus*) except the Columbian whitetail deer (species *Odocoileus virginianus leucurus*).

#### MODERN FIREARM DEER SEASONS

**License Required:** A valid big game hunting license, which includes a deer species option.

**Tag Required:** Valid modern firearm deer tag on his/her person for the area hunted.

**Hunting Method:** Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

Hunt Season	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
<b>HIGH BUCK HUNTS</b>					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten, Olympic Peninsula, and Henry Jackson Wilderness Areas and Lake Chelan Recreation Area	3 pt. min.
<b>GENERAL SEASON</b>					
<b>Western Washington Black-tailed Deer</b>	Oct. 13-31	Oct. 12-31	Oct. 11-31	407, 418, 426, 448, 450, 454, 460, 466, 501 through 520, 524 through 556, 560, 568, 572, 574, 601 through 633, 638 through 653, 658 through 673, 684	Any buck
				410, 564, Deer Areas 4013, 4926, 6014, and 6020	Any deer
				578	3 pt. min.
				437, 636, 654, 681	2 pt. min.
<b>Eastern Washington White-tailed Deer</b>	Oct. 13-26	Oct. 12-25	Oct. 11-24	101, 105, 108, 111, 113, 124	Any white-tailed buck
				203 through 284, 328, 330 through 368, 372	Any white-tailed buck
	Oct. 13-21	Oct. 12-20	Oct. 11-19	127 through 154, 162 through 186	White-tailed, 3 pt. min.
				379, 381	Any white-tailed deer
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Oct. 13-26	Oct. 12-25	Oct. 11-24	373	Any white-tailed deer
				117, 121	White-tailed, 4 pt. min.
<b>Eastern Washington Mule Deer</b>	Oct. 13-21	Oct. 12-20	Oct. 11-19	101 through 154, 162 through 186, 203 through 284, 328, 330 through 368, 372, 379, 381	Mule deer, 3 pt. min.
				373, 382, 388	Mule deer, 3 pt. min.
<b>LATE GENERAL SEASON</b>					
<b>Western Washington Black-tailed Deer</b>	Nov. 15-18	Nov. 14-17	Nov. 13-16	407, 454, 466, 501 through 520, 524 through 560, 568, 572, 601 through 633, 638 through 653, 658 through 673, 684 and 699	Any buck
				636, 654, 681	2 pt. min.
	Nov. 15-18	Nov. 14-17	Nov. 13-16	410, 564, Deer Areas 4013, 4926, 6014, 6020	Any deer
<b>Eastern Washington White-tailed Deer</b>	Nov. 10-19	Nov. 9-19	Nov. 8-19	105, 108, 111, 113, 124	Any white-tailed buck
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Nov. 10-19	Nov. 9-19	Nov. 8-19	117, 121	White-tailed, 4 pt. min.
<b>HUNTERS 65 AND OVER, DISABLED, OR YOUTH GENERAL SEASONS</b>					
<b>Eastern Washington White-tailed Deer</b>	Oct. 13-26	Oct. 12-25	Oct. 11-24	124	Any white-tailed deer
	Oct. 18-21	Oct. 17-20	Oct. 16-19	101, 105, 108, 111, 113	Any white-tailed deer
	Nov. 10-19	Nov. 9-19	Nov. 8-19	Deer Area 1050	Any white-tailed deer

Hunt Season	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Nov. 10-19	Nov. 9-19	Nov. 8-19	Deer Areas 1060, 1070, 1080	White-tailed, antlerless only
	Oct. 13-21	Oct. 12-20	Oct. 11-19	127 through 142, 145, 154, and 172 through 178, and Deer Area 1010	White-tailed, 3 pt. min. or antlerless
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Oct. 18-21	Oct. 17-20	Oct. 16-19	117, 121	White-tailed, 4 pt. min. or antlerless

**ARCHERY DEER SEASONS**

**License Required:** A valid big game hunting license, which includes a deer species option.

**Tag Required:** Valid archery deer tag on his/her person for the area hunted.

**Special Notes:** Archery tag holders can only hunt during archery seasons with archery equipment (WAC 232-12-054).

Hunt Area	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
<b>EARLY ARCHERY GENERAL DEER SEASONS</b>					
<b>Western Washington Black-tailed Deer</b>	Sept. 1-28	Sept. 1-27	Sept. 1-26	407 through 426, 448, 450, 454, 466, 501, 504, 505, 510, 513, 520, 554, 564, 568, 621 through 633, 642 through 652, 658 through 672, 684 and 699	Any deer
				460, 503, 601, 603, 615, 618, 673	Any buck
				437, 636, 654, 681	2 pt. min. or antlerless
				578	3 pt. min.
	Sept. 1-23	Sept. 1-22	Sept. 1-21	516, 524, 556, 638, 653 506, 530, 550, 560, 572, 574, 602, 607, 612	Any deer Any buck
<b>Eastern Washington Mule Deer</b>	Sept. 1-28	Sept. 1-27	Sept. 1-26	105 through 121, 145, 166, 169, 172, 243, 334 124 through 142, 175, 181, 186, 244 through 247, 249, 250, 260, 372, 373, 379, 381, 382, 388	3 pt. min. 3 pt. min. or antlerless
	Sept. 1-23	Sept. 1-22	Sept. 1-21	178	3 pt. min. or antlerless
	Sept. 1-23	Sept. 1-22	Sept. 1-21	149, 154, 162, 163, 251, 328, 335, 336, 340, 342, 346, 352, 356, 360, 364, 368	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min.
	Sept. 16-28	Sept. 16-27	Sept. 16-26	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min. or antlerless
<b>Eastern Washington White-tailed Deer</b>	Sept. 1-28	Sept. 1-27	Sept. 1-26	101, 105, 108, 111, 113	Any white-tailed buck
	Sept. 1-28	Sept. 1-27	Sept. 1-26	124, 204 through 250, 254 through 284, 373, 379, 381	Any white-tailed deer
	Sept. 1-28	Sept. 1-27	Sept. 1-26	127 through 145, 166, 169, 172, 175, 181, 186	White-tailed, 3 pt. min. or antlerless
	Sept. 1-23	Sept. 1-22	Sept. 1-21	154, 162, 163, 178	White-tailed, 3 pt. min. or antlerless
	Sept. 1-23	Sept. 1-22	Sept. 1-21	149	White-tailed, 3 pt. min.
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Sept. 1-28	Sept. 1-27	Sept. 1-26	117, 121	White-tailed, 4 pt. min.
<b>LATE ARCHERY GENERAL DEER SEASONS</b>					
<b>Western Washington Black-tailed Deer</b>	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	437, 636, 654, 681	2 pt. min. or antlerless
	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	466, 510 through 520, 524, 556, 638, 648, and 699	Any deer
	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	460, 506, 530, 560, 572, 601, 607 through 618	Any buck
	Nov. 21 - Dec. 31	Nov. 27 - Dec. 31	Nov. 26 - Dec. 31	603, 624, 652	Any buck
	Nov. 21 - Dec. 31	Nov. 27 - Dec. 31	Nov. 26 - Dec. 31	407, 410, 454, 505, 564, 627, 642, 660 through 672	Any deer
<b>Eastern Washington Mule Deer</b>	Nov. 21-30	Nov. 21-30	Nov. 21-30	209, 215, 233, 243, 250	3 pt. min.
	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	346, 352, 364, 388, Deer Area 3682	3 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178	3 pt. min. or antlerless

Hunt Area	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	272, 278, 373	3 pt. min. or antlerless
	Dec. 9-31	Dec. 9-31	Dec. 9-31	Deer Area 1021	Antlerless only
<b>Eastern Washington White-tailed Deer</b>	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	101	Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	105, 108, 124	Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	127	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178	White-tailed, 3 pt. min. or antlerless
	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	204, 209, 215, 233, 243, 272, 278, 373	Any white-tailed deer
<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Nov. 25 - Dec. 9	Nov. 25 - Dec. 9	Nov. 25 - Dec. 9	117, 121	White-tailed, 4 pt. min.
	Dec. 10-15	Dec. 10-15	Dec. 10-15	117, 121	White-tailed, 4 pt. min. or antlerless

**MUZZLELOADER DEER SEASONS**

**License Required:** A valid big game hunting license, which includes a deer species option.

**Tag Required:** Valid muzzleloader deer tag on his/her person for the area hunted.

**Hunting Method:** Muzzleloader only.

**Special Notes:** Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment (WAC 232-12-051) or archery equipment (WAC 232-12-054).

Hunt Area	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
<b>High Buck Hunts</b>	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten, Olympic Peninsula, and Henry Jackson Wilderness areas, and Lake Chelan Recreation Area	3 pt. min.

**EARLY MUZZLELOADER GENERAL DEER SEASONS**

<b>Western Washington Black-tailed Deer</b>	Sept. 29 - Oct. 7	Sept. 28 - Oct. 6	Sept. 27 - Oct. 5	407, 418, 426, 448, 450, 501, 504, 505, 506, 510, 513, 516, 520, 530, 554, 556, 568, 572, 574, 603, 607, 612, 615, 624, 638, 642, 648, 660, 663, 672, 673, 684	Any buck
				410, 454, 564, 627, 652, 666, Deer Areas 4926 and 6020	Any deer
				437, 636	2 pt. min.
				578	3 pt. min.

<b>Eastern Washington White-tailed Deer</b>	Sept. 29 - Oct. 7	Sept. 28 - Oct. 6	Sept. 27 - Oct. 5	101, 105, 108, 111, 113, 124, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 260, 278, 284	White-tailed, any buck
				142	White-tailed, 3 pt. min. or antlerless
				127, 130, 133, 136, 139, 145, 149, 175, 181, 186	White-tailed, 3 pt. min.
				373, 379	White-tailed, any deer

<b>Eastern Washington White-tailed Deer in GMUs 117 and 121</b>	Sept. 29 - Oct. 7	Sept. 28 - Oct. 6	Sept. 27 - Oct. 5	117, 121	White-tailed, 4 pt. min.
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<b>Eastern Washington Mule Deer</b>	Sept. 29 - Oct. 7	Sept. 28 - Oct. 6	Sept. 27 - Oct. 5	101 through 149, 175, 181, 186, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 254, 260, 262, 266, 269, 272, 284, 328, 330 through 342, 352 through 360, 368, 373, 379, 382	Mule deer, 3 pt. min.
				278	Mule deer, 3 pt. min. or antlerless

**LATE MUZZLELOADER GENERAL DEER SEASONS**

<b>Western Washington Black-tailed Deer</b>	Nov. 22 - Dec. 15	Nov. 28 - Dec. 15	Nov. 27 - Dec. 15	407, 410, 454, 501, 504, 564, 633, 666, 684, and Deer Areas 4926 and 6020	Any deer
				654	2 pt. min.
				460, 550, 602, 651, 658	Any buck

Hunt Area	2012 Dates	2013 Dates	2014 Dates	Game Management Units (GMUs)	Legal Deer
	Nov. 22 - Dec. 6	Nov. 28 - Dec. 6	Nov. 27 - Dec. 6	667, 673	Any buck
	Dec. 7-15	Dec. 7-15	Dec. 7-15	673	Any deer
<b>Eastern Washington White-tailed Deer</b>	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	113	Any white-tailed buck
	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130, 133, 136, 139	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	172, 181	White-tailed, 3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 381	Any white-tailed deer
<b>Eastern Washington Mule Deer</b>	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130	Antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	381	3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 382	3 pt. min.

## NEW SECTION

**WAC 232-28-358 2012-2014 Elk general seasons and definitions.** It is unlawful to fail to comply with bag, possession, and season limits except as described below. Violations of this section are punishable under RCW 77.15.410.

**Bag Limit:** One (1) elk per hunter during the license year, except where otherwise permitted by fish and wildlife commission rule. Any combination of seasons, tags, and permits set by the fish and wildlife commission will not exceed a maximum of two (2) elk per hunter during the license year.

**Hunting Method:** Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

**Elk Tag Areas:** Elk hunters must choose either Eastern or Western Washington to hunt in and buy the appropriate tag for that area.

**Any Bull Elk Seasons:** Open only to the taking of elk with visible antlers (bull calves are illegal).

**Antler Point:** To qualify as an antler point, the point must be at least one inch long measured on the longest side.

**Branch:** A branch is defined as any projection off the main antler beam that is at least one inch long, measured on the longest side, and longer than it is wide.

**Spike Bull Antler Restrictions:** Bull elk taken in spike only GMUs must have at least one antler with no branches originating more than four inches above where the antler attaches to the skull.

**Spike Only GMUs:** 145-154, 162-186, 249, and 336-368.

**True Spike—Bull Antler Restrictions:** Bull elk taken in these units must have both antlers with no branching originating more than four inches above where the antlers attach to the skull. Under the true spike restriction, the taking of an elk that has two points on one side or has antler points within one inch of the definitions regarding length of point, or point of origination, is an infraction under RCW 7.84.030. All other types of violations of the true spike restriction are subject to current penalties and assessments under RCW 77.15.410 and 77.15.420.

**True Spike GMUs:** 251, 328-335.

**3 Point Antler Restrictions:** Legal bull elk must have at least 3 antler points on one side with at least 2 antler points

above the ear. Eye guards are antler points when they are at least one inch long. Antler restrictions apply to all hunters during any open season.

**3 Point GMUs:** All of Western Washington except for GMUs 454, 564, 568, 574, 578, 652 for archers, 666, 684, and Elk Area 4941.

**Permit Only Units:** The following GMUs are closed during general seasons: 157, 371, 418, 485, 522, 524, 556, 621, 636, 653, and Elk Area 3068.

**GMUs Closed to Elk Hunting:** 437 (except for Elk Area 4941) and 490.

### **Elk Tag Areas**

**Eastern Washington:** All 100, 200, and 300 GMUs except permit only for all hunters in GMUs 157 and 371. Modern firearms are restricted in GMU 334.

EA - Eastern Washington Archery Tag

EF - Eastern Washington Modern Firearm General Elk Tag

EM - Eastern Washington Muzzleloader Tag

**Western Washington:** All 400, 500, and 600 GMUs except closed in GMU 437 (except for Elk Area 4941), 490, and modern firearm restrictions in portions of GMU 660. GMU 554 is open only for early archery and muzzleloader seasons. Elk Area 6064 in GMU 638 (Quinault) is open to master hunters only. Elk hunting by permit only in GMUs 418, 485, 522, 524, 556, 621, and 636.

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk Tag

WM - Western Washington Muzzleloader Tag

### **Modern Firearm General Elk Seasons**

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid modern firearm elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** May use modern firearm, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	2012 Dates	2013 Dates	2014 Dates	Legal Elk	
<b>Eastern Washington</b>	EF	101, 105, 108, 111, 113, 117, 121, 204	Oct. 27 - Nov. 4	Oct. 26 - Nov. 3	Oct. 25 - Nov. 2	Any bull	
		145 through 154, 162 through 186, 249, 336 through 368	Oct. 27 - Nov. 4	Oct. 26 - Nov. 3	Oct. 25 - Nov. 2	Spike bull	
		251, 328, 329, 334, 335	Oct. 27 - Nov. 4	Oct. 26 - Nov. 3	Oct. 26 - Nov. 2	True spike bull	
		Elk Area 3722*	Sept. 8-23	Sept. 7-22	Sept. 6-21	Antlerless only	
		124 through 142, 372, 382, 388	Oct. 27 - Nov. 4	Oct. 26 - Nov. 3	Oct. 25 - Nov. 2	Any elk	
		203, 209 through 248, 250, 254 through 290, 373, 379, 381	Oct. 27 - Nov. 15	Oct. 26 - Nov. 15	Oct. 25 - Nov. 15	Any elk	
		Elk Area 2033	Sept. 4-30	Sept. 3-30	Sept. 2-30	Antlerless only	
		Master Hunters Only: 371, Elk Area 3912	Aug. 1 - Jan. 20, 2013	Aug. 1 - Jan. 20, 2014	Aug. 1 - Jan. 20, 2015	Antlerless only	
		Master Hunters Only: Elk Area 3911**	Nov. 10 - Dec. 16	Nov. 9 - Dec. 15	Nov. 8 - Dec. 14	Antlerless only	
		Master Hunters Only: Elk Area 3911** 2nd tag.	Aug. 1 - Oct. 26	Aug. 1 - Oct. 25	Aug. 1 - Oct. 24	Antlerless only	
		Master Hunters Only: 127, 130	Dec. 9-31	Dec. 9-31	Dec. 9-31	Antlerless only	
*GMU 372 and Elk Area 3722 are mainly private property, hunters are not advised to try hunting these areas without making prior arrangements for access.							
**Master Hunters who hunt in Elk Area 3911 may purchase a master hunter, Elk Area 3911, second elk transport tag. Only one (1) anterless elk may be taken from Elk Area 3911 unless drawn for an antlerless elk special permit. Any legal weapon may be used. Master hunter, Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 - October 26, 2012, August 1 - October 25, 2013, and August 1 - October 24, 2014. All hunters participating in the Elk Area 3911 hunt must wear hunter orange.							
<b>Western Washington</b>	WF	407, 460, 466, 503, 505 through 520, 530, 550, 560, 568, 572, 574, 578, 601 through 618, 624 (except for Elk Area 6071), 627 through 633, 638 through 652, 654 through 684. Except master hunters only in Elk Area 6064.	Nov. 3-14	Nov. 2-13	Nov. 1-12	3 pt. min.	
		501, 504	Nov. 3-14	Nov. 2-13	Nov. 1-12	3 pt. min. or antlerless	
		448, 564, 666	Nov. 3-14	Nov. 2-13	Nov. 1-12	Any elk	
		454	Nov. 3-14	Nov. 2-13	Nov. 1-12	Any bull	

### Archery General Elk Seasons

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid archery elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** Bow and arrow only as defined under WAC 232-12-054.

**Special Notes:** Archery tag holders can hunt only during archery seasons and must hunt with archery equipment (WAC 232-12-054). Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	2012 Dates	2013 Dates	2014 Dates	Legal Elk
<b>Early Archery General Elk Seasons</b>						
<b>Eastern Washington</b>	EA	101 through 142, 243, 247, 249, 250, 373, 379, 381, 388	Sept. 4-16	Sept. 3-15	Sept. 2-14	Any elk
		162, 166 through 172, 186, 352, 356	Sept. 4-16	Sept. 3-15	Sept. 2-14	Spike bull
		328, 329, 335	Sept. 4-16	Sept. 3-15	Sept. 2-14	True spike bull

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	2012 Dates	2013 Dates	2014 Dates	Legal Elk
		145, 149, 154, Elk Area 1010, Elk Area 1013, 163, 175, 178, 181, 334, 336, 340, 346, 364	Sept. 4- 16	Sept. 3-15	Sept. 2-14	Spike bull or antlerless
<b>Western Washington</b>	WA	448, 454, 564, 652, 666	Sept. 4- 16	Sept. 3-15	Sept. 2-14	Any elk
		407, 501 through 505, 520, 550, 554, 560, 568, 572, 574, 578, 624, except for Elk Area 6071, Elk Area 6061, 654, 660, 667 through 673, 681, 684, 699	Sept. 4- 16	Sept. 3-15	Sept. 2-14	3 pt. min. or antlerless
		460, 466, 506, 510, 513, 516, 530, 601, 602, 603, 607, 612 through 618, 627, 633, 638 through 648, 651, 658, 663. Master hunters only in Elk Area 6064.	Sept. 4-16	Sept. 3-15	Sept. 2-14	3 pt. min.
<b>Late Archery General Elk Seasons</b>						
<b>Eastern Washington</b>	EA	101, 105, 108, 117, 121, 204	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any bull
		124, 127, 373, 388	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any elk
		178	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Antlerless only
		Elk Area 1010, 163	Dec. 9 - Jan. 30, 2013	Dec. 9 - Jan. 30, 2014	Dec. 9 - Jan. 20, 2015	Antlerless only
		203, 209 through 248, 250, 254 through 290, 379, 381. Must wear hunter orange.	Oct. 21 - Nov. 15	Oct. 27 - Nov. 15	Oct. 26 - Nov. 15	Any elk
		Master Hunters Only: 371, Elk Area 3912. Must wear hunter orange.	Aug. 1 - Jan. 20, 2013	Aug. 1 - Jan. 20, 2014	Aug. 1 - Jan. 20, 2015	Antlerless only
		Master Hunters Only: Elk Area 3911**. Must wear hunter orange.	Nov. 10 - Dec. 16	Nov. 9 - Dec. 15	Nov. 8 - Dec. 14	Antlerless only
		Master Hunters Only: Elk Area 3911** 2nd tag. Must wear hunter orange.	Aug. 1 - Oct. 26	Aug. 1 - Oct. 25	Aug. 1 - Oct. 24	Antlerless only
		328, 334, 335	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	True spike bull or antlerless
		336, 346, 352, 364, Elk Area 3681	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	Spike bull or antlerless
<b>Western Washington</b>	WA	407, 503, 505, 667, 672, 681, and 699. Master hunters only in Elk Area 6064 portion of GMU 638.	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	3 pt. min. or antlerless
		448, 454, 564, 666	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	Any elk
		603, 612, 615, 638, 648	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	3 pt. min.
		506, 520, 530	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	Antlerless only
		*GMU 372 and Elk Area 3722 are mainly private property, hunters are not advised to try hunting these areas without making prior arrangements for access.				
**Master Hunters who hunt in Elk Area 3911 may purchase a master hunter, Elk Area 3911, second elk transport tag. Only one (1) antlerless elk may be taken from Elk Area 3911 unless drawn for an antlerless elk special permit. Any legal weapon may be used. Master hunter, Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 - October 26, 2012, August 1 - October 25, 2013, and August 1 - October 24, 2014. All hunters participating in the Elk Area 3911 hunt must wear hunter orange.						

**Muzzleloader General Elk Seasons****License Required:** A valid big game hunting license with an elk tag option.**Tag Required:** Valid muzzleloader elk tag as listed below on his/her person for the area hunted.**Hunting Method:** Muzzleloader as defined under WAC 232-12-051 or bow and arrow as defined under WAC 232-12-054.**Special Notes:** Muzzleloader tag holders can only hunt during the muzzleloader seasons. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	2012 Dates	2013 Dates	2014 Dates	Legal Elk
<b>Early Muzzleloader General Elk Seasons</b>						
<b>Eastern Washington</b>	EM	101 through 121, 247	Oct. 6-12	Oct. 5-11	Oct. 4-10	Any bull
		124 through 142, 245, 250	Oct. 6-12	Oct. 5-11	Oct. 4-10	Any elk
		172, 336 through 342, 352 through 360, 368	Oct. 6-12	Oct. 5-11	Oct. 4-10	Spike bull
		335, Elk Area 2051	Oct. 6-12	Oct. 5-11	Oct. 4-10	True spike bull
<b>Western Washington</b>	WM	448, 454, 564, 666, 684	Oct. 6-12	Oct. 5-11	Oct. 4-10	Any elk
		460, 513, 530, 554, 568, 574, 578, 602, 603, 607, 627, 633, 638 except Elk Area 6064, 642, 660, 663, 672	Oct. 6-12	Oct. 5-11	Oct. 4-10	3 pt. min.
		501, 503, 504, 652, except Elk Area 6013 closed to antlerless, 654, 667	Oct. 6-12	Oct. 5-11	Oct. 4-10	3 pt. min. or antlerless
<b>Late Muzzleloader General Elk Seasons</b>						
<b>Eastern Washington</b>	EM	130 through 142	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any elk
		204	Oct. 27 - Nov. 15	Oct. 26 - Nov. 15	Oct. 25 - Nov. 15	Any bull
		203, 209 through 248, 250, 254 through 290, 373, 379, 381. Must wear hunter orange.	Oct. 27 - Nov. 15	Oct. 26 - Nov. 15	Oct. 25 - Nov. 15	Any elk
		Master Hunters Only: 371, Elk Area 3912. Must wear hunter orange.	Aug. 1 - Jan. 20, 2013	Aug. 1 - Jan. 20, 2014	Aug. 1 - Jan. 20, 2015	Antlerless only
		Master Hunters Only: Elk Area 3911**. Must wear hunter orange.	Nov. 10 - Dec. 16	Nov. 9 - Dec. 15	Nov. 8 - Dec. 14	Antlerless only
		Master Hunters Only: Elk Area 3911* 2nd tag. Must wear hunter orange.	Aug. 1 - Oct. 26	Aug. 1 - Oct. 25	Aug. 1 - Oct. 24	Antlerless only
<b>Western Washington</b>	WM	501, 503, 504, 505, 652 except Elk Area 6013 closed to antlerless.	Nov. 21 - Dec. 8	Nov. 27 - Dec. 8	Nov. 26 - Dec. 8	3 pt. min. or antlerless
		448, 454, 564, 666, 684	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	Any elk
		568, 574, 578	Nov. 21-30	Nov. 27-30	Nov. 26-30	3 pt. min.
		550, 601, 618, 658, 667	Nov. 21 - Dec. 15	Nov. 27 - Dec. 15	Nov. 26 - Dec. 15	3 pt. min.
		*Master Hunters who hunt in Elk Area 3911 may purchase a master hunter, Elk Area 3911, second elk transport tag. Any legal weapon may be used. Only one (1) antlerless elk may be taken from Elk Area 3911 unless drawn for an antlerless elk special permit. Master hunter, Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 - October 26, 2012, August 1 - October 25, 2013, and August 1 - October 24, 2014. All hunters participating in the Elk Area 3911 hunt must wear hunter orange.				

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

#### NEW SECTION

**WAC 232-28-359 2012 Deer special permits.** It is unlawful to fail to comply with bag, possession, and season limits except as described below. Violations of this section are punishable under RCW 77.15.410.

#### **Deer Special Permit Hunting Seasons (Open to Permit Holders Only)**

Hunters must purchase a deer hunting license prior to purchase of a permit application. Hunters may only apply for permits consistent with the tag required for the hunt choice; however, Multiple Season Permit holders may apply for archery, muzzleloader, or modern firearm permit hunts. Hunters drawn for a special permit hunt must comply with weapon restrictions, dates, and other conditions listed for the hunt.

<b>Quality</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Kelly Hill White-tailed Buck	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 105	5
Kelly Hill Mule Deer Buck	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 105	1
Douglas White-tailed Buck	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 108	5
Douglas Mule Deer Buck	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 108	1
Aladdin White-tailed Buck	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 111	5
Aladdin Mule Deer Buck	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 111	1
Selkirk	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 113	1
49 Degrees North White-tailed Buck	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 117	5
49 Degrees North Mule Buck	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 117	1
Huckleberry White-tailed Buck	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 121	5
Huckleberry Mule Deer Buck	Modern	Any	Nov. 10-20	Mule deer, 3 pt. min.	GMU 121	1
Mt. Spokane	Modern	Any	Nov. 20-24	White-tailed, Any buck	GMU 124	5
Mica Peak	Modern	Any	Nov. 20-24	White-tailed, 3 pt. min.	GMU 127	5
Cheney	Modern	Any	Nov. 20-24	White-tailed, 3 pt. min.	GMU 130	5
Roosevelt	Modern	Any	Nov. 20-24	White-tailed, 3 pt. min.	GMU 133	5
Steptoe	Modern	Any	Nov. 20-24	White-tailed, 3 pt. min.	GMU 139	5
Almota	Modern	Any	Nov. 20-24	White-tailed, 3 pt. min.	GMU 142	5
Watershed	Any Tag	Any	Oct. 1-10	3 pt. min.	GMU 157	5
Dayton	Modern	Any	Nov. 20-24	3 pt. min.	GMU 162	5
Tucannon	Modern	Any	Nov. 20-24	3 pt. min.	GMU 166	2
Wenaha East	Modern	Any	Nov. 7-14	Mule deer, 3 pt. min.	Deer Area 1009	2
Wenaha West	Modern	Any	Nov. 7-14	Mule deer, 3 pt. min.	Deer Area 1008	2
Lick Creek	Modern	Any	Nov. 20-24	3 pt. min.	GMU 175	1
Grande Ronde	Modern	Any	Nov. 20-24	3 pt. min.	GMU 186	1
East Okanogan	Modern	Any	Nov. 1-20	Any buck	GMU 204	10
Sinlahekin	Modern	Any	Nov. 1-20	Any buck	GMU 215	10
Chewuch	Modern	Any	Nov. 1-20	Any buck	GMU 218	15
Pearrygin	Modern	Any	Nov. 1-20	Any buck	GMU 224	15
Gardner	Modern	Any	Nov. 1-20	Any buck	GMU 231	10
Pogue	Modern	Any	Nov. 1-20	Any buck	GMU 233	20
Alta	Modern	Any	Nov. 1-20	Any buck	GMU 242	10
Manson	Modern	Any	Nov. 1-20	Any buck	GMU 243	10
Chiwawa	Modern	Any	Nov. 1-20	Any buck	GMU 245	28
Slide Ridge	Modern	Any	Nov. 1-20	Any buck	GMU 246	11
Entiat	Modern	Any	Nov. 1-20	Any buck	GMU 247	25
Swakane	Modern	Any	Nov. 1-20	Any buck	GMU 250	15
Mission	Modern	Any	Nov. 1-20	Any buck	GMU 251	10
Ritzville	Modern	Any	Nov. 1-20	Any buck	GMU 284	12
Desert	Modern	Any	Oct. 27 - Nov. 4	Any buck	GMU 290	17
Desert	Modern	Any	Nov. 17-25	Any buck	GMU 290	5
Naneum	Modern	Any	Nov. 12-20	Any buck	GMU 328	14
Quilomene	Modern	Any	Nov. 5-20	Any buck	GMU 329	14
Teanaway	Modern	Any	Nov. 12-20	Any buck	GMU 335	14
L.T. Murray	Modern	Any	Nov. 14-20	Any buck	GMUs 336, 340	5
Bethel	Modern	Any	Nov. 5-20	Any buck	GMU 360	5
Cowiche	Modern	Any	Nov. 5-20	Any buck	GMU 368	10
Alkali	Modern	Any	Nov. 3-18	Any buck	GMU 371	6

<b>Quality</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Kahlotus	Modern	Any	Nov. 10-19	Any buck	GMU 381	10
Grayback	Modern	Any	Nov. 1-20	3 pt. min.	GMU 388	40
Nooksack	Modern	Any	Nov. 15-20	Any buck	GMU 418	25
Skagit	Modern	Any	Nov. 15-20	Any buck	GMU 426	10
Sauk	Modern	Any	Nov. 15-20	2 pt. min.	GMU 437	25
Stillaguamish	Modern	Any	Nov. 15-20	Any buck	GMU 448	10
Snoqualmie	Modern	Any	Nov. 15-20	Any buck	GMU 460	10
Green River	Modern	Any	Oct. 27 - Nov. 2	Any buck	GMU 485	10
Lewis River	Modern	Any	Nov. 1-14	Any buck	GMU 560	1
Washougal	Modern	Any	Nov. 1-14	Any buck	GMU 568	2
Siouxon	Modern	Any	Nov. 1-14	Any buck	GMU 572	1
Wind River	Modern	Any	Nov. 13-20	Any buck	GMU 574	40
West Klickitat	Modern	Any	Nov. 13-20	3 pt. min.	GMU 578	40
Sol Duc	Modern	Any	Nov. 1-20	Any buck	GMU 607	5
Wynoochee	Modern	Any	Nov. 1-23	Any buck	GMU 648	10
Satsop	Modern	Any	Nov. 1-23	Any buck	GMU 651	10
Mashel	Modern	Any	Nov. 1-23	2 pt. min.	GMU 654	10
Capitol Peak	Modern	Any	Nov. 1-23	Any buck	GMU 663	10
Skookumchuck	Modern	Any	Nov. 1-23	Any buck	GMU 667	10
Chiliwist	Archery	Any	Nov. 21-30	Any buck	GMU 239	15
Entiat	Archery	Any	Nov. 21-30	Any buck	GMU 247	50
Chiwawa	Archery	Any	Dec. 1-8	Any buck	GMU 245	13
Slide Ridge	Archery	Any	Dec. 1-8	Any buck	GMU 246	3
Desert	Archery	Any	Nov. 26 - Dec. 9	Any buck	GMU 290	29
Naneum	Archery	Any	Nov. 21 - Dec. 8	Any buck	GMU 328	6
Quilomene	Archery	Any	Nov. 21 - Dec. 8	Any buck	GMU 329	6
Teanaway	Archery	Any	Nov. 21 - Dec. 8	Any buck	GMU 335	9
L.T. Murray	Archery	Any	Nov. 21 - Dec. 8	Any buck	GMUs 336, 340	2
West Klickitat	Archery	Any	Nov. 21-30	3 pt. min.	GMU 578	100
Kitsap	Archery	Any	Nov. 1-23	Any buck	GMU 627	10
Skokomish	Archery	Any	Nov. 1-23	2 pt. min.	GMU 636	10
Blue Mtns. Foothills	Muzzleloader	Any	Nov. 24 - Dec. 8	White-tailed, 3 pt. min.	GMUs 149, 154, 162, 166	70
Alta	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 242	20
Chiwawa	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 245	3
Slide Ridge	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 246	1
Mission	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 251	15
Desert	Muzzleloader	Any	Oct. 13-21	Any buck	GMU 290	3
Teanaway	Muzzleloader	Any	Nov. 7-13	Any buck	GMU 335	2
L.T. Murray	Muzzleloader	Any	Nov. 7-13	Any buck	GMUs 336, 340	1
Bald Mountain	Muzzleloader	Any	Nov. 7-20	Any buck	GMUs 342, 346	2
Naneum	Muzzleloader	Any	Nov. 7-13	Any buck	GMU 328	2
Quilomene	Muzzleloader	Any	Sept. 24 - Oct. 2	Any buck	GMU 329	6
West Klickitat	Muzzleloader	Any	Dec. 1-8	3 pt. min.	GMU 578	100
Olympic	Muzzleloader	Any	Nov. 1-23	Any buck	GMU 621	5

<b>Bucks</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Palouse	Modern	Any	Nov. 10-19	White-tailed, 3 pt. min.	GMUs 127-142	750
Blue Mtns. Foothills West	Modern	Any	Nov. 7-19	White-tailed, 3 pt. min.	GMUs 149, 154, 162-166	110
Blue Mtns. Foothills East	Modern	Any	Nov. 7-19	White-tailed, 3 pt. min.	GMUs 145, 172-181	50
East Okanogan	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 204	50
Sinlahekin	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 215	50
Chewuch	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 218	15

<b>Bucks</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Pearrygin	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 224	15
Gardner	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 231	15
Pogue	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 233	20
Chiliwist	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 239	15
Alta	Modern	Any	Nov. 1-20	Any white-tailed buck	GMU 242	15
Big Bend	Archery	Any	Dec. 1-8	Any buck	GMU 248	10
Ritzville	Archery	Any	Dec. 1-8	Any buck	GMU 284	4
Alkali	Archery	Any	Sept. 1-22	Any buck	GMU 371	4
Whitcomb	Archery	Any	Sept. 10-15	Any buck	Deer Area 3071	10
Paterson	Archery	Any	Sept. 10-15	Any buck	Deer Area 3072	10
Roosevelt	Muzzleloader	Any	Sept. 29 - Oct. 12	ONLY 2 pt. x 2 pt. mule deer bucks	GMU 133	25
Harrington	Muzzleloader	Any	Sept. 29 - Oct. 12	ONLY 2 pt. x 2 pt. mule deer bucks	GMU 136	25
Steptoe	Muzzleloader	Any	Sept. 29 - Oct. 12	ONLY 2 pt. x 2 pt. mule deer bucks	GMU 139	25
Almota	Muzzleloader	Any	Sept. 29 - Oct. 12	ONLY 2 pt. x 2 pt. mule deer bucks	GMU 142	25
Dayton	Muzzleloader	Any	Sept. 29 - Oct. 9	3 pt. min.	GMU 162	25
Tucannon	Muzzleloader	Any	Sept. 29 - Oct. 9	3 pt. min.	GMU 166	10
Wenaha	Muzzleloader	Any	Sept. 29 - Oct. 9	3 pt. min.	GMU 169	15
Mountain View	Muzzleloader	Any	Sept. 29 - Oct. 9	3 pt. min.	GMU 172	15
Ritzville	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 284	1
Alkali	Muzzleloader	Any	Sept. 23 - Oct. 12	Any buck	GMU 371	1
Kahlotus	Muzzleloader	Any	Sept. 30 - Oct. 7	Any buck	GMU 381	20

<b>Antlerless</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Blue Creek	Modern	Any	Nov. 8-19	White-tailed, antlerless	GMU 154	30
Dayton	Modern	Any	Nov. 8-19	White-tailed, antlerless	GMU 162	80
Ten Ten	Modern	Any	Nov. 8-19	Antlerless	Deer Area 1010	30
Marengo	Modern	Any	Nov. 1-12	White-tailed, antlerless	GMU 163	50
Peola	Modern	Any	Nov. 1-12	Antlerless	GMU 178	50
Lincoln	Modern	Any	Oct. 13-31	Antlerless	GMU 501	15
Stella	Modern	Any	Oct. 13-31	Antlerless	GMU 504	15
Mossyrock	Modern	Any	Oct. 13-31	Antlerless	GMU 505	30
South Rainier	Modern	Any	Oct. 13-31	Antlerless	GMU 513	10
Winston	Modern	Any	Oct. 13-31	Antlerless	GMU 520	20
Lewis River	Modern	Any	Oct. 13-31	Antlerless	GMU 560	3
Siouxon	Modern	Any	Oct. 13-31	Antlerless	GMU 572	3
Wind River	Modern	Any	Oct. 13-31	Antlerless	GMU 574	3
Pysht	Modern	Any	Oct. 13-31	Antlerless	GMU 603	15
Olympic	Modern	Any	Oct. 13-31	Antlerless	GMU 621	35
Skokomish	Modern	Any	Oct. 13-31	Antlerless	GMU 636	20
Wynoochee	Modern	Any	Oct. 13-31	Antlerless	GMU 648	110
Mashel	Modern	Any	Oct. 13-31	Antlerless	GMU 654	40
North River	Modern	Any	Oct. 13-31	Antlerless	GMU 658	35
Minot Peak	Modern	Any	Oct. 13-31	Antlerless	GMU 660	20
Capitol Peak	Modern	Any	Oct. 13-31	Antlerless	GMU 663	5
Skookumchuck	Modern	Any	Oct. 13-31	Antlerless	GMU 667	5
Entiat	Archery	Any	Nov. 21-30	Antlerless	GMU 247	40
Swakane	Archery	Any	Nov. 21-30	Antlerless	GMU 250	50
Whitcomb	Archery	Any	Sept. 1-7	Antlerless	Deer Area 3071	10
Paterson	Archery	Any	Sept. 1-7	Antlerless	Deer Area 3072	10
Grayback	Archery	Any	Nov. 23 - Dec. 8	Antlerless	GMU 388	100
Sherman	Muzzleloader	Any	Sept. 29 - Oct. 7	White-tailed, antlerless	GMU 101	40

<b>Antlerless</b>						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
Selkirk	Muzzleloader	Any	Nov. 25 - Dec. 8	White-tailed, antlerless	GMU 113	15
Whitcomb	Muzzleloader	Any	Sept. 16-21	Antlerless	Deer Area 3071	10
Paterson	Muzzleloader	Any	Sept. 16-21	Antlerless	Deer Area 3072	10
Whitcomb	Muzzleloader	Any	Sept. 24-30	Antlerless	Deer Area 3071	10
Paterson	Muzzleloader	Any	Sept. 24-30	Antlerless	Deer Area 3072	10
Mossyrock	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 505	10
Stormking	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 510	5
South Rainier	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 513	5
Packwood	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 516	5
Winston	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 520	5
Ceweeman	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 550	30
Yale	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 554	2
Toutle	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 556	3
Olympic	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 621	20
Satsop	Muzzleloader	Any	Nov. 22 - Dec. 15	Antlerless	GMU 651	100
Mashel	Muzzleloader	Any	Nov. 22 - Dec. 15	Antlerless	GMU 654	50
North River	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 658	5

<b>2nd Deer</b>						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
Colville River	Any	Any	Sept. 1 - Dec. 31	White-tailed, antlerless	Deer Area 1035	25
Benge	Any	Any	Dec. 9-31	Antlerless	Deer Area 2010	30
Lakeview	Any	Any	Jan. 1-30, 2013	Antlerless	Deer Area 2011	20
Methow	Any	Any	Sept. 8 - Oct. 9	Antlerless	Deer Area 2012	20
North Okanogan	Any	Any	Sept. 8 - Oct. 9	Antlerless	Deer Area 2013	40
Central Okanogan	Any	Any	Sept. 8 - Oct. 9	Antlerless	Deer Area 2014	50
Omak	Any	Any	Sept. 8 - Oct. 9	Antlerless	Deer Area 2015	25
Conconully	Any	Any	Sept. 8 - Oct. 9	Antlerless	Deer Area 2016	25
High Prairie	Any	Any	Oct. 13-26	Antlerless	Deer Area 3088	15
Mt. Spokane	Modern	Any	Oct. 13-26 and Nov. 10-19	White-tailed, antlerless	GMU 124	50
Spokane North	Modern	Any	Oct. 13-26 and Nov. 10-19	White-tailed, antlerless	Deer Area 1050	350
Mica Peak	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 127	25
Spokane South	Modern	Any	Oct. 13-21	White-tailed, antlerless	Deer Area 1060	125
Cheney	Modern	Any	Oct. 13-21	Antlerless	GMU 130	100
Spokane West	Modern	Any	Oct. 13-21	Antlerless	Deer Area 1070	75
Roosevelt	Modern	Any	Oct. 13-21	Antlerless	GMU 133	150
Harrington	Modern	Any	Oct. 13-21	Antlerless	GMU 136	150
Steptoe	Modern	Any	Oct. 13-21	Antlerless	GMU 139	200
Colfax	Modern	Any	Oct. 13-21	Antlerless	Deer Area 1080	125
Almota	Modern	Any	Oct. 13-21	Antlerless	GMU 142	150
Mayview	Modern	Any	Nov. 1-12	Antlerless	GMU 145	50
Blue Creek	Modern	Any	Nov. 8-19	White-tailed, antlerless	GMU 154	30
Ten Ten	Modern	Any	Nov. 8-19	Antlerless	Deer Area 1010	30
East Okanogan	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 204	75
Sinlahekin	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 215	40
Chewuch	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 218	10
Pearrygin	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 224	10
Gardner	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 231	10
Pogue	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 233	10
Chiliwist	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 239	10
Alta	Modern	Any	Oct. 13-21	White-tailed, antlerless	GMU 242	10
Big Bend	Modern	Any	Oct. 13-21	Antlerless	GMU 248	35
Mission	Modern	Any	Oct. 13-21	Antlerless	GMU 251	10

<b>2nd Deer</b>						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Mission	Modern	Any	Nov. 1-20	Antlerless	GMU 251	15
St. Andrews	Modern	Any	Oct. 13-21	Antlerless	GMU 254	20
Foster Creek	Modern	Any	Oct. 13-21	Antlerless	GMU 260	20
Withrow	Modern	Any	Oct. 13-21	Antlerless	GMU 262	20
Badger	Modern	Any	Oct. 13-21	Antlerless	GMU 266	15
Desert	Modern	Any	Dec. 13-26	Antlerless	GMU 290	50
Kahlotus	Modern	Any	Dec. 1-9	Antlerless	GMU 381	20
East Klickitat	Modern	Any	Oct. 13-26	Antlerless	GMU 382	30
Grayback	Modern	Any	Oct. 13-26	Antlerless	GMU 388	20
High Prairie	Modern	Any	Oct. 13-28	Antlerless	Deer Area 3088	15
Shaw	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4004	20
Lopez	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4005	30
Orcas	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4006	30
Decatur	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4007	30
Blakely	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4008	30
Cypress	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4009	30
San Juan	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4010	30
Camano	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4011	30
Whidbey	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4012	100
Vashon-Maury	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4013	100
Guemes	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4926	30
Randle	Modern	Any	Oct. 13-31	Antlerless	GMU 503	5
Willapa Hills	Modern	Any	Oct. 13-31	Antlerless	GMU 506	10
Stormking	Modern	Any	Oct. 13-31	Antlerless	GMU 510	15
Packwood	Modern	Any	Oct. 13-31	Antlerless	GMU 516	15
Ryderwood	Modern	Any	Oct. 13-31	Antlerless	GMU 530	10
Coweeman	Modern	Any	Oct. 13-31	Antlerless	GMU 550	10
Yale	Modern	Any	Oct. 13-31	Antlerless	GMU 554	10
Washougal	Modern	Any	Oct. 13-31	Antlerless	GMU 568	10
West Klickitat	Modern	Any	Oct. 13-31	Antlerless	GMU 578	10
Anderson	Modern	Any	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 6014	40
Kitsap	Modern	Any	Oct. 13-31	Antlerless	GMU 627	10
Mashel	Modern	Any	Oct. 13-31	Antlerless	GMU 654	10
North River	Modern	Any	Oct. 13-31	Antlerless	GMU 658	15
Deschutes	Modern	Any	Oct. 13-31	Antlerless	GMU 666	40
Mt. Spokane	Archery	Any	Sept. 1-28 and Nov. 25 - Dec. 15	White-tailed, antlerless	GMU 124	25
Mica Peak	Archery	Any	Sept. 1-28 and Nov. 25 - Dec. 15	White-tailed, antlerless	GMU 127	25
Clarkston	Archery	Any	Nov. 20 - Dec. 31	Antlerless	Deer Area 1021	30
Spokane North	Archery	Any	Sept. 1-28 and Nov. 25 - Dec. 15	White-tailed, antlerless	Deer Area 1050	75
Spokane South	Archery	Any	Sept. 1-28 and Nov. 25 - Dec. 15	White-tailed, antlerless	Deer Area 1060	25

<b>2nd Deer</b>						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Shaw	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4004	20
Lopez	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4005	20
Orcas	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4006	20
Decatur	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4007	20
Blakely	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4008	20
Cypress	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4009	20
San Juan	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4010	20
Camano	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4011	20
Whidbey	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4012	20
Vashon-Maury	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4013	20
Guemes	Archery	Any	Sept. 1-28 and Nov. 21 - Dec. 31	Antlerless	Deer Area 4926	20
Anderson	Archery	Any	Sept. 1-28 and Dec. 16-31	Antlerless	Deer Area 6014	10
Miller	Archery	Any	Dec. 15-30	Antlerless	Deer Area 6020	40
Mt. Spokane	Muzzleloader	Any	Sept. 29 - Oct. 7	White-tailed, antlerless	GMU 124	25
Spokane North	Muzzleloader	Any	Sept. 29 - Oct. 7 and Dec. 9-31	White-tailed, antlerless	Deer Area 1050	100
Cheney	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 25 - Dec. 8	Antlerless	GMU 130	25
Spokane West	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 25 - Dec. 8	Antlerless	Deer Area 1070	25
Colfax	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 25 - Dec. 8	Antlerless	Deer Area 1080	75
Roosevelt	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 25 - Dec. 8	Antlerless	GMU 133	25
Harrington	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 25 - Dec. 8	Antlerless	GMU 136	25
Mayview	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 145	25
Chiwawa	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 245	10
Swakane	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 250	5
Mission	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 251	5
Foster Creek	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 260	10
Moses Coulee	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 269	10
Lakeview	Muzzleloader	Any	Nov. 1-18	Antlerless	Deer Area 2011	10
High Prairie	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	Deer Area 3088	5
Shaw	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4004	20
Lopez	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4005	20
Orcas	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4006	20
Decatur	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4007	20
Blakely	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4008	20
Cypress	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4009	20

<b>2nd Deer</b>						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
San Juan	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4010	20
Camano	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4011	20
Whidbey	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4012	20
Vashon-Maury	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4013	20
Guemes	Muzzleloader	Any	Sept. 24 - Oct. 2 and Nov. 24 - Dec. 15	Antlerless	Deer Area 4926	20
East Klickitat	Muzzleloader	Any	Nov. 20-30	Antlerless	GMU 382	30
Yale	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 554	2
Washougal	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 568	10
West Klickitat	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	GMU 578	10
High Prairie	Muzzleloader	Any	Sept. 29 - Oct. 7	Antlerless	Deer Area 3088	5
Anderson	Muzzleloader	Any	Sept. 29 - Oct. 7 and Nov. 24 - Dec. 15	Antlerless	Deer Area 6014	5

<b>Youth</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Ferry	Modern	Youth	Oct. 13-26	Antlerless	GMU 101	25
Blue Mtns. Foothills West	Modern	Youth	Oct. 13-21	Antlerless	GMUs 149, 154, 163, Deer Area 1010	30
Blue Mtns. Foothills East	Modern	Youth	Oct. 13-21	Antlerless	GMUs 145, 172-181	30
Tucannon	Modern	Youth	Oct. 13-21	White-tailed, antlerless	GMU 166	5
East Okanogan	Modern	Youth	Oct. 13-21	Antlerless	GMU 204	30
Wannacut	Modern	Youth	Oct. 13-21	Antlerless	GMU 209	10
Sinlahekin	Modern	Youth	Oct. 13-21	Antlerless	GMU 215	20
Chewuch	Modern	Youth	Oct. 13-21	Antlerless	GMU 218	25
Pearrygin	Modern	Youth	Oct. 13-21	Antlerless	GMU 224	25
Gardner	Modern	Youth	Oct. 13-21	Antlerless	GMU 231	10
Pogue	Modern	Youth	Oct. 13-21	Antlerless	GMU 233	10
Chiliwist	Modern	Youth	Oct. 13-21	Antlerless	GMU 239	15
Alta	Modern	Youth	Oct. 13-21	Antlerless	GMU 242	15
Chiwawa	Modern	Youth	Oct. 13-21	Antlerless	GMU 245	10
Entiat	Modern	Youth	Oct. 13-21	Antlerless	GMU 247	10
Swakane	Modern	Youth	Nov. 1-20	Antlerless	GMU 250	5
Mission	Modern	Youth	Oct. 13-21	Antlerless	GMU 251	15
Bridgeport	Modern	Youth	Oct. 13-21	Antlerless	GMUs 248, 260	20
Palisades	Modern	Youth	Oct. 13-21	Antlerless	GMUs 266, 269	20
Benge	Modern	Youth	Oct. 30 - Nov. 7	Antlerless	Deer Area 2010	30
Horse Heaven Hills	Modern	Youth	Oct. 13-26	Antlerless	GMU 373	10
Kahlotus	Modern	Youth	Oct. 13-21	Antlerless	GMU 381	10
East Klickitat	Modern	Youth	Oct. 13-26	Any buck	GMU 382	5
East Klickitat	Modern	Youth	Oct. 13-26	Antlerless	GMU 382	20
East Klickitat	Modern	Youth	Dec. 20 - Jan. 1, 2013	Antlerless	GMU 382	10
East Klickitat	Modern	Youth	Jan. 15-31, 2013	Antlerless	GMU 382	10
East Klickitat	Modern	Youth	Feb. 10-20, 2013	Antlerless	GMU 382	10
Grayback	Modern	Youth	Oct. 13-26	Any buck	GMU 388	5
Grayback	Modern	Youth	Oct. 13-26	Antlerless	GMU 388	10
Green River	Modern	Youth	Oct. 27 - Nov. 2	Any deer	GMU 485	5
Lincoln	Modern	Youth	Oct. 13-31	Antlerless	GMU 501	10
Stella	Modern	Youth	Oct. 13-31	Antlerless	GMU 504	10
Mossyrock	Modern	Youth	Oct. 13-31	Antlerless	GMU 505	10

<b>Youth</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Stormking	Modern	Youth	Oct. 13-31	Antlerless	GMU 510	10
South Rainier	Modern	Youth	Oct. 13-31	Antlerless	GMU 513	10
Packwood	Modern	Youth	Oct. 13-31	Antlerless	GMU 516	10
Winston	Modern	Youth	Oct. 13-31	Antlerless	GMU 520	10
Yale	Modern	Youth	Oct. 13-31	Antlerless	GMU 554	10
Toutle	Modern	Youth	Oct. 13-31	Antlerless	GMU 556	25
Lewis River	Modern	Youth	Oct. 13-31	Antlerless	GMU 560	5
Washougal	Modern	Youth	Oct. 13-31	Antlerless	GMU 568	10
Siouxon	Modern	Youth	Oct. 13-31	Antlerless	GMU 572	5
Wind River	Modern	Youth	Oct. 13-31	Antlerless	GMU 574	10
West Klickitat	Modern	Youth	Oct. 13-31	Any buck	GMU 578	5
West Klickitat	Modern	Youth	Oct. 13-31	Antlerless	GMU 578	10
Skokomish	Modern	Youth	Oct. 6-31	Antlerless	GMU 636	5
Satsop	Modern	Youth	Oct. 6-31	Antlerless	GMU 651	10
Mashel	Modern	Youth	Oct. 6-31	Antlerless	GMU 654	30
North River	Modern	Youth	Oct. 6-31	Antlerless	GMU 658	10
Skookumchuck	Modern	Youth	Oct. 6-31	Antlerless	GMU 667	35
Skookumchuck	Modern	Youth	Oct. 6-12	Any buck	GMU 667	20
East Okanogan	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 204	5
Wannacut	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 209	5
Pogue	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 233	5
Chiliwist	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 239	5
Alta	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 242	5
Mission	Muzzleloader	Youth	Sept. 29 - Oct. 7	Antlerless	GMU 251	5

<b>Senior 65+</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Blue Mtns. Foothills	Modern	65+	Oct. 13-21	Antlerless	GMUs 145, 149, 154, Deer Area 1010	30
East Okanogan	Modern	65+	Oct. 13-21	Antlerless	GMU 204	5
Wannacut	Modern	65+	Oct. 13-21	Antlerless	GMU 209	5
Sinlahekin	Modern	65+	Oct. 13-21	Antlerless	GMU 215	5
Chewuch	Modern	65+	Oct. 13-21	Antlerless	GMU 218	10
Pearrygin	Modern	65+	Oct. 13-21	Antlerless	GMU 224	10
Gardner	Modern	65+	Oct. 13-21	Antlerless	GMU 231	5
Pogue	Modern	65+	Oct. 13-21	Antlerless	GMU 233	5
Chiliwist	Modern	65+	Oct. 13-21	Antlerless	GMU 239	10
Alta	Modern	65+	Oct. 13-21	Antlerless	GMU 242	5
Chiwawa	Modern	65+	Oct. 13-21	Antlerless	GMU 245	10
Entiat	Modern	65+	Oct. 13-21	Antlerless	GMU 247	10
Swakane	Modern	65+	Nov. 1-20	Antlerless	GMU 250	10
Mission	Modern	65+	Oct. 13-21	Antlerless	GMU 251	10
Bridgeport	Modern	65+	Oct. 13-21	Antlerless	GMUs 248, 260	10
Palisades	Modern	65+	Oct. 13-21	Antlerless	GMUs 266, 269	10
Sunnyside	Modern	65+	Oct. 13-21	Antlerless	GMU 372	10
Horse Heaven Hills	Modern	65+	Oct. 13-26	Antlerless	GMU 373	10
Kahlotus	Modern	65+	Oct. 13-21	Antlerless	GMU 381	10
East Klickitat	Modern	65+	Oct. 13-26	Antlerless	GMU 382	20
Grayback	Modern	65+	Oct. 13-26	Antlerless	GMU 388	5
Lincoln	Modern	65+	Oct. 13-31	Antlerless	GMU 501	5
Stella	Modern	65+	Oct. 13-31	Antlerless	GMU 504	5
Mossyrock	Modern	65+	Oct. 13-31	Antlerless	GMU 505	15
Stormking	Modern	65+	Oct. 13-31	Antlerless	GMU 510	5
South Rainier	Modern	65+	Oct. 13-31	Antlerless	GMU 513	5
Packwood	Modern	65+	Oct. 13-31	Antlerless	GMU 516	5

<b>Senior 65+</b>						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
Winston	Modern	65+	Oct. 13-31	Antlerless	GMU 520	5
Yale	Modern	65+	Oct. 13-31	Antlerless	GMU 554	5
Toutle	Modern	65+	Oct. 13-31	Antlerless	GMU 556	10
Lewis River	Modern	65+	Oct. 13-31	Antlerless	GMU 560	5
Wasougal	Modern	65+	Oct. 13-31	Antlerless	GMU 568	10
Siouxon	Modern	65+	Oct. 13-31	Antlerless	GMU 572	5
Wind River	Modern	65+	Oct. 13-31	Antlerless	GMU 574	5
West Klickitat	Modern	65+	Oct. 13-31	Antlerless	GMU 578	5
Copalis	Modern	65+	Oct. 13-31	Antlerless	GMU 642	20
North River	Modern	65+	Oct. 13-31	Antlerless	GMU 658	10
Williams Creek	Modern	65+	Oct. 13-31	Antlerless	GMU 673	10

<b>Hunters with Disabilities</b>						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
East Okanogan	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 204	5
Wannacut	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 209	5
Sinlahekin	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 215	5
Chewuch	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 218	5
Pearrygin	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 224	5
Gardner	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 231	5
Pogue	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 233	5
Chiliwist	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 239	5
Alta	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 242	5
Chiwawa	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 245	5
Entiat	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 247	5
Mission	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 251	5
Saint Andrews	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMU 254	5
Bridgeport	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMUs 248, 260	5
Palisades	Modern	Hunter with Disability	Oct. 13-21	Antlerless	GMUs 266, 269	5
Horse Heaven Hills	Modern	Hunter with Disability	Oct. 13-26	Antlerless	GMU 373	10
Kahlotus	Modern	Hunter with Disability	Nov. 1-9	Antlerless	GMU 381	10
East Klickitat	Modern	Hunter with Disability	Oct. 13-26	Antlerless	GMU 382	15
Grayback	Modern	Hunter with Disability	Oct. 13-26	Antlerless	GMU 388	5
Green River	Modern	Hunter with Disability	Oct. 27 - Nov. 2	Antlerless	GMU 485	5
Lincoln	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 501	5
Stella	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 504	5

<b>Hunters with Disabilities</b>						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
Mossyrock	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 505	5
Stormking	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 510	5
South Rainier	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 513	5
Packwood	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 516	5
Winston	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 520	5
Yale	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 554	5
Toutle	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 556	5
Lewis River	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 560	5
Washougal	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 568	5
Siouxon	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 572	5
Wind River	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 574	5
West Klickitat	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 578	5
Capitol Peak	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 663	20
Skookumchuck	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 667	20
North River	Modern	Hunter with Disability	Oct. 13-31	Antlerless	GMU 658	5
Wind River	Archery	Hunter with Disability	Sept. 1-23	Antlerless	GMU 574	5
West Klickitat	Archery	Hunter with Disability	Sept. 1-23	Antlerless	GMU 578	5
East Okanogan	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 204	5
Sinlahekin	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 215	5
Gardner	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 231	5
Chiwawa	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 245	5
Mission	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 251	5
Entiat	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 247	5
Saint Andrews	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 254	5
Bridgeport	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMUs 248, 260	5
Palisades	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMUs 266, 269	5
Capitol Peak	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 663	5
North River	Muzzleloader	Hunter with Disability	Sept. 29 - Oct. 7	Antlerless	GMU 658	5

<b>Master Hunter</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Republic	Any/2nd tag	Master Hunter	Sept. 1 - Dec. 31	Any deer	Designated properties within Deer Area 1030	25HC
Region 1 North	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Ferry, Stevens, and Pend Oreille counties	10HC
Region 1 Central	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Lincoln and Spokane counties	20HC
Region 1 South	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Whitman, Walla Walla, Columbia, Garfield, and Asotin counties	20HC
Region 3	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Region 3	20HC
Lakeview	Any/2nd tag	Master Hunter	Dec. 9-31	Antlerless	Deer Area 2011	20
Region 5	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Region 5	20HC
Region 6	Any/2nd tag	Master Hunter	Aug. 1, 2012 - March 31, 2013	Antlerless	Designated Areas in Region 6	20HC

<b>Hunter Education Instructor Incentive Permits</b>				
Area	Dates	Restrictions	GMUs	Permits
Region 1	All general season and permit seasons established for GMUs included with the permit.	Any white-tailed deer	Any 100 series GMU EXCEPT GMU 157	2*
Region 2	Not eligible for seasons and permits for auction hunts; raffle hunts; and hunts for master hunters, youth hunters, hunters with disabilities, hunters 65 years and older, unless the hunter education instructor legally qualifies for such hunts.	Any white-tailed deer	GMUs 204-215	2
Region 2		Any deer	GMUs 215-251	1*
Region 2		Any deer	GMU 290	1*
Region 3		Any deer	GMUs 335-368, 382, 388	1*
Region 4		Any deer	Any 400 series GMU EXCEPT GMUs 485 and 490	2
Region 5		Legal buck for 500 series GMU of choice or antlerless	Any 500 series GMU open for a general deer hunting season or a special deer permit hunting season	6
Region 6		Legal buck for GMU of choice	GMUs 654, 660, 672, 673, 681	1

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

## NEW SECTION

**WAC 232-28-360 2012 Elk special permits.** It is unlawful to fail to comply with bag, possession, and season limits except as described below. Violations of this section are punishable under RCW 77.15.410.

### **Special Elk Permit Hunting Seasons (Open to Permit Holders Only)**

Hunters must purchase an elk hunting license prior to purchase of a permit application. Hunters may only apply for permits consistent with the tag required for the hunt choice; however, Multiple Season Permit holders may apply for Eastern or Western Washington archery, muzzleloader, or modern firearm permit hunts. Applicants must have purchased the proper tag for these hunts. The elk tag prefixes required to apply for each hunt are shown in the following table. Hunters drawn for a special permit hunt must comply with weapon restrictions, dates, and other conditions listed for the hunt.

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	EA, EF, EM	Any	Oct. 22 - Nov. 24	Any bull	Elk Area 1015	1
Prescott	EF	Any	Sept. 24-28	Any bull	GMU 149	1
Prescott	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 149	4
Blue Creek	EF	Any	Sept. 24-28	Any bull	GMU 154	1
Blue Creek	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 154	5
Watershed	EA, EF, EM	Any	Oct. 27 - Nov. 4	3 pt. min. or antler-less	GMU 157	45
Dayton	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 162	26
Ten Ten	EF	Any	Sept. 24-28	Any bull	Elk Area 1010, GMU 163	1
Ten Ten	EF	Any	Oct. 22 - Nov. 4	Any bull	Elk Area 1010, GMU 163	12
Tucannon	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 166	14
Wenaha West	EF	Any	Oct. 22 - Nov. 4	Any bull	Elk Area 1008	15
Wenaha East	EF	Any	Oct. 22 - Nov. 4	Any bull	Elk Area 1009	21
Mountain View	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 172	20
Lick Creek	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 175	10
Peola	EF	Any	Sept. 24-28	Any bull	GMU 178	1
Peola	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 178	2
Couse	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 181	3
Mission	EF	Any	Sept. 17-21	Any bull	GMU 251	1
Colockum	EF	Any	Oct. 22 - Nov. 4	Any bull	GMUs 328, 329, 335	7
Colockum	EF	Any	Sept. 24-28	Any bull	GMUs 328, 329, 335	1
Teanaway	EF	Any	Sept. 24-28	Any bull	GMU 335	1
Peaches Ridge	EF	Any	Sept. 24-28	Any bull	GMUs 336, 346	1
Observatory	EF	Any	Sept. 24-28	Any bull	GMUs 340, 342	1
Little Naches	EF	Any	Oct. 1-10	Any bull	GMU 346	10
Goose Prairie	EF	Any	Sept. 24-28	Any bull	GMUs 352, 356	1
Bethel	EF	Any	Sept. 24-28	Any bull	GMU 360	1
Rimrock	EF	Any	Sept. 24-28	Any bull	GMU 364	1
Cowiche	EF	Any	Sept. 24-28	Any bull	GMU 368	1
Nooksack	WF	Any	Oct. 8 - Nov. 16	Any bull	GMU 418	5
Green River	WF	Any	Nov. 12-18	Any bull	GMU 485	6
Wahkiakum	WF	Any	Sept. 17-30	Any bull	GMUs 506, 530	1
Packwood	WF	Any	Sept. 17-30	Any bull	GMU 516	1
Toutle	WF	Any	Sept. 17-30 and Nov. 3-14	Any bull	GMU 556	4
Toutle	WF	Any	Nov. 3-14	Any bull	GMU 556	129
Lewis River	WF	Any	Sept. 17-30	Any bull	GMU 560	2
Siouxon	WF	Any	Sept. 17-30	Any bull	GMU 572	2
Carlton	WF	Any	Sept. 17-30	Any bull	Elk Area 5057	5
West Goat Rocks	WF	Any	Sept. 17-30	Any bull	Elk Area 5058	5
Mt. Adams	WF	Any	Sept. 17-30	Any bull	Elk Area 5059	5
Mudflow	WF	Any	Nov. 3-9	Any bull	Elk Area 5099	5
Peninsula	WF	Any	Sept. 24-28	3 pt. min.	GMUs 602, 607, 612	1
Clearwater	WF	Any	Oct. 8-12	3 pt. min.	GMU 615	2
Matheny	WF	Any	Oct. 1-12	3 pt. min.	GMU 618	3
Quinault	WF	Any	Sept. 16-20	3 pt. min.	GMU 638	5
Wynoochee	WF	Any	Oct. 8-12	3 pt. min.	GMU 648	1
Satsop	WF	Any	Oct. 8-12	3 pt. min.	GMU 651	1
Dungeness	WF	Any	Oct. 8-12	3 pt. min.	Elk Area 6071	2
White River	WF	Any	Sept. 24-28	Any bull	GMU 653	1
Prescott	EA	Any	Sept. 1-19	Any bull	GMU 149	2
Blue Creek	EA	Any	Sept. 1-19	Any bull	GMU 154	3
Dayton	EA	Any	Sept. 1-19	Any bull	GMU 162	14

<b>Quality</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Ten Ten	EA	Any	Sept. 1-19	Any bull	Elk Area 1010, GMU 163	8
Tucannon	EA	Any	Sept. 1-19	Any bull	GMU 166	8
Wenaha West	EA	Any	Sept. 1-19	Any bull	Elk Area 1008	5
Wenaha East	EA	Any	Sept. 1-19	Any bull	Elk Area 1009	11
Mountain View	EA	Any	Sept. 1-19	Any bull	GMU 172	11
Lick Creek	EA	Any	Sept. 1-19	Any bull	GMU 175	11
Peola	EA	Any	Sept. 1-19	Any bull	GMU 178	1
Couse	EA	Any	Sept. 1-19	Any bull	GMU 181	1
Colockum	EA	Any	Sept. 4-16	Any bull	GMUs 328, 329, 335	6
Peaches Ridge	EA	Any	Sept. 4-16	Any bull	GMUs 336, 346	101
Observatory	EA	Any	Sept. 4-16	Any bull	GMUs 340, 342	130
Goose Prairie	EA	Any	Sept. 4-16	Any bull	GMUs 352, 356	65
Bethel	EA	Any	Sept. 4-16	Any bull	GMU 360	29
Rimrock	EA	Any	Sept. 4-16	Any bull	GMU 364	97
Cowiche	EA	Any	Sept. 4-16	Any bull	GMU 368	19
Klickitat Meadows	EA	Any	Oct. 11-21	Any bull	Elk Area 3068	1
Nooksack	WA	Any	Sept. 1-23 and Dec. 1-31	Any bull	GMU 418	3
Toutle	WA	Any	Sept. 8-23 and Dec. 1-15	Any bull	GMU 556	80
Mudflow	WA	Any	Sept. 5-11	Any bull	Elk Area 5099	5
Olympic	WA	Any	Sept. 4-16	3 pt. min.	GMU 621, EXCEPT for Elk Area 6071	5
White River	WA	Any	Sept. 4-16	Any bull	GMU 653	13
Prescott	EM	Any	Oct. 1-12	Any bull	GMU 149	1
Blue Creek	EM	Any	Oct. 1-12	Any bull	GMU 154	1
Dayton	EM	Any	Oct. 1-12	Any bull	GMU 162	5
Ten Ten	EM	Any	Oct. 1-12	Any bull	Elk Area 1010, GMU 163	6
Tucannon	EM	Any	Oct. 1-12	Any bull	GMU 166	3
Wenaha West	EM	Any	Oct. 1-12	Any bull	Elk Area 1008	3
Wenaha East	EM	Any	Oct. 1-12	Any bull	Elk Area 1009	3
Mountain View	EM	Any	Oct. 1-12	Any bull	GMU 172	8
Lick Creek	EM	Any	Oct. 1-12	Any bull	GMU 175	2
Peola	EM	Any	Oct. 1-12	Any bull	GMU 178	1
Couse	EM	Any	Oct. 1-12	Any bull	GMU 181	1
Mission	EM	Any	Oct. 1-10	Any bull	GMU 251	1
Colockum	EM	Any	Oct. 1-10	Any bull	GMUs 328, 329, 335	1
Peaches Ridge	EM	Any	Oct. 1-10	Any bull	GMUs 336, 346	26
Observatory	EM	Any	Oct. 1-10	Any bull	GMUs 340, 342	21
Goose Prairie	EM	Any	Oct. 1-10	Any bull	GMUs 352, 356	15
Bethel	EM	Any	Oct. 1-10	Any bull	GMU 360	14
Rimrock	EM	Any	Oct. 1-10	Any bull	GMU 364	13
Cowiche	EM	Any	Oct. 1-10	Any bull	GMU 368	10
Klickitat Meadows	EM	Any	Oct. 1-10	Any bull	Elk Area 3068	1
Nooksack	WM	Any	Sept. 24 - Oct. 7 and Nov. 24-30	Any bull	GMU 418	3
Toutle	WM	Any	Oct. 6-12	Any bull	GMU 556	28
Mudflow	WM	Any	Oct. 6-12	Any bull	Elk Area 5099	5

<b>Bulls</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Prescott	EF	Any	Nov. 17-30	Any bull	GMU 149	2
Prescott	EF	Any	Dec. 1-15	Any bull	GMU 149	2
Prescott	EF	Any	Dec. 16-31	Any bull	GMU 149	2
Grande Ronde	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 186	1
Mission	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 251	1

<b>Bulls</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Teanaway	EF	Any	Dec. 17-31	Any bull	GMU 335	10
Peaches Ridge	EF	Any	Oct. 22 - Nov. 4	Any bull	GMUs 336, 346	120
Observatory	EF	Any	Oct. 22 - Nov. 4	Any bull	GMUs 340, 342	64
Goose Prairie	EF	Any	Oct. 22 - Nov. 4	Any bull	GMUs 352, 356	74
Bethel	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 360	63
Rimrock	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 364	120
Cowiche	EF	Any	Oct. 22 - Nov. 4	Any bull	GMU 368	22
Klickitat Meadows	EF	Any	Oct. 22 - Nov. 4	Any bull	Elk Area 3068	1
Nooksack	WF	Any	Oct. 8 - Nov. 18	Spike only	GMU 418	6
Margaret	WF	Any	Sept. 17-30 and Nov. 3-14	Any bull	GMU 524	4
Margaret	WF	Any	Nov. 3-14	Any bull	GMU 524	50
Upper Smith Creek	WF	Any	Oct. 20-16	Any bull	Elk Area 5064	2
Mount Whittier	WF	Any	Oct. 20-26	Any bull	Elk Area 5065	1
Olympic	WF	Any	Nov. 3-14	3 pt. min.	GMU 621, EXCEPT for Elk Area 6071	20
Skokomish	WF	Any	Nov. 3-14	3 pt. min.	GMU 636	3
White River	WF	Any	Nov. 3-14	Any bull	GMU 653	24
Grande Ronde	EA	Any	Sept. 1-19	Any bull	GMU 186	1
Teanaway	EA	Any	Nov. 21 - Dec. 8	Any bull	GMU 335	8
Alkali	EA	Any	Sept. 1-22	Any bull	GMU 371	5
Nooksack	WA	Any	Sept. 1-23 and Dec. 1-31	Spike only	GMU 418	3
Margaret	WA	Any	Sept. 8-23 and Dec. 1-15	Any bull	GMU 524	29
Upper Smith Creek	WA	Any	Oct. 6-12	Any bull	Elk Area 5064	2
Lewis River	WA	Any	Nov. 21 - Dec. 4	3 pt. min.	GMU 560	5
Siouxon	WA	Any	Nov. 21 - Dec. 4	3 pt. min.	GMU 572	5
Skokomish	WA	Any	Sept. 4-16	3 pt. min.	GMU 636	2
Grande Ronde	EM	Any	Oct. 1-12	Any bull	GMU 186	1
Teanaway	EM	Any	Dec. 9-16	Any bull	GMU 335	16
Alkali	EM	Any	Sept. 23 - Oct. 12	Any bull	GMU 371	10
Nooksack	WM	Any	Sept. 24 - Oct. 7 and Nov. 24-30	Spike only	GMU 418	3
Margaret	WM	Any	Oct. 6-12	Any bull	GMU 524	14
Upper Smith Creek	WM	Any	Oct. 13-19	Any bull	Elk Area 5064	2
Mount Whittier	WM	Any	Oct. 13-19	Any bull	Elk Area 5065	1
Yale	WM	Any	Nov. 21 - Dec. 15	3 pt. min.	GMU 554	15
Olympic	WM	Any	Oct. 6-12	3 pt. min.	GMU 621, EXCEPT for Elk Area 6071	5
Skokomish	WM	Any	Oct. 6-12	3 pt. min.	GMU 636	1
White River	WM	Any	Oct. 6-12	Any bull	GMU 653	3

<b>Antlerless Elk</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
North Half	EF	Any	Oct. 22 - Nov. 4	Antlerless	GMUs 101, 105, 204	10
Stevens	EF	Any	Oct. 22 - Nov. 4	Antlerless	GMUs 108, 121	10
Aladdin	EF	Any	Oct. 22 - Nov. 4	Antlerless	GMU 111	15
Selkirk	EF	Any	Oct. 22 - Nov. 4	Antlerless	GMU 113	20
49 Degrees North	EF	Any	Oct. 22 - Nov. 4 and Dec. 16-31	Antlerless	GMU 117	20
Turnbull	EF	Any	Oct. 23-28	Antlerless	Elk Area 1015	6
Turnbull	EF	Any	Oct. 30 - Nov. 4	Antlerless	Elk Area 1015	6
Turnbull	EF	Any	Nov. 6-11	Antlerless	Elk Area 1015	6
Mayview-Peola	EF	Any	Oct. 13-21	Antlerless	GMUs 145, 178	10
Mayview-Peola	EF	Any	Oct. 27 - Nov. 4	Antlerless	GMUs 145, 178	40
Blue Creek	EF	Any	Oct. 13-21	Antlerless	GMU 154	10
Prescott	EF	Any	Oct. 27 - Nov. 4	Antlerless	GMU 149	20

<b>Antlerless Elk</b>						
<b>Hunt Name</b>	<b>Weapon/Tag</b>	<b>Hunters</b>	<b>Hunt Dates</b>	<b>Special Restrictions</b>	<b>Boundary</b>	<b>Permits</b>
Blue Creek	EF	Any	Oct. 27 - Nov. 4	Antlerless	GMU 154	25
Marengo-Dayton	EF	Any	Oct. 27 - Nov. 4	Antlerless	GMU 163 and Elk Area 1010	75
Mountain View	EF	Any	Oct. 27 - Nov. 4	Antlerless	Elk Area 1013	5
Dayton	EF	Any	Oct. 27 - Nov. 4	Antlerless	Elk Area 1016	40
Lick Creek	EF	Any	Oct. 27 - Nov. 4	Antlerless	GMU 175	15
Couse	EF	Any	Oct. 2-12	Antlerless	GMU 181	30
Malaga	EF	Any	Sept. 12-22	Antlerless	Elk Area 2032	10
Malaga	EF	Any	Nov. 5 - Dec. 31	Antlerless	Elk Area 2032	30
Colockum	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMUs 328, 329	40
West Bar	EF	Any	Oct. 27-31	Antlerless	GMU 330	5
West Bar	EF	Any	Nov. 1-4	Antlerless	GMU 330	5
Teanaway	EF	Any	Dec. 17-31	Antlerless	GMU 335	30
Taneum	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 336	200
Manastash	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 340	275
Umtanum	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 342	250
Little Naches	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 346	250
Nile	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 352	20
Bumping	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 356	25
Bethel	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 360	20
Rimrock	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 364	250
Cowiche	EF	Any	Oct. 31 - Nov. 4	Antlerless	GMU 368	250
Alkali	EF	Any	Oct. 13 - Nov. 2	Antlerless	GMU 371	20
Klickitat Meadows	EF	Any	Oct. 31 - Nov. 4	Antlerless	Elk Area 3068	5
North Bend	WF	Any	Nov. 3-14	Antlerless	Elk Area 4601	7
Mossyrock	WF	Any	Nov. 3-14	Antlerless	GMU 505	50
Willapa Hills	WF	Any	Nov. 3-14	Antlerless	GMU 506	35
Winston	WF	Any	Nov. 3-14	Antlerless	GMU 520	150
Winston	WF	Any	Jan. 1-16, 2013	Antlerless	GMU 520	200
Margaret	WF	Any	Nov. 21-30 and Jan. 1-16, 2013	Antlerless	GMU 524	140
Ryderwood	WF	Any	Nov. 3-14	Antlerless	GMU 530	100
Coweeman	WF	Any	Nov. 3-14	Antlerless	GMU 550	240
Coweeman	WF	Any	Jan. 1-16, 2013	Antlerless	GMU 550	200
Toutle	WF	Any	Nov. 21-30 and Jan. 1-16, 2013	Antlerless	GMU 556	240
Lewis River	WF	Any	Nov. 3-14	Antlerless	GMU 560	100
Wasougal	WF	Any	Nov. 3-14	Antlerless	GMU 568	75
Siouxon	WF	Any	Nov. 3-14	Antlerless	GMU 572	30
Wind River	WF	Any	Nov. 3-14	Antlerless	GMU 574	75
West Klickitat	WF	Any	Nov. 3-14	Antlerless	GMU 578	150
Toledo	WF	Any	Nov. 3-14	Antlerless	Elk Area 5029	50
Green Mt.	WF	Any	Nov. 3-14	Antlerless	Elk Area 5051	10
Boistfort	WF	Any	Nov. 3-14	Antlerless	Elk Area 5054	75
Wildwood	WF	Any	Jan. 16-30, 2013	Antlerless	Elk Area 5061	50
Upper Smith Creek	WF	Any	Oct. 20-26	Antlerless	Elk Area 5064	4
Mount Whittier	WF	Any	Oct. 20-26	Antlerless	Elk Area 5065	2
Mudflow	WF	Any	Nov. 7-13	Antlerless	Elk Area 5099	10
Raymond	WF	Any	Dec. 16-31	Antlerless	Elk Area 6010	10
Raymond	WF	Any	Jan. 1-20, 2013	Antlerless	Elk Area 6010	5
Raymond	WF	Any	Feb. 1-28, 2013	Antlerless	Elk Area 6010	5
North Minot	WF	Any	Oct. 20-31	Antlerless	Elk Area 6067	5
Hanford	WF	Any	Nov. 3-14	Antlerless	Elk Area 6069	5
North River	WF	Any	Nov. 6-11	Antlerless	GMU 658	10
Deschutes	WF	Any	Jan. 10-20, 2013	Antlerless	GMU 666	10
Williams Creek	WF	Any	Nov. 6-14	Antlerless	GMU 673	50

Antlerless Elk						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	EA	Any	Sept. 4-16	Antlerless	Elk Area 1015	14
Dayton	EA	Any	Sept. 4-16	Antlerless	Elk Area 1016	20
Malaga	EA	Any	Sept. 1-7	Antlerless	Elk Area 2032	15
Colockum	EA	Any	Sept. 4-16	Antlerless	GMUs 328, 329	50
Nile	EA	Any	Sept. 4-16	Antlerless	GMU 352	50
Bumping	EA	Any	Sept. 4-16	Antlerless	GMU 356	50
Klickitat Meadows	EA	Any	Oct. 11-21	Antlerless	Elk Area 3068	9
Alkali	EA	Any	Sept. 1-22	Antlerless	GMU 371	5
North Bend	WA	Any	Sept. 4-16	Antlerless	Elk Area 4601	10
Margaret	WA	Any	Sept. 8-23 and Dec. 1-15	Antlerless	GMU 524	70
Toutle	WA	Any	Sept. 8-23 and Dec. 1-15	Antlerless	GMU 556	100
Upper Smith Creek	WA	Any	Oct. 6-12	Antlerless	Elk Area 5064	4
Mudflow	WA	Any	Sept. 5-11	Antlerless	Elk Area 5099	10
Lewis River	WA	Any	Nov. 21 - Dec. 4	Antlerless	GMU 560	15
Siouxon	WA	Any	Nov. 21 - Dec. 4	Antlerless	GMU 572	5
Wynoochee	WA	Any	Nov. 21 - Dec. 15	Antlerless	GMU 648	150
North Half	EM	Any	Oct. 1-7	Antlerless	GMUs 101, 105, 204	10
Stevens	EM	Any	Oct. 1-7	Antlerless	GMUs 108, 121	10
Aladdin	EM	Any	Oct. 1-7	Antlerless	GMU 111	10
Selkirk	EM	Any	Oct. 1-7	Antlerless	GMU 113	10
49 Degrees North	EM	Any	Oct. 1-7 and Dec. 16-31	Antlerless	GMU 117	20
Turnbull	EM	Any	Oct. 6-12	Antlerless	Elk Area 1015	9
Turnbull	EM	Any	Nov. 25 - Dec. 8	Antlerless	Elk Area 1015	9
Dayton	EM	Any	Oct. 6-12	Antlerless	Elk Area 1016	25
Blue Creek	EM	Any	Dec. 9 - Jan. 20, 2013	Antlerless	GMU 154	40
Mountain View	EM	Any	Oct. 6-12	Antlerless	Elk Area 1013	5
Lick Creek	EM	Any	Oct. 6-12	Antlerless	GMU 175	10
Mayview-Peola	EM	Any	Oct. 6-12	Antlerless	GMUs 145, 178	20
Couse	EM	Any	Dec. 1-31	Antlerless	GMU 181	30
Couse	EM	Any	Jan. 1-20, 2013	Antlerless	GMU 181	30
Malaga	EM	Any	Oct. 13-26	Antlerless	Elk Area 2032	35
Colockum	EM	Any	Oct. 6-12	Antlerless	GMUs 328, 329	30
West Bar	EM	Any	Oct. 6-12	Antlerless	GMU 330	5
Taneum	EM	Any	Oct. 6-12	Antlerless	GMU 336	100
Manastash	EM	Any	Oct. 6-12	Antlerless	GMU 340	100
Umtanum	EM	Any	Oct. 6-12	Antlerless	GMU 342	250
Nile	EM	Any	Oct. 6-12	Antlerless	GMU 352	20
Bumping	EM	Any	Oct. 6-12	Antlerless	GMU 356	30
Bethel	EM	Any	Oct. 6-12	Antlerless	GMU 360	20
Cowiche	EM	Any	Oct. 6-12	Antlerless	GMU 368	250
Alkali	EM	Any	Sept. 23 - Oct. 12	Antlerless	GMU 371	10
Teanaway	EM	Any	Dec. 9-16	Antlerless	GMU 335	10
Klickitat Meadows	EM	Any	Oct. 1-10	Antlerless	Elk Area 3068	5
North Bend	WM	Any	Oct. 6-12	Antlerless	Elk Area 4601	5
Stella	WM	Any	Jan. 1-16, 2013	Antlerless	GMU 504	75
Toledo	WM	Any	Dec. 8-20	Antlerless	Elk Area 5029	60
Mossyrock	WM	Any	Jan. 1-16, 2013	Antlerless	Elk Area 5052	15
Boistfort	WM	Any	Jan. 1-16, 2013	Antlerless	Elk Area 5054	75
Willapa Hills	WM	Any	Dec. 8-20	Antlerless	GMU 506	15
Green Mt.	WM	Any	Jan. 1-16, 2013	Antlerless	Elk Area 5051	30
Wildwood	WM	Any	Jan. 1-15, 2013	Antlerless	Elk Area 5061	50
Mudflow	WM	Any	Oct. 6-12	Antlerless	Elk Area 5099	10
Winston	WM	Any	Oct. 6-12	Antlerless	GMU 520	90
Margaret	WM	Any	Oct. 6-12	Antlerless	GMU 524	70
Ryderwood	WM	Any	Oct. 6-12	Antlerless	GMU 530	50

<b>Antlerless Elk</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Cowee man	WM	Any	Nov. 21 - Dec. 15	Antlerless	GMU 550	90
Yale	WM	Any	Oct. 6-12	Antlerless	GMU 554	40
Yale	WM	Any	Nov. 21 - Dec. 15	Antlerless	GMU 554	35
Toutle	WM	Any	Oct. 6-12	Antlerless	GMU 556	100
Lewis River	WM	Any	Oct. 6-12	Antlerless	GMU 560	50
Washougal	WM	Any	Nov. 21-30	Antlerless	GMU 568	50
Siouxon	WM	Any	Oct. 6-12	Antlerless	GMU 572	15
Wind River	WM	Any	Nov. 21-30	Antlerless	GMU 574	100
West Klickitat	WM	Any	Nov. 21-30	Antlerless	GMU 578	150
Upper Smith Creek	WM	Any	Oct. 13-19	Antlerless	Elk Area 5064	4
Mount Whittier	WM	Any	Oct. 13-19	Antlerless	Elk Area 5065	2
North Minot	WM	Any	Oct. 6-12	Antlerless	Elk Area 6067	10
Mashel	WM	Any	Jan. 1-15, 2013	Antlerless	Elk Area 6054	25
North River	WM	Any	Nov. 21 - Dec. 15	Antlerless	GMU 658	20

<b>Youth - Only youth hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
North Bend	WF, WM, WA	Youth	Nov. 3-9	Antlerless	Elk Area 4601	5
Toledo	WF, WM, WA	Youth	Aug. 1-7	Antlerless	Elk Area 5029	20
Mudflow	WF, WM, WA	Youth	Nov. 19-25	Any bull	Elk Area 5099	3
Mudflow	WF, WM, WA	Youth	Nov. 19-25	Antlerless	Elk Area 5099	4
Dungeness	WF, WM, WA	Youth	Oct. 1 - Dec. 31	Any bull	Elk Area 6071, north of HWY 101	10 <sup>HC</sup>

<b>65+ Senior - Only hunters 65 and older may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Aladdin	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 111	5
Northeast	EF	65+	Oct. 27 - Nov. 4 and Dec. 16-31	Antlerless	GMUs 113, 117	10
Prescott	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 149	5
Blue Creek	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 154	5
Dayton	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMUs 162, 163	10
Lick Creek	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 175	5
Peola	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 178	5
Taneum	EF	65+	Oct. 31 - Nov. 11	Antlerless	GMU 336	25
Manastash	EF	65+	Oct. 31 - Nov. 11	Antlerless	GMU 340	25
Umtanum	EF	65+	Oct. 31 - Nov. 11	Antlerless	GMU 342	25
Cowiche	EF	65+	Oct. 31 - Nov. 11	Antlerless	GMU 368	25
Alkali	EF	65+	Oct. 13 - Nov. 2	Antlerless	GMU 371	5
Margaret	WF, WM, WA	65+	Nov. 21-30	Antlerless	GMU 524	20
Toledo	WF, WM, WA	65+	Aug. 15-21	Antlerless	Elk Area 5029	20
Centralia Mine	WF	65+	Jan. 5-6, 2013	Antlerless	Elk Area 6011	4
Centralia Mine	WF	65+	Jan. 12-13, 2013	Antlerless	Elk Area 6011	4
Hanford	WF, WM, WA	65+	Jan. 1-15, 2013	Antlerless	Elk Area 6069	5
Hanford	WF, WM, WA	65+	Jan. 16-30, 2013	Antlerless	Elk Area 6069	5

<b>Hunters with Disabilities - Only hunters with disabilities may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.</b>						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	EF, EM, EA	Hunters w/ Disabilities	Oct. 14-21	Antlerless	Elk Area 1015	6
Observatory	EF, EM	Hunters w/ Disabilities	Oct. 22 - Nov. 4	Any bull	GMUs 340, 342	5
Little Naches	EF, EM, EA	Hunters w/ Disabilities	Oct. 1-10	Any bull	GMU 346	5
Little Naches	EF, EM, EA	Hunters w/ Disabilities	Oct. 31 - Nov. 11	Antlerless	GMU 346	5

**Hunters with Disabilities - Only hunters with disabilities may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.**

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Alkali	EF	Hunters w/ Disabilities	Oct. 13 - Nov. 2	Any bull	GMU 371	5
Corral Canyon	EF, EM, EA	Hunters w/ Disabilities	Sept. 23-30	Any bull	Elk Area 3721	2
Toledo	WF, WM, WA	Hunters w/ Disabilities	Aug. 8-14	Antlerless	Elk Area 5029	20
Mudflow	WF, WM, WA	Hunters w/ Disabilities	Oct. 22-30	Antlerless	Elk Area 5099	4
Mudflow	WF, WM, WA	Hunters w/ Disabilities	Sept. 17-23	Any bull	Elk Area 5099	4
Centralia Mine	WF	Hunters w/ Disabilities	Oct. 6-7	Antlerless	Designated Areas in Elk Area 6011	4
Centralia Mine	WF	Hunters w/ Disabilities	Oct. 13-14	Antlerless	Designated Areas in Elk Area 6011	4

**Master Hunter - Only master hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt. Additional weapon restrictions may be conditioned on local situation for each hunt. For those hunts allowing the purchase of a second tag, only one elk may be killed in the unit under the authorization of the permit.**

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	Any elk tag	Master Hunter	Dec. 10-31	Antlerless	Elk Area 1015	6
Region 1 North	EF, EA, EM 2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated areas in Ferry, Stevens, and Pend Oreille counties	10HC
Region 1 Central	EF, EA, EM 2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated areas in Spokane and Lincoln counties	20HC
Region 1 South	EF, EA, EM/ 2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated areas in Whitman, Walla Walla, Columbia, Garfield, and Asotin counties	10HC
Region 2	Any elk tag/2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated Areas in Region 2	50HC
Fairview	Any elk tag/2nd tag	Master Hunter	Nov. 1 - Feb. 28, 2013	Antlerless	Designated Areas in GMUs 328-368	40HC
Region 3	Any elk tag/2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated Areas in Region 3	75HC
Rattlesnake Hills	Any elk tag/2nd tag	Master Hunter	Aug. 1 - Feb. 28, 2013	Antlerless	Designated Areas in GMU 372	20HC
North Bend	Any elk tag/2nd tag	Master Hunter	Aug. 15 - Mar. 31	Antlerless	Designated Areas in Elk Area 4601	25
Skagit River	Any elk tag/2nd tag	Master Hunter	Aug. 15 - Mar. 31	Antlerless	Designated Areas in Elk Area 4941	15
Region 4 North	Any elk tag/2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated Areas in Whatcom and Skagit counties	20HC
Region 4 South	Any elk tag/2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated Areas in King and Snohomish counties	10HC
Green Mt.	Any elk tag	Master Hunter	Jan. 17-30	Antlerless	Elk Area 5051	20
Mossyrock	Any elk tag	Master Hunter	Jan. 17-30	Antlerless	Elk Area 5052	10
Pumice Plains	Any elk tag	Master Hunter	Oct. 13-19	Antlerless	Elk Area 5063	2
Pumice Plains	Any elk tag	Master Hunter	Oct. 20-26	Antlerless	Elk Area 5063	5
Toledo	Any elk tag/2nd tag	Master Hunter	Aug. 22-28	Antlerless	Elk Area 5029	20
Toledo	Any elk tag/2nd tag	Master Hunter	Dec. 21-31	Antlerless	Elk Area 5029	50
Trout Lake**	Any elk tag/2nd tag	Master Hunter	Dec. 15-31	Antlerless	Elk Area 5062	3
Trout Lake**	Any elk tag/2nd tag	Master Hunter	Jan. 1-14, 2013	Antlerless	Elk Area 5062	3
Trout Lake**	Any elk tag/2nd tag	Master Hunter	Jan. 15-30, 2013	Antlerless	Elk Area 5062	3
Region 5	Any western elk tag/2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated areas in Region 5	40HC

**Master Hunter - Only master hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt. Additional weapon restrictions may be conditioned on local situation for each hunt. For those hunts allowing the purchase of a second tag, only one elk may be killed in the unit under the authorization of the permit.**

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
North River	Any elk tag/2nd tag	Master Hunter	Dec. 16, 2012 - Feb. 28, 2013	Antlerless	Designated Areas in GMU 658	10HC
Raymond	Any elk tag/2nd tag	Master Hunter	Oct. 1, 2012 - Mar. 31, 2013	Antlerless	Elk Area 6010	5HC
Region 6	WF, WA, WM /2nd tag	Master Hunter	Aug. 1, 2012 - Mar. 31, 2013	Antlerless	Designated Areas in Region 6	50HC

\*\*May only hunt on privately owned lands. Must use only archery or legal shotgun (10 or 12 gauge; slugs only).

<sup>HC</sup> This is a damage hunt administered by a WDFW designated hunt coordinator. Successful applicants will be contacted on an as-needed basis to help with specific sites of elk damage on designated landowner's property. Not all successful applicants will be contacted in any given year depending on elk damage activity for that year.

#### **Hunter Education Instructor Incentive Permits**

- Special elk permits will be allocated through a random drawing to those hunter education instructors that qualify.
- Permit hunters must use archery equipment during archery seasons, muzzleloader equipment or archery equipment during muzzleloader seasons, and any legal weapon during modern firearm seasons. Hunter orange is required during modern firearm seasons.
- Qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing.
- Instructors who are drawn, accept a permit denoted with (\*) below, and are able to participate in the hunt, will not be eligible for those specific incentive permits for a period of ten years thereafter.
- Permittees may purchase a second license for use with the permit hunt only.
- Qualified hunter education instructors may only receive one incentive permit each year.

Area	Dates	Restrictions	GMUs	Permits
Region 3	All general season and permit seasons established for GMUs included with the permit.	Any elk	GMUs 336-368	2*
Region 5		Any elk	All 500 series GMUs EXCEPT GMU 522	4*
Region 6	All general season and permit seasons established for GMUs included with the permit. Not eligible for seasons and permits for auction hunts; raffle hunts; and hunts for master hunters, youth hunters, hunters with disabilities, hunters 65 years and older, unless the hunter education instructor legally qualifies for such hunts	3 pt. min.	GMUs 654, 660, 672, 673, 681	1*

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

- |                |   |
|----------------|---|
| WAC 232-28-272 | 2009 Black bear and 2009-2010, 2010-2011, and 2011-2012 cougar hunting seasons and regulations. |
| WAC 232-28-287 | 2009-2010, 2010-2011, and 2011-2012 Cougar permit seasons and regulations.                      |
| WAC 232-28-295 | Landowner hunting permits.  |
| WAC 232-28-351 | 2009-2011 Deer general seasons and definitions.   |
| WAC 232-28-352 | 2009-2011 Elk general seasons and definitions.  |
| WAC 232-28-355 | 2011 Deer special permits.  |
| WAC 232-28-356 | 2011 Elk special permits.   |

#### **WSR 12-11-006 PERMANENT RULES DEPARTMENT OF REVENUE**

[Filed May 3, 2012, 9:20 a.m., effective June 3, 2012]

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

Purpose: The department has amended WAC 458-20-164 (Rule 164) Insurance producers, adjusters—Title insurance agents—Surplus line brokers to update information currently provided in the rule. The amended Rule 164:

- Recognizes legislation changing terms from "insurance agents, brokers, or solicitors" to "insurance producers," and the addition of "title insurance agents" in chapter 82.04 RCW (chapter 217, Laws of 2008);
- Includes language recognizing economic nexus;
- Includes language regarding "surplus line brokers" (chapter 162, Laws of 2009);
- Includes a new subsection providing tax information for insurance adjusters, which is currently addressed in Rule 212. **Rule 212 is, as a result, being repealed;**
- Does not include portions of previous subsection (5) *Special classification for certain managing general agents* as that information is no longer needed. These taxpayers report under the *"Insurance producers, title insurance agents, or surplus line broker commissions"* B&O tax classification;

- Includes a new subsection covering purchases subject to retail sales or use tax; and
- Includes examples and subsection headings to provide information to readers in a more useful manner.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-20-212 Insurance adjusters; and amending WAC 458-20-164 Insurance producers, adjusters—Title insurance agents—Surplus line brokers.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 12-02-084 on January 4, 2012.

Changes Other than Editing from Proposed to Adopted Version: One change has been made. The phrase "minimum thresholds for apportioning activities" at the end of subsection (1)(a) has been changed to "minimum thresholds for apportionable activities."

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 1.

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

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

Date Adopted: May 3, 2012.

Alan R. Lynn  
Rules Coordinator

#### AMENDATORY SECTION (Amending WSR 92-19-004, filed 9/3/92, effective 10/4/92)

**WAC 458-20-164 Insurance ((agents, brokers and solicitors)) producers, adjusters—Title insurance agents—Surplus line brokers.** (1) **Introduction.** This section explains the taxability of amounts ((received)) earned by insurance ((agents, brokers, or solicitors)) producers, title insurance agents, and surplus line brokers, which include persons commonly referred to as insurance agents, solicitors, representatives, brokers, or dealers.

(a) **Economic nexus.** Nonresident individuals or business entities organized or commercially domiciled outside the state of Washington and Washington businesses conducting business for customers receiving benefits outside Washington should refer to WAC 458-20-19401, Minimum nexus thresholds for apportionable activities, which include engaging in business as an insurance producer, title insurance agent, or a surplus line broker, to determine if they meet the minimum thresholds for apportionable activities.

(b) **Examples.** This section contains examples which identify a number of facts and then state a conclusion. The examples should be used only as a general guide. Tax results

must be determined after a review of all the facts and circumstances.

(2) **Definitions.** ((The words "agent," "broker," and "solicitor" mean a person licensed as such under the provisions of chapter 48.17 RCW.))

• **Insurance producer.** An insurance producer is a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. An insurance producer may receive a license to sell insurance products including, but not limited to, life, disability, property, and/or casualty. "Insurance producer" does not include title insurance agents or surplus line brokers. RCW 48.17.010 and 48.17.170.

• **Title insurance agent.** A title insurance agent is a business entity licensed under the laws of this state and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

• **Surplus line broker.** A surplus line broker is a person specially licensed under chapter 48.15 RCW to procure policies from an insurer not licensed in Washington.

(3) **Business and occupation (B&O) tax.** ((Every)) Persons engaging in business ((as an insurance agent, broker, or solicitor is)) in this state as an insurance producer or a title insurance agent licensed under chapter 48.17 RCW, or a surplus line broker licensed under chapter 48.15 RCW are taxable on gross income earned from such licensed activities, including commissions, fees, and renewals, under the insurance ((agents and brokers)) producers/title insurance agents/surplus line broker commissions B&O tax classification ((upon the gross income of the business)). (See WAC 458-20-156, Abstract, title insurance and escrow businesses for taxability of fees/premiums charged to consumers for title insurance.)

Persons engaging in this state as an agent, broker, representative, or solicitor licensed under chapter 48.18A RCW are taxable on gross income earned from such licensed activities under the service and other activities B&O tax classification.

(a) **How is gross income determined?** The gross income of the business is determined by the amount of gross commissions received, not by the gross premiums paid by the insured. The term "gross income of the business" includes gross receipts from commissions, fees, renewals, or other amounts which the ((agent, broker, or solicitor)) insurance producer, title insurance agent, or surplus line broker receives or becomes entitled to receive. RCW 82.04.080. The gross income of the business does not include amounts held in trust for the insurer or the client. (See ((also)) WAC 458-20-111, Advances and reimbursements.)

(b) **Are commissions and expenses deductible?** No deduction is allowed for commissions, fees, or salaries paid to other ((agents, brokers, or solicitors nor)) insurance producers, title insurance agents, or surplus line brokers or for other expenses of doing business.

(c) **Examples.**

(i) ABC Financial Services (ABC) is a full-service broker-dealer firm with independent contractors, referred to as "representatives," licensed to sell insurance products (chapter 48.17 RCW) and securities (chapter 48.18A RCW). ABC's top selling representative is John. When John sells an insurance policy to a client, ABC receives a commission from the

insurer and pays a portion of that commission to John, which John reports under the insurance producers/title insurance agents/surplus line broker commissions B&O tax classification. When John sells securities, ABC charges the purchaser a fee and pays a portion of that fee to John as a commission, which John reports under the service and other activities B&O tax classification. ABC is taxable on the total commissions received from the sale of insurance products (under the insurance producers/title insurance agents/surplus line broker commissions classification) and fees charged for security transactions. (under the service and other activities classification), including the amount in commissions paid to John.

(ii) Tom is an independent contractor with agency agreements with several insurance companies that authorize him to accept applications for insurance. Tom also has an agreement with William, who will market insurance policies for Tom. When William sells a policy for Tom, William collects the entire gross premium from the customer. William deposits the entire amount, and sends Tom a check for the balance remaining after William deducts his commission. Tom deposits the check and writes a check to the insurance company for the net premium. As Tom, not William, has the contractual relationship with the insurance company, Tom owes B&O tax on the gross commission income including the amount retained by William. Tom cannot deduct the amount William kept as it is a cost of doing business for Tom. He will report under the insurance producers/title insurance agent/surplus line broker commissions B&O tax classification. William will also report his commission income on his excise tax return under the insurance producers/title insurance agent/surplus line broker commissions B&O tax classification.

(iii) Lisa sells life insurance and variable annuities. Lisa is not an employee of the insurance company and is taxable under the insurance producers/title insurance agent/surplus line broker commissions B&O tax classification on the commissions she earns from selling insurance. Commissions earned from selling variable annuities are taxable under the service and other business activities B&O tax classification. See RCW 48.18A.030.

(d) Engaging in business. Every person acting in the capacity of ((agent, broker, or solicitor)) an insurance producer, title insurance agent, or surplus line broker is presumed to be engaging in business and subject to the ((business and occupation)) B&O tax unless ((such)) the person can demonstrate he or she is a bona fide employee. The burden is ((upon such)) on the person to establish the fact of his or her status as an employee. (See WAC 458-20-105, Employees distinguished from persons engaging in business.)

(e) How do I apportion my income? Income earned from engaging in business as insurance producers, title insurance agents, and surplus line brokers is apportionable income. The portion that is taxable income for B&O tax purposes must be determined by using the apportionment method provided in WAC 458-20-19402, Single factor receipts apportionment—Generally.

(4) Full-time life insurance salespersons. ((After June 30, 1994,)) Persons who sell life insurance on a full-time basis, as provided in section 3121 (d)(3)(B) of the Internal

Revenue Code (statutory employee), will be considered employees. ((Such)) These persons will not be subject to the ((business and occupation)) B&O tax on amounts received in their capacity as statutory employees.

(a) **What are the criteria for full-time life insurance salespersons?** For purposes of this subsection (4), a full-time life insurance salesperson is an individual who meets all of the following criteria:

(i) The person's principal business activity is devoted to the solicitation of life insurance or annuity contracts, or both, primarily for one insurance company;

(ii) The contract between the individual and the primary life insurance company contemplates that substantially all of such services are to be performed personally by such individual;

(iii) The individual does not have a substantial investment in facilities used in connection with the sale of life insurance or annuity contracts (other than in facilities for transportation); and

(iv) The sale of life insurance by such individual occurs in the course of a continuing relationship with the primary life insurance company.

(b) **What is a principal business activity?** A person's principal business activity is the activity from which he or she generally receives the greatest remuneration. All business activities, including acting as an employee, will be considered in determining a person's principal business activity.

(c) **What is considered a facility?** The facilities referred to in (a)((iii)) (iii) of this subsection include such things as office space, office equipment, and secretarial services. The term facilities does not include ((such)) tools, instruments, or clothing as are commonly furnished by employees. An investment is substantial if a deduction for the item is taken in calculating the person's federal income tax liability.

(d) **What will disqualify a person?** Failure to satisfy any one of the criteria listed in (a) of this subsection will disqualify a person from treatment as an employee under this subsection.

(e) **You can be an employee for only one life insurance company.** A person will be considered an employee under this subsection (4):

(i) With only one company, even if selling on behalf of more than one insurance company; and

(ii) Only as to amounts received as compensation for the sale of life insurance or annuity contracts, or both((,)) from one life insurance company((, regardless of whether the person sells life insurance on behalf of other companies)).

(f) **Receiving a Form W-2 as a statutory employee.** A person will be presumed to be a full-time life insurance salesperson within the meaning of section 3121 (d)(3)(B) of the Internal Revenue Code if they receive a Form W-2 (federal income tax wage and tax statement) indicating that they are a statutory employee. A person receiving a W-2 as a statutory employee will be presumed to be an employee under this subsection only as to amounts reported on the W-2 as compensation for the sale of life insurance.

((g))) A person who does not receive a properly marked W-2 has the burden of establishing that they are a full-time

life insurance salesperson as provided in (a) of this subsection.

((h)) (g) **Examples.**

(i) A person sells life insurance on a full-time basis on behalf of one company. The company issues a Form W-2 which indicates that the person is a statutory employee. Under these circumstances, the person will be presumed an employee as to amounts reported on the Form W-2 as compensation for the sale of life insurance and will not be taxable under the ((business and occupation)) B&O tax on ((such)) these amounts.

(ii) A person sells insurance on behalf of several insurance companies two of which are life insurance companies and the others are casualty insurance companies. The person sells both life insurance and casualty insurance. One of the life insurance companies issues a Form W-2 indicating that the person is a statutory employee. The person will be presumed an employee as to amounts reported on the Form W-2 as compensation for the sale of life insurance and will not be taxable under the ((business and occupation)) B&O tax on ((such)) these amounts.

(iii) A person sells life insurance on behalf of several life insurance companies and does not engage in any other business activity. Most of the policies sold by the person are written with one company. The person does not receive a Form W-2 from any of the companies for which life insurance is sold. The person's sales activities are conducted from an office which he or she leases. The office lease payments are deducted by the salesperson in computing his or her federal income tax liability. In addition, the salesperson has an employee whose salary is also deducted for federal income tax purposes. Because the person does not receive a Form W-2, he or she will not be presumed to be an employee. Instead, the person has the burden of proving the existence of each of the criteria listed in subsection (4)(a) of this section. In this example, the salesperson will not be considered an employee under this subsection (4) of this section because they have a substantial investment in facilities.

(5) ((Special classification for certain)) **Licensed producer appointed as a managing general agent((s)).** ((Under RCW 82.04.280(5))) A person((s)) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent((s)) are subject to tax ((at the prevailing rate upon)) on the gross income of ((the)) such business activities and will report under the insurance producers/title insurance agents/surplus line broker commissions B&O tax classification.

((a)) In view of the small number of persons falling in this special category, no separate classification line on the combined excise tax return has been provided for reporting this income; it should be shown on line 1 of the combined excise tax return with the explanatory note: "Income for insurance managing general agent taxable under RCW 82.04.280(5)."

((b)) Any person claiming to fall within this tax classification must demonstrate:

((i)) (a) That ((he)) the person is licensed as a resident ((general agent)) producer by the insurance commissioner; and

((ii)) (b) That ((he)) the person performs the following independent manager functions:

((A)) (i) Pays all sales and/or production expense; including salaries of special field representatives, underwriters, and inspectors as well as all office expenses of rent, supplies, secretarial help, etc.

((B)) (ii) Bills all premiums for the company so represented.

((C)) (iii) Directly contracts for or hires all selling agents.

((D)) (iv) Exercises final responsibility with respect to selecting risks and underwriting matters.

((E)) (v) Makes all arrangements for reinsurance.

((F)) (vi) Handles all claims adjustments directly with the insured (by his own staff or through hiring an independent adjuster).

((e)) Persons wishing to claim qualification for this special insurance agent classification should request application forms from the department of revenue.) (6) **Insurance adjusters.** For the purpose of this section, adjuster means a person licensed as such under the provisions of chapter 48.17 RCW. Persons engaged in business as insurance adjusters are taxable under the service and other business activities classification upon the gross income of the business.

Gross income includes all fees received for services rendered, and all charges recovered for expenses incurred in performing services, such as transportation costs, hotel, restaurant, and telephone charges, etc.

In computing tax liability, there may be deducted from the gross income (if included therein) money or credits received as reimbursement of advances made for:

- Towing;
- Storage of damaged automobiles;
- Repairs to damaged automobiles;
- Advances for doctor, hospital, and ambulance fees and charges; and
- Other such expenditures made with respect to damaged property or injured persons.

The words "advance" and "reimbursement" apply only when the insurer or the insured alone is liable for the payment of the fees or costs and when the adjuster making the payment has no personal liability therefore, either primarily or secondarily, other than as agent for the insurer or the insured. Refer to WAC 458-20-111, Advances and reimbursements.

**(7) Purchases subject to retail sales tax.** Retail sales tax is owed on purchases of:

- Tangible personal property such as office equipment, supplies, furnishings, computers, prewritten software;
- Digital products, unless specifically exempt; and
- Retail services, such as telephone service, construction services, landscape services, repair services.

If retail sales tax is not paid at the time of purchase, deferred sales tax or use tax is owed by the purchaser. See WAC 458-20-178, Use tax.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 458-20-212      Insurance adjusters.

**WSR 12-11-007**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed May 3, 2012, 9:39 a.m., effective June 3, 2012]

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

Purpose: The purpose of WAC 458-20-10202 (Rule 10202) Brief adjudicative proceedings for matters related to reseller permits is to explain the procedure and process pertaining to the brief adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act, as they relate to reseller permits.

The department is amending Rule 10202 to adopt the brief adjudicative proceedings for the following:

- A determination of whether a reseller permit should be revoked using the criteria per RCW 82.32.780 and WAC 458-20-102 (Rule 102) Reseller permits; and
- On the administrative appeal of an initial order revoking a taxpayer's reseller permit, a determination as to whether the department's order revoking the permit was correctly based on the criteria as set forth in RCW 82.32.780 and Rule 102.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-10202 Brief adjudicative proceedings for matters related to reseller permits.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.32.780 and 82.32.783.

Adopted under notice filed as WSR 12-06-074 on March 6, 2012.

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: May 3, 2012.

Alan R. Lynn  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 10-14-080, filed 7/1/10, effective 8/1/10)

**WAC 458-20-10202 Brief adjudicative proceedings for matters related to reseller permits. (1) Introduction.**

The department of revenue (department) conducts adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). The department adopts in this section the brief adjudicative procedures as provided in RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings for the following matters related to reseller permits:

(a) A determination of whether an applicant for a reseller permit meets the criteria for a reseller permit per WAC 458-20-10201; ((and))

(b) On the administrative appeal of an initial order denying the taxpayer's application for a reseller permit, a determination as to whether the department's order denying the application was correctly based on the criteria for approving reseller permits as set forth in WAC 458-20-10201;

(c) A determination of whether a reseller permit should be revoked using the criteria per RCW 82.32.780 and WAC 458-20-102; and

(d) On the administrative appeal of an initial order revoking the taxpayer's reseller permit, a determination as to whether the department's order revoking the permit was correctly based on the criteria as set forth in RCW 82.32.780 and WAC 458-20-102.

This section explains the procedure and process pertaining to the adopted brief adjudicative proceedings.

**(2) Record in brief adjudicative proceedings.**

(a) The record with respect to a taxpayer's appeal per RCW 34.05.482 through 34.05.485 of the department's denial of an application for a reseller permit will consist of:

((a)) (i) The taxpayer's application for the reseller permit, the taxpayer's notice of appeal, the taxpayer's written response, if any, to the reasons set forth in the department's notice of denial of a reseller permit, ((and)) all records relied upon by the department or submitted by the taxpayer; and

((b)) (ii) All correspondence between the taxpayer requesting the reseller permit and the department regarding the application for the reseller permit.

(b) The record with respect to a taxpayer's appeal per RCW 34.05.482 through 34.05.485 of the department's initial order revoking a reseller permit will consist of the department's notice of intent to revoke the reseller permit, the taxpayer's written response to the department's notice of intent to revoke, the taxpayer's notice of appeal, and all records relied upon by the department, or submitted by the taxpayer.

**(3) Conduct of brief adjudicative proceedings.**

(a) If the department denies an application for a reseller permit, it will notify the taxpayer of the denial in writing, stating the reasons for the denial. To initiate an appeal of the denial of the reseller permit application, the taxpayer must file a written appeal no later than twenty-one days after service of the department's written notice that the taxpayer's application has been denied.

((a)) (b) If the department proposes to revoke a reseller permit, it will notify the taxpayer of the proposed revocation in writing, stating the reasons for the proposed revocation. To contest the proposed revocation of the reseller permit, the

taxpayer must file a written response no later than twenty-one days after service of the department's written notice of the proposed revocation of the reseller permit.

(c) A Reseller Permit Appeal Petition form ((notice of appeal of the denial of a reseller permit application (Reseller Permit Appeal Petition))), or form for a response to the proposed revocation of a reseller permit is available at <http://dor.wa.gov> or by calling 1-800-647-7706. The completed form should be mailed or faxed to the department at:

Department of Revenue  
Taxpayer Account Administration  
P.O. Box 47476  
Olympia, WA 98504-7476  
Fax: 360-705-6733

((b)) (d) A presiding officer, who will be either the assistant director of the taxpayer account administration division or such other person as designated by the director of the department (director), will conduct brief adjudicative proceedings. The presiding officer for brief adjudicative proceedings will have agency expertise in the subject matter but will not otherwise have participated in responding to the taxpayer's application for a reseller permit or in the decision to propose revocation of the taxpayer's reseller permit.

((e)) (e) As part of the appeal, the taxpayer or the taxpayer's representative may present written documentation and explain the taxpayer's view of the matter. The presiding officer may request additional documentation from the taxpayer or the department and will designate the date by which the documents must be submitted.

((f)) (f) No witnesses may appear to testify.

((e)) (g) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

((f)) (h) Within twenty-one days of receipt of the taxpayer's appeal of the denial of a reseller permit or proposed revocation of the reseller permit, the presiding officer will enter an initial order, including a brief explanation of the decision per RCW 34.05.485. All orders in these brief adjudicative proceedings will be in writing. The initial order will become the department's final order unless an appeal is filed with the department's appeals division in subsection (4) of this section.

(4) **Review of initial orders from brief adjudicative proceeding.** A taxpayer ((that had its application for a reseller permit denied in an initial order issued per subsection (3) of this section)) may request a review by the department of an initial order issued per subsection (3) of this section by filing a petition for review or by making an oral request for review with the department's appeals division within twenty-one days after the service of the initial order on the taxpayer. A form for an appeal of an initial order per subsection (3) of this section ((denying the taxpayer's application for a reseller permit)) is available at <http://dor.wa.gov>. A request for review should state the reasons the review is sought. A taxpayer making an oral request for review may at the same time mail a written statement to the address below stating the reasons for the appeal and its view of the matter. The address, telephone number, and fax number of the appeals division are:

Appeals Division, Reseller Permit Appeals  
Department of Revenue  
P.O. Box 47476  
Olympia, WA 98504-7476  
Telephone Number: 1-800-647-7706  
Fax: 360-705-6733

(a) A reviewing officer, who will be either the assistant director of the appeals division or such other person as designated by the director, will conduct brief adjudicative proceedings and determine whether the department's ((denial of the taxpayer's application))) initial order issued per subsection (3) of this section was correctly based on the criteria ((for approving reseller permits as)) set forth in ((WAC)) RCW 82.32.780, WAC 458-20-102, and 458-20-10201. The reviewing officer will review the record and, if needed, convert the proceeding to a formal adjudicative proceeding.

(b) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing officer will have the authority of a presiding officer.

(c) The order of the reviewing officer will be in writing and include a brief statement of the reasons for the decision, and it must be entered within twenty days of the petition for review. The order will include a notice that judicial review may be available. The order of the reviewing officer represents the final decision of the department.

(d) A request for administrative review is deemed denied if the department does not issue an order on review within twenty days after the petition for review is filed or orally requested.

(5) **Conversion of a brief adjudicative proceeding to a formal proceeding.** The presiding officer or reviewing officer may convert the brief adjudicative proceeding to a formal proceeding at any time on motion of the taxpayer, the department, or the presiding/reviewing officer's own motion.

(a) The presiding/reviewing officer will convert the proceeding when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the parties, and when the issues and interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director may become the presiding officer or may designate a replacement presiding officer to conduct the formal proceedings upon notice to the taxpayer and the department.

(c) In the conduct of the formal proceedings, WAC 458-20-10002 will apply to the proceedings.

(6) **Court appeal.** Court appeal from the final order of the department is available pursuant to Part V, chapter 34.05 RCW. However, court appeal may be available only if a review of the initial decision has been requested under subsection (4) of this section and all other administrative remedies have been exhausted. See RCW 34.05.534.

(7) **Computation of time.** In computing any period of time prescribed by this section or by the presiding officer, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the next day which is not a

Saturday, Sunday or legal holiday. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays are excluded in the computation. Service as discussed in subsection (8) of this section is deemed complete upon mailing.

(8) **Service.** All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the taxpayer, their representatives/agents of record, and the department.

(a) Service is made by one of the following methods:

- (i) In person;
- (ii) By first-class, registered or certified mail;
- (iii) By fax and same-day mailing of copies;
- (iv) By commercial parcel delivery company; or
- (v) By electronic delivery pursuant to RCW 82.32.135.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that the department electronically sends the information to the parties or electronically notifies the parties that the information is available to be accessed by them.

(f) Service to a taxpayer, their representative/agent of record, the department, and presiding officer must be to the address shown on the notice described in subsection (3)(a) of this section.

(g) Service to the reviewing officer must be to the appeals division at the address shown in subsection (4) of this section.

(h) Where proof of service is required, the proofs of service must include:

- (i) An acknowledgment of service;
- (ii) A certificate, signed by the person who served the document(s), stating the date of service; that the person did serve the document(s) upon all or one or more of the parties of record in the proceeding by delivering a copy in person to (names); and that the service was accomplished by a method of service as provided in this subsection.

(9) **Continuance.** The presiding officer or reviewing officer may grant a request for a continuance by motion of the taxpayer, the department, or on its own motion.

**WSR 12-11-008**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed May 3, 2012, 11:54 a.m., effective June 3, 2012]

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

Purpose: New rules are needed to create a responsible vendor program as directed in Initiative 1183 that passed on November 8, 2011. These rules clarify the process to become a responsible vendor, program standards and content, and sanctions for violations under a responsible vendor program.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.630.

Adopted under notice filed as WSR 12-07-093 on March 21, 2012.

Changes Other than Editing from Proposed to Adopted Version: A revision to add an RCW reference to subsection (6) was made and the words "Public safety violations" was changes [changed] to "violations" to match the RCW language. Stakeholders agreed with the revision.

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 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 0, Amended 0, Repealed 0.

Date Adopted: May 3, 2012.

Sharon Foster  
Chairman

**NEW SECTION**

**WAC 314-02-108 Responsible vendor program.** (1)

**What is the purpose of this chapter?** The purpose of this section is to establish standards and procedures for a responsible vendor program for spirits retail licensees.

(2) **What is the responsible vendor program?** This program is free, voluntary, and self-monitoring. Spirits retail licensees who hold a responsible vendor certificate and maintain all requirements are eligible for reduced sanctions on their first single violation within any period of twelve calendar months.

(3) **How do you become a responsible vendor?** Any spirits retail licensee who meets the program standards may participate. To apply for a responsible vendor certificate, the licensee must have no public safety violations within the last two years and must complete and submit a board-provided application form. Board staff will review the application for completeness, and will:

(a) Certify the completed application clearly indicates the licensee has all program standards in place and send a certificate to the licensee; or

(b) Return an incomplete application that does not clearly indicate the licensee has all program standards in place. Staff will notify the licensee of the reason(s) the application is being returned.

(4) **To qualify as a responsible vendor, a licensee must:**

(a) Post their responsible vendor program certificate for public viewing at the main entrance of the premises;

(b) Train each employee supervising or selling alcohol in responsible liquor sales. Licensees may require employees to obtain a mandatory alcohol server training permit from a board certified provider or train employees themselves using the training criteria specified in subsection (5) of this section; and

(c) In an area visible to employees, post the house policies on alcohol sales and checking identification. The licensee must have each employee read and sign the house policies which must include at a minimum:

(i) A list of acceptable forms of identification which are accepted at the premises;

(ii) Directions for checking identification for customers; and

(iii) The consequences for selling spirits to a minor or apparently intoxicated person.

(d) In an area visible to patrons, post signs to deter illegal purchases of alcohol. Examples of information include, it is illegal to purchase alcohol under twenty-one years of age or while apparently intoxicated. Other information may include acceptable forms of identification at the premises;

(e) Have an on-going training plan for employees, to include annual training at a minimum. Examples of training include computer based training, video training, classroom instruction, and meetings. The training may be done individually or in a group. At a minimum, training must cover the topics listed in subsection (5) of this section; and

(f) Retain employee training records and signed house policies for three years and must be able to present employee training records upon request.

**(5) What are the program standards, program content, and other requirements for the responsible vendor program?** All training must include, at a minimum, the following:

(a) Guidelines for recognizing minors and apparently intoxicated persons;

(b) Forms of identification for purchasing alcohol;

(c) How to check identification and how to recognize false or altered identification;

(d) A requirement to check identification in accordance with house policies;

(e) Recommended actions for refusing sales of alcohol to minors or apparently intoxicated persons;

(f) A review of the consequences for selling to minors, and the importance of not selling alcohol to minors or apparently intoxicated persons;

(g) A review of house policies on alcohol sales. Each licensee must ensure that his/her employees receive training that covers the licensee's own house policies; and

(h) The standards and requirements for the mandatory alcohol server training stipulated in WAC 314-17-060 are deemed sufficient for employee's initial training for the responsible vendor training.

**(6) What are the sanctions when a licensee violates liquor laws or regulations?** For violations, as outlined in WAC 314-29-020 through 314-29-040, involving the sales of spirits, the prescribed penalty is doubled. If a licensee has a certified responsible vendor program having all program standards in place, the board will impose the standard penalty detailed in WAC 314-29-020 through 314-29-040 for that

violation. Any subsequent violation involving spirits within any period of twelve calendar months will be double the standard penalties. Regardless of the type of alcohol sold; beer, wine, or spirits, WAC 314-29-020 through 314-29-040 are applicable.

## WSR 12-11-022

### PERMANENT RULES

### OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-01—Filed May 7, 2012, 3:04 p.m., effective June 7, 2012]

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

Purpose: The purpose of this rule making is to update chapter 284-02 WAC to improve the clarity and accuracy of the chapter. This rule making is part of the commissioner's annual review of Title 284 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-02-023, 284-02-025, 284-02-030, 284-02-040, 284-02-050, 284-02-060 and 284-02-080; and amending WAC 284-02-010, 284-02-070, 284-02-100, and 284-02-105.

Statutory Authority for Adoption: RCW 48.02.060 and 34.05.220.

Adopted under notice filed as WSR 12-06-076 on March 7, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-02-070, the term "hearing" was replaced with "chief" and "presiding" for consistency.

WAC 284-02-105, the last sentence regarding "deliver" was deleted because it is not necessary.

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 7.

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 7.

Date Adopted: May 7, 2012.

Mike Kreidler  
Insurance Commissioner

## Chapter 284-02 WAC

**((DESCRIPTION OF)) INSURANCE COMMISSIONER'S OFFICE—((ORGANIZATION OPERATIONS AND OBTAINING INFORMATION)) GENERAL ALLY**

**AMENDATORY SECTION** (Amending Matter No. R 2010-09, filed 12/22/10, effective 1/22/11)

**WAC 284-02-010 ((What are the responsibilities of the insurance commissioner and the office of the insurance commissioner (OIC) staff?)) SHIBA.** ((The insurance commissioner is responsible for regulating the insurance industry and all persons or entities transacting insurance business in this state in the public interest. The position of insurance commissioner was established by the legislature as an independent, elective office in 1907. The insurance laws and the authority of the insurance commissioner are found in Title 48 RCW. The insurance commissioner's powers are set forth in chapter 48.02 RCW.

**(1) General powers and tasks.**

(a) To carry out the task of enforcing the insurance code the commissioner:

(i) May make rules and regulations governing activities under the insurance code (Title 48 RCW);

(ii) May conduct investigations to determine whether any person has violated any provision of the insurance code, including both informal and formal hearings;

(iii) May take action (including levying of fines and revocation of authority to transact business in this state) against an insurance company, fraternal benefit society, charitable gift annuity providers, health maintenance organization, health care service contractor, motor vehicle service contract provider, service contract provider, protection product guarantee providers, self funded multiple employer welfare arrangement, and life settlement provider; and

(iv) May issue, refuse to issue or renew, place on probation, revoke, or suspend the licenses of insurance producers, title insurance agents, surplus line brokers, adjusters, insurance education providers, reinsurance intermediaries, and life settlement brokers, or may fine any of them for violations of the insurance code.

(b) All insurers and other companies regulated under the insurance code must meet financial, legal, and other requirements and must be licensed, registered, or certified by the OIC prior to the transaction of insurance in this state.

(c) The OIC is responsible for collecting a premium-based tax levied against insurers and other companies transacting insurance business in this state. The funds collected from health care companies are deposited into the state's health services account. All other taxes are deposited into the state's general fund.

(d) Any person engaged in the marketing or sale of insurance in Washington must hold a license issued by the OIC. The OIC oversees the prelicensing education, testing, licensing, continuing education, and renewal of insurance producer, surplus line broker and title insurance agent licenses.

(e) Public and independent adjusters must be licensed by the OIC. The OIC is responsible for the processing of

licenses, background checks, affiliations, testing, renewals, terminations, and certificates for individuals and business entities, both resident and nonresident, who act as independent or public adjusters in Washington.

(f) The OIC assists persons who have complaints about companies, insurance producers, surplus line brokers and title insurance agents, or other licensees of the OIC. OIC investigators follow up on consumer complaints, look into circumstances of disputes between consumers and licensees, and respond to questions.

(g) The OIC publishes and distributes consumer guides and fact sheets to help inform consumers about their choices and rights when buying and using insurance.

(2) **Orders.** The commissioner may issue a cease and desist order based on the general enforcement powers granted by RCW 48.02.080, or may bring an action in court to enjoin violations of the insurance code.

(3) **SHIBA.**) The OIC offers assistance statewide to consumers regarding health care insurance and health care access through its statewide health insurance benefits advisors (SHIBA) ("HelpLine") program. Volunteers are trained by OIC employees to provide counseling, education, and other assistance to residents of Washington. Information about SHIBA, including how to become a SHIBA volunteer, can be found on the OIC web site ((f)www.insurance.wa.gov(f)).

(4) **Publication of tables for courts and appraisers.** The insurance commissioner publishes tables showing the average expectancy of life and values of annuities and life and term estates for the use of the state courts and appraisers (RCW 48.02.160).

(5) **Copies of public documents.** Files of completed investigations, complaints against insurers or other persons or entities authorized to transact the business of insurance by the OIC, and copies of completed rate or form filings are generally available for public inspection and copying during business hours (see chapter 284-03 WAC) at the OIC's office in Tumwater, subject to other applicable law. Access by the public to information and records of the insurance commissioner is governed by chapter 284-03 WAC and the Public Records Act (chapter 42.56 RCW). Information on how to request copies of public documents is available on the OIC web site (www.insurance.wa.gov).

(6) **Web site.** The insurance commissioner maintains a web site at: www.insurance.wa.gov. Current detailed information regarding insurance, persons and entities authorized to transact insurance business in this state, consumer tips, links to Washington's insurance laws and rules, a list of publications available to the public, and other valuable information can be found on the web site.

(7) **Toll-free consumer hotline.** Members of the OIC staff respond to inquiries of consumers who telephone the agency's toll-free consumer hotline at 1-800-562-6900.

(8) **Location of offices.** The OIC's headquarters office is located in the insurance building on the state Capitol campus in Olympia. Branch offices are located in Tumwater, Seattle and Spokane. Addresses for the office locations can be found on the OIC web site (www.insurance.wa.gov) or by calling the commissioner's consumer hotline (1-800-562-6900).

**(9) Antifraud program.** Beginning in 2007, the OIC (in partnership with the Washington state patrol, county prosecutors, and the state attorney general's office) will investigate and assist in prosecuting fraudulent activities against insurance companies. Information about this program can be found on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov))).

**AMENDATORY SECTION** (Amending Matter No. R 2010-09, filed 12/22/10, effective 1/22/11)

**WAC 284-02-070 ((How does the OIC conduct))**

**Hearings((?)).** (1) ((**Generally:**)) (a) Hearings of the OIC are conducted according to chapter 48.04 RCW and chapter 34.05 RCW, the Administrative Procedure Act ((chapter 34.05 RCW). In addition to general hearings conducted pursuant to RCW 48.04.010,)) Two specific types of hearings are conducted pursuant to the Administrative Procedure Act: Rule-making hearings and adjudicative proceedings ((or contested case hearings)). Adjudicative proceedings include both contested case hearings and other types of adjudicative proceedings which are required by law. Contested case hearings include appeals from disciplinary actions taken by the commissioner.

(b) **How to demand ((or request)) a hearing.** Under RCW 48.04.010 the commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if the failure is deemed an act under the insurance code or the Administrative Procedure Act.

(i) A hearing((s)) can also be demanded by an aggrieved person based on any report, promulgation, or order of the commissioner.

(ii) ((**Requests**)) Demands for hearings must be in writing and delivered to the Tumwater office of the OIC((The request must specify how the person making the demand has been aggrieved by the commissioner, and must specify the grounds to be relied upon as the basis for the relief sought)) by mail, hand delivery, facsimile, or e-mail. Unless a person aggrieved by an order of the commissioner demands a hearing within ninety days after receiving notice of that order, or in the case of persons or entities authorized by the OIC to transact the business of insurance under Title 48 RCW, within ninety days after the order was mailed to the most recent address shown in the OIC's licensing records, the right to a hearing is conclusively deemed to have been waived. A hearing is considered demanded when the demand for hearing is received by the commissioner.

(c) Accommodation will be made for persons needing assistance((, for example, where English is not their primary language, or for hearing impaired persons)) due to difficulty with language or disability.

(2) ((**Proceedings**)) **Procedural and substantive requirements for adjudicative proceedings including contested cases ((or adjudicative hearings)).**

(a) Provisions ((specifically relating)) applicable to ((disciplinary)) adjudicative proceedings are contained in chapter 48.04 RCW and chapter 34.05 RCW, the Administrative Procedure Act, and chapter 10.08 WAC.

(b) Substantive provisions specifically relating to action taken against persons or entities authorized by the OIC to

transact the business of insurance are contained in RCW 48.17.530, 48.17.540, 48.17.550, 48.17.560, chapter 48.102 RCW, and other chapters related to specific licenses. ((Provisions applicable to other adjudicative proceedings are contained in chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The uniform rules of practice and procedure appear in Title 10 of the Washington Administrative Code.)) The grounds for disciplinary action against insurance producers, title insurance agents and adjusters are contained in RCW 48.17.530 and 48.17.540(1); grounds for disciplinary action against surplus line brokers are contained in RCW 48.15.140; grounds for similar action against insurance companies are contained in RCW 48.05.130 and 48.05.140; grounds for actions against fraternal benefit societies are found ((at)) in RCW ((48.36A.300 (domestic) and RCW)) 48.36A.310 ((foreign)); grounds for actions against life settlement providers are found in chapter 48.102 RCW; grounds for actions against health care service contractors are contained in RCW 48.44.160; ((and)) grounds for action against health maintenance organizations are contained in RCW 48.46.130((-)); grounds for actions against other persons or entities authorized by the OIC under Title 48 RCW are found in the chapters of Title 48 RCW applicable to those licenses; grounds for action against unauthorized individuals or entities are found generally throughout Title 48 RCW.

((b))) (c) The ((insuree)) commissioner may suspend or revoke any license, certificate of authority, or registration issued by the OIC. In addition, the commissioner may generally levy fines against any persons or organizations having been authorized by the OIC.

((e))) (d) Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence is not required.

(i) The insurance commissioner may delegate the authority to hear and determine the matter and enter the final order under RCW 48.02.100 and 34.05.461 to a chief presiding officer((, or)). The commissioner may appoint a chief presiding officer who will have primary responsibility for the conduct of hearings, the procedural matters preliminary thereto, and the preservation of hearing records. The position of chief presiding officer does not report to any of the major divisions of the OIC. The commissioner may also use the services of an administrative law judge in accordance with chapter 34.12 RCW and chapter 34.05 RCW, the Administrative Procedure Act ((chapter 34.05 RCW)). The initial order of an administrative law judge will not become a final order without the commissioner's review (RCW 34.05.464) and entry of a final order.

(ii) The hearing will be recorded by any method chosen by the chief presiding officer. Except as required by law, the OIC is not required, at its expense, to prepare a transcript. Any party, at the party's expense, may cause a reporter approved by the chief presiding officer to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if, in the opinion of the presiding officer, the making of the additional recording does not cause distraction or disruption. If appeal from the insurance commissioner's order is made to the superior court, the recording of the hearing will be transcribed and certified to the court

after confirmation of payment of all costs for the transcription by the appellant.

(iii) The ((insuree)) commissioner or the chief presiding officer may allow any person affected by the hearing to be present during the giving of all testimony and will allow the aggrieved person a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence. Any person heard must make full disclosure of the facts pertinent to the inquiry under oath.

(iv) ((Unless a person aggrieved by an order of the insurance commissioner demands a hearing within ninety days after receiving notice of that order, or in the case of persons or entities authorized by the OIC to transact the business of insurance under Title 48 RCW, within ninety days after the order was mailed to the most recent address shown in the OIC's licensing records, the right to a hearing is conclusively deemed to have been waived (RCW 48.04.010(3)).

((v))) Prehearing or other conferences for settlement or simplification of issues may be held at the discretion and direction of the chief presiding officer.

((d))) (e) Discovery is available in adjudicative proceedings ((and contested cases)) pursuant to Civil Rules 26 through 37 as now or hereafter amended without first obtaining the permission of the presiding officer or the administrative law judge in accordance with RCW 34.05.446(2).

(i) Civil Rules 26 through 37 are adopted and incorporated by reference in this section, with the exception of CR 26 (j) and (3) and CR 35, which are not adopted for purposes of this section.

(ii) The chief presiding officer or administrative law judge is authorized to make any order that a court could make under CR 37 (a) through (e), including an order awarding expenses of the motion to compel discovery or dismissal of the action.

(iii) This rule does not limit the chief presiding officer's or administrative law judge's discretion and authority to condition or limit discovery as set forth in RCW 34.05.446(3).

(3) **Rule-making hearings.** Rule-making hearings are conducted based on requirements found in chapter 34.05 RCW, the Administrative Procedure Act ((chapter 34.05 RCW)) and chapter 34.08 RCW (the State Register Act).

(a) Under applicable law all interested parties must be provided an opportunity to express their views concerning a proposed rule, either orally or in writing. The OIC will accept comments on proposed rules by mail, ((electronic)) telefacsimile ((transmission)), or ((electronic mail)) e-mail but will not accept comments by recorded telephonic communication or voice mail (RCW 34.05.325(3)).

(b) Notice of intention of the insurance commissioner to adopt a proposed rule or amend an existing rule is published in the state register and is sent to anyone who has requested notice in advance and to persons who the OIC determines would be particularly interested in the proceeding. Persons requesting paper copies of all proposed rule-making notices of inquiry and hearing notices may be required to pay the cost of mailing these notices (RCW 34.05.320(3)).

(c) Copies of proposed new rules and amendments to existing rules as well as information related to how the public may file comments are available on the OIC web site ((http://www.insurance.wa.gov(())).

AMENDATORY SECTION (Amending Matter No. R 2003-09, filed 12/14/06, effective 1/14/07)

**WAC 284-02-100 ((How can an interested person))**

**Petition for adoption, amendment, or repeal of rules((?))**

(1) ((As authorized by the Administrative Procedure Act)) Any ((interested)) person may petition the insurance commissioner requesting the adoption, amendment, or repeal of any rule ((using the procedures set forth in RCW 34.05.-330(())). The petition must be in writing, dated, and signed by the petitioner. In addition to the information listed in RCW 34.05.330(3), each petition must include the following information:

(a) The name and address of the person requesting the action, and, if relevant, the background and identity of the petitioner and the interest of the petitioner in the subject matter of the rule;

(b) The full text of any proposed new or amendatory rule and the citation and caption of any existing rule to be amended or repealed;

(c) A narrative explaining the purpose and scope of any proposed new or amendatory rule including a statement generally describing the statutory authority relied upon by the petitioner, how the rule is to be implemented, the reasons for the proposed action, accompanied by necessary or pertinent data in support of the new rule or amendment; and

(d) Statements from other persons in support of the action petitioned are encouraged, if they help the OIC to understand why the new rule or amendment is needed.

((2)((a) Within sixty days after the petition to adopt, amend, or repeal any rule is submitted, the OIC either:

i. Will formally deny the petition in writing to the person requesting the action, stating the reasons for the denial, and, if appropriate, will state any alternative means by which the insurance commissioner will address concerns raised; or

ii. Will initiate rule-making proceedings in accordance with the Administrative Procedure Act.

(b) If the insurance commissioner denies a petition to repeal or amend a rule, the petitioner may appeal the denial to the governor, within thirty days after the denial (RCW 34.05.330(2)).

(3) If the insurance commissioner determines it to be in the interest of the public, a hearing may be held for the further consideration and discussion of the requested adoption, amendment, or repeal of any rule.

((4))) For information concerning the subjects of rules being proposed, or to request paper copies of rules or copies of materials presented to the commissioner during the rule-making process, members of the public may contact the agency's rules coordinator. The name, address, and phone number of the rules coordinator are available on the OIC web site and are published at least annually in the *Washington State Register*. Complete information regarding all rules being proposed is available on the OIC web site ((http://www.insurance.wa.gov(())).

AMENDATORY SECTION (Amending Matter No. R 2008-10, filed 7/2/08, effective 8/2/08)

**WAC 284-02-105 ((What does "))) Sending((?)) or ((?)) delivery((? include?)) of information to the commis-**

**sioner.** ((Throughout)) For purposes of complying with Titles 48 RCW and 284 WAC, whenever written notice to the commissioner is required ((to be sent or delivered to the commissioner)), "sending" or "delivery" of the written notice includes transmitting the required information in writing and, where appropriate, on forms designated by the commissioner for that purpose via first class mail, commercial parcel delivery company, ((electronic)) telefacsimile, or e-mail, unless the relevant requirement specifies sending the written notice in some specific manner, such as via first class mail, postage prepaid.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-02-023	How is the OIC organized?
WAC 284-02-025	How is the OIC funded?
WAC 284-02-030	How can service of process over foreign and alien insurers be made?
WAC 284-02-040	Where can information about applying for a license as an adjuster or insurance producer, surplus line broker or title insurance agent be found?
WAC 284-02-050	Where can information and applications for admission as an authorized insurer, fraternal benefit society, health care service contractor, health maintenance organization, viatical settlement provider, and for other entities required to be authorized to transact the business of insurance be found?
WAC 284-02-060	Where can information regarding filing a complaint against a company, insurance producer, surplus line broker, title insurance agent, adjuster, or other person or entity authorized by the OIC be found?
WAC 284-02-080	What publications and information are available from the OIC?

**WSR 12-11-024**  
**PERMANENT RULES**  
**WASHINGTON STATE UNIVERSITY**  
[Filed May 8, 2012, 10:13 a.m., effective June 8, 2012]

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

Purpose: To update the campus traffic and parking regulations for WSU Vancouver, chapter 504-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 504-19-250, 504-19-520, 504-19-560, 504-19-580, 504-19-600, and 504-19-650.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 12-05-108 on February 22, 2012.

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 6, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: May 7, 2012.

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

**WAC 504-19-250 Motorcycles and mopeds.** (1) The general traffic regulations applicable to motor vehicles apply to motorcycles and mopeds. Motorcycles or mopeds may not be driven on sidewalks or in pedestrian mall areas. Owners of motorcycles and mopeds are responsible for all violations issued.

(2) The university classifies mopeds and motorcycles by engine displacement (also referred to as engine size). This definition applies only to university property and does not replace or supersede the definitions established by the state of Washington for licensing purposes.

(3) Motorcycles and mopeds: Motorcycles and mopeds may park only in spaces which are marked by signs or the letter "M" painted on the parking surface. Motorcycles and mopeds parking in such designated areas must display a valid WSUV motorcycle permit during posted times. During all other times, these spaces are restricted to use by motorcycles and mopeds only. To park a motorcycle or moped in nonmotorcycle parking spaces, a full-price vehicle permit must be displayed in an approved motorcycle permit holder. Approved motorcycle permit holders may be signed out from parking services at the time of permit purchase. Issued permit holders must be returned to parking services within two

weeks of the permit's expiration date or an administrative service fee is charged to the permit user's account.

**AMENDATORY SECTION** (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

**WAC 504-19-520 Parking permits—Form and display.** All

parking permits must be displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a permit, or for the violation of no parking permit if a valid permit cannot be verified from the exterior of the vehicle.

(1) Autos and trucks:

(a) Hanging permits, both annual and daily, must be displayed by hanging the permit from the rear-view mirror post or laying the permit on the dashboard with the proof of payment and valid dates visible from the exterior of the vehicle.

(b) Permits mounted solely by suction cup and permit decals directly affixed to the windshield must be displayed on the front windshield at the lower left corner (driver's side). ((Decals must be mounted completely by means of their own adhesive (not by tape).))

(2) Motorcycles and mopeds: Motorcycle and moped permits must be mounted completely by means of their own adhesive and prominently displayed on the left rear side of the vehicle or on top of the rear tail light.

**AMENDATORY SECTION** (Amending WSR 09-11-069, filed 5/14/09, effective 7/1/09)

**WAC 504-19-560 Other parking permits—Availability and use.** (1) Visitor permits. Visitor permits may be used only by bona fide visitors as defined by this chapter. Use by any other person constitutes illegal use of a parking permit. Visitor permits are valid in any zone and parking spaces signed for visitors only. Visitor permits are not valid at meters or restricted spaces.

(2) Golden cougar permits. Golden cougar permits are special visitor permits that are issued to retired staff in recognition of their service without additional cost. They are issued on an annual basis and are valid in any zone. Staff who are employed by the university or other entities located on campus after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid zone permit.

(3) President's associates decals. President's associates decals are issued to eligible members of the Washington State University foundation. Use of these decals for parking shall be in accordance with a separate agreement between WSU and the WSU foundation. However, WSU faculty, staff, and students may not use a president's associates decal or any other parking benefit instrument in lieu of a paid zone permit.

(4) Conference permits. Conference permits are available to visitors who participate in conferences held on the WSUV campus. They are available on a daily basis only. Conference permits are valid ((in any assigned zone)) as marked on the issued permit.

(5) Motorcycle permits. Motorcycle permits are valid within boundaries of areas specifically posted and/or marked for motorcycle permits.

(6) Construction permits. A construction permit is issued to personnel who are working on a construction site on campus. Construction permits are assigned to a specific parking area.

(7) Carpool. Upon application to WSUV parking services, a bona fide carpool as defined by the campus policies and procedures is given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

(8) Commercial permits. Commercial permits are issued to vendors, suppliers, and service representatives of outside companies performing a service for the university. Commercial permits are valid in zones and areas indicated on the permit.

(9) Departmental permits. Departmental parking permits are available for use by department employees who need to use their personal vehicles for university business. Departmental permits are available in different forms and are valid at parking meters, service zones, orange, green, red, and gray permit zones, and pay parking facilities. Departmental permits are not valid in reserved spaces. The use of departmental permits for anything other than official departmental business is prohibited by the State Ethics Act.

**AMENDATORY SECTION** (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

**WAC 504-19-580 Special indicator decals and hangers.** Special indicator decals or hangers may be issued to staff and student permit holders who have otherwise valid parking permits in the following cases:

(1) A "service indicator decal or hanger" is valid typically for a maximum of ((fifteen)) thirty minutes in a marked service zone. A "mall service" indicator is valid typically for a maximum of ((fifteen)) thirty-minute parking in the pedestrian mall. ((These are available to staff or students who must use a private vehicle for university business.)) If the indicator is needed for longer than thirty minutes, the issued permit is subject to the current daily rate for parking on the WSUV campus unless a parking permit valid for that time period is already present in the vehicle.

(2) Reserved parking indicator decals and hangers which are valid in parking spaces that are signed for the corresponding permit and indicator.

**AMENDATORY SECTION** (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

**WAC 504-19-600 Parking permits for persons with disability.** (1) The provisions of this chapter cover the purchase and display of parking permits and the payment of fees and fines associated with parking for persons with disability.

(2) For the purpose of this chapter, persons with disability shall refer to a person or persons with disability who qualify for a state-issued persons with disability parking identification and permit. Use of disability accommodation parking

at WSU Vancouver also requires payment for parking in the form of a WSUV parking permit or receipt of payment.

(3) The university uses the state persons with disability parking permit system to determine eligibility for a university persons with disability parking permit. Persons desiring to purchase a university persons with disability parking permit must present a valid state-issued persons with disability parking identification and permit.

(4) Unless otherwise authorized, long-term parking in spaces designated for persons with disability requires a valid university persons with disability parking permit to park on campus. University semester and annual parking permits for persons with disability are available at the gray zone rate. Daily and temporary parking permits are available at the regular rates.

(5) Persons with a university persons with disability parking permit may park in a persons with disability parking space and any other, nonrestricted permit space within a parking permit zone.

(6) Persons with a university persons with disability parking permit may not park in restricted spaces with the exception of persons with disability parking spaces.

(7) Unless otherwise posted, any university parking permit to include a persons with disability parking permit is not valid in lieu of payment of regular posted fees in pay parking facilities.

(8) A state-issued persons with disability license plate, placard, or permit is valid in lieu of a university persons with disability parking permit in parking zones during times when a university permit is not required.

(9) The university intends to retain control of access to the pedestrian malls on campus. For that reason a university persons with disability parking permit is required in lieu of a state-issued persons with disability license plate, placard, or permit as authorization to use a pedestrian mall to access marked persons with disability parking spaces within the confines of a pedestrian mall.

**AMENDATORY SECTION** (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

**WAC 504-19-650 Parking fees and fines.** (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, parking meter rates, prorate and refund schedules, and the effective date thereof are submitted to the president or his/her designee and to the board of regents for approval by motion, provided however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or his designee to approve all such fees and fines. The schedules described above for all parking fees and fines are thereafter posted in the public area of the parking department office and posted on the parking department's web site.

(2) Payments. Parking fees and fines may be paid at the parking department by cash, check, approved payment card, or money order, and on-line through the WSUV parking services payment portal web site. A payroll deduction plan is

available for eligible university employees and eligible graduate students.

(3) The annual fee for any shorter period relative to all permits shall be prorated according to the published schedule.

(4) The proper fee must be paid for all vehicles parked in parking meter spaces unless otherwise authorized.

(5) Staff members whose work schedules qualify them for nighttime differential pay may purchase a permit for one-half the regular fee. Verification is required.

(6) Refunds. Annual permits being relinquished may be returned to the parking department for a pro rata refund in accordance with university policy. Identifiable remnants of the permit must be returned. The balance of any fees and fines owed the parking department is deducted from any refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.

(7) The parking department makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking department was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or an entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing and storing pre-paid parking permits and by making them available as the department deems necessary. Nothing in this rule allows a university employee to receive, or attempt to receive, any benefit associated with his or her personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.

## WSR 12-11-025

### PERMANENT RULES

### DEPARTMENT OF EARLY LEARNING

[Filed May 8, 2012, 10:28 a.m., effective June 8, 2012]

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

Purpose: The proposed rules are intended to update the rules for several purposes, including to:

- Improve child care subsidy program efficiencies, and to reduce potential fraud, waste and abuse by addressing issues identified in federal and state audits of the state's child care subsidy programs,

- Implement applicable provisions of ESSB 5921 (chapter 42, Laws of 2011 1st sp. sess.),
- Improve the quality of child care by extending certain health and safety requirements to license-exempt in-home/relative providers who provide subsidized child care in their home or the home of the child, as a condition of receiving subsidy payments, and
- Otherwise improve clarity of existing child care subsidy requirements.

Audits by the joint legislative audit and review committee,<sup>1</sup> state auditor's office,<sup>2</sup> and United States General Accounting Office,<sup>3</sup> indicate that Washington and other states need to improve eligibility and payment verification rules and procedures to increase accountability and reduce potential fraud and abuse in child care subsidy programs.

Some of the changes recommended by these audits were made in the department of early learning (DEL) child care subsidy rules adopted on August 24, 2011 (filing number WSR 11-18-001). This proposal further implements subsidy program improvements identified in the audits, including but not limited to:

- Verifying consumers' information supplied at initial application or reapplication for child care subsidy benefits;
- Strengthening background check requirements for license exempt in-home/relative providers;
- Strengthening rules regarding child attendance records in subsidized child care, and providing sanctions for providers who don't keep accurate attendance records to support their subsidy invoices to the state;
- Clarifying that licensed providers may bill for not more children than their license capacity allows;
- Increasing child safety and health requirements for in-home/relative child care providers who are otherwise exempt from state licensing; and
- Clarifying requirements regarding monthly child care copayments and the consumers' obligation to pay the copayment to their child care provider.

Section 12 of ESSB 5921 directed DEL to study the use of electronic systems for recording child attendance in subsidized child care. The proposed rules allow, but do not require, providers who are paid for providing subsidized child care to use either paper or electronic attendance records, provided that any electronic system meets the requirements in the proposed rules. This proposal includes new and amended sections of chapter 170-151 WAC, School-age center programs, and chapter 170-295 WAC, Child care centers, regarding paper and electronic child attendance records.

Proposal of this rule is consistent with state office of financial management guidance regarding implementation of Executive Order 10-06 suspending noncritical rule making (extended by Executive Order 11-03), but allowing rules to proceed that are:

*"Required by federal or state law or required to maintain federally delegated or authorized programs;" or*

*"Necessary to protect public health, safety, and welfare or necessary to avoid an immediate threat to the state's natural resources ..."*

DEL is the state's lead agency for receiving federal child care and development funds (CCDF), and for assuring state compliance with CCDF rules under title 45 Code of Federal Regulations, chapter 98. The proposed rules are anticipated to help Washington state maintain accountability for CCDF funds and compliance with rules for this federally authorized program. The rules also implement applicable provisions of ESSB 5921, chapter 42, Laws of 2011 1st sp. sess.

Revised sections in this proposal increase health and safety requirements for nonlicensed providers of state-subsidized child care. These requirements are necessary to protect the safety, health and welfare of children in these nonlicensed care environments.

<sup>1</sup>Department of Early Learning Review, Proposed Final Report June 21, 2011.

<sup>2</sup>Audit of State Payments to Child Care Providers, Report No. 1006484, September 21, 2011.

<sup>3</sup>Report to Congressional Addressees, September 2010 Child Care Development Fund, Undercover Tests Show Five State Programs Are Vulnerable to Fraud and Abuse. GAO-10-1062.

Citation of Existing Rules Affected by this Order: Amending WAC 170-151-010, 170-151-020, 170-151-460, 170-151-461, 170-151-462, 170-290-0003, 170-290-0012, 170-290-0025, 170-290-0030, 170-290-0031, 170-290-0032, 170-290-0035, 170-290-0040, 170-290-0045, 170-290-0060, 170-290-0070, 170-290-0085, 170-290-0090, 170-290-0110, 170-290-0135, 170-290-0138, 170-290-0160, 170-290-0200, 170-290-0205, 170-290-0220, 170-290-0225, 170-290-0230, 170-290-0235, 170-290-0240, 170-290-0268, 170-290-0271, 170-290-3530, 170-290-3560, 170-290-3565, 170-290-3580, 170-290-3590, 170-290-3610, 170-290-3660, 170-290-3855, 170-295-0010, 170-295-0030, 170-295-7010, 170-295-7030, and 170-296A-2125.

Statutory Authority for Adoption: RCW 43.215.070 and 43.215.060; chapter 43.215 RCW.

Adopted under notice filed as WSR 12-02-077 on January 4, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 170-290-0030 Consumers' responsibilities.

A. In subsection (13), removed the word "and."

B. Removed all of subsection (14) "Seek child support enforcement services from the DSHS division of child support, unless DSHS finds that the applicant or consumer has good cause not to cooperate as defined under WAC 388-422-0020 or as provided in (a) of this subsection.

(a) For the purposes of this subsection, "good cause" also includes the following:

(i) The applicant or consumer has a current court or administrative order showing the child support amount ordered on behalf of the child who will receive the child care subsidy benefits;

(ii) The applicant or consumer already complies with child support enforcement services, either voluntarily or to meet other public assistance benefits requirements;

(iii) The applicants or consumers are married parents, or unmarried two-parent families with a child in common needing child care living in the same household;

- (iv) The applicant or consumer is a single-parent family when the other parent is deceased;
- (v) The applicant or consumer is a single-parent family when the other parent is incarcerated for one year or longer;
- (vi) The applicants or consumers are both minor parents; or
- (vii) The DSHS division of child support does not have jurisdiction over the child support case, such as for tribal child support cases, child support cases in other states, or cases outside of the United States, whether or not the division of child support has a reciprocal agreement with that jurisdiction.

(b) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply; and."

C. Changed subsection (15) to (14).

**WAC 170-290-0034 Providers' responsibilities.**

- A. In subsection (3), removed the phrase "or DSHS."
- B. In subsection (3)(a), removed the phrase "by DSHS."

**WAC 170-290-0060 Countable income.**

A. In subsection (2)(a) removed the phrase "because they are exempt for good cause under WAC 170-290-0030 (13) (14) (a) (i),"

B. In subsection (2) added "(c) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply."

**WAC 170-290-3565 Consumers' responsibilities.**

A. Removed all of subsection (11) "(11) Seek child support enforcement services from the DSHS division of child support, unless DSHS finds that the applicant or consumer has good cause not to cooperate as defined under WAC 388-422-0020 or as provided in (a) of this subsection.

(a) For the purposes of this subsection, "good cause" also includes the following:

(i) The applicant or consumer has a current court or administrative order showing the child support amount ordered on behalf of the child who will receive the child care subsidy benefits;

(ii) The applicant or consumer already complies with child support enforcement services, either voluntarily or to meet other public assistance benefits requirements;

(iii) The applicants or consumers are married parents, or unmarried two-parent families with a child in common needing child care living in the same household;

(iv) The applicant or consumer is a single-parent family when the other parent is deceased;

(v) The applicant or consumer is a single-parent family when the other parent is incarcerated for one year or longer;

(vi) The applicants or consumers are both minor parents; or

(vii) The DSHS division of child support does not have jurisdiction over the child support case, such as for tribal child support cases, child support cases in other states, or cases outside of the United States, whether or not the division

of child support has a reciprocal agreement with that jurisdiction.

(b) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply; and."

**WAC 170-290-3566 Subsidized child care providers' responsibilities.**

- A. In subsection (3) removed "or DSHS."
- B. In subsection (3)(a) removed "DSHS or."

**WAC 170-290-3610 Countable income.**

A. In subsection (3)(a) removed the phrase "because they are exempt for good cause under WAC 170-290-3565 (11)(a),"

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.

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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 10, Amended 40, Repealed 0.

Date Adopted: May 8, 2012.

Elizabeth M. Hyde  
Director

**AMENDATORY SECTION** (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

**WAC 170-151-020 Who needs to be licensed?** (1) The person or organization operating a school-age child care center must receive a license from the department to provide school-age child care, in accordance with chapter 43.215 RCW.

(2) The department does not need to license the person or organization operating a school-age child care center if chapter 43.215 RCW exempts the person or organization from the licensing requirements. The person or organization claiming an exemption from the licensing requirements must provide the department proof of entitlement to the exemption at the licensor's request.

(3) You may use the following matrix to determine whether or not you are exempt from licensing:

Child care	Recreational
The child care facility assumes responsibility for the child and his welfare.	Children are free to come and go as they choose.

Child care	Recreational	((3)) (4) The twelve-month record indicating the date and time ((you)) <u>the licensee</u> conducted the required monthly fire evacuation drills;
Children are signed in and can only be released to an authorized adult.	No responsibility is assumed in lieu of parent.	((4)) (5) A written plan for staff development specifying the content, frequency, and manner of planned training;
A specific registration procedure and required forms must be completed.	No registration form or procedure.	((5)) (6) Activity program plan records;
Must adhere to DEL standards; has specific requirements regarding staff-child ratio and group size.	No required staff-child ratio or group size requirements.	((6)) (7) A list of each child's allergies and dietary restrictions, if any;
Specific DEL requirements regarding policies and procedures are in a parent handbook.	No specific detailed policies and procedures. General "house rules" apply at each site.	((7)) (8) Any incident involving the use of physical restraint;
There are specific program goals and activities; calendars of activities are posted and available.	Activities occur on a daily basis; no long-term goals or activities exist.	((8)) (9) A record of medication ((your)) staff gives to any child; ((and
(4) The person or organization that serves state-paid children must:		((9)) (10) A record of accidents and injuries((-)); and
(a) Be licensed or certified;		((10)) (11) Personnel records as described in WAC 170-151-470(4).
(b) Follow billing policies and procedures in <i>Child Care Subsidies, a ((brochure for providers, DEL 22-877)) Booklet for Licensed and Certified Providers</i> , revised 2012; and		
(c) Bill the department at the person's or organization's customary rate or the state rate, whichever is less.		

**AMENDATORY SECTION** (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

**WAC 170-151-460 ((What program)) Child care records ((must I maintain?)).** ((You)) Licensees must maintain the following ((documentation)) child care records on the premises for at least five years after the child leaves enrollment in care as provided in WAC 170-151-461:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, must sign in the child on arrival and must sign out the child at departure, using a full((, legal)) signature;

(b) When the child leaves the center to attend school or other offsite activity as authorized by the parent, ((you)) a staff person must sign out the child and sign in the child on return to the center; and

(c) Signed agreements between a program director and a parent where school-age child is allowed to leave the center on his or her own, must be verified by signature and dated by the director and parent. Staff may sign a child in/out whose parent has agreed in writing to let the child leave the center((-));

(2) Electronic attendance records if the child's attendance is recorded using an electronic system under WAC 170-151-462;

(3) A copy of the report sent to the department about any illness or injury to the child in care requiring medical treatment or hospitalization;

((3)) (4) The twelve-month record indicating the date and time ((you)) the licensee conducted the required monthly fire evacuation drills;

((4)) (5) A written plan for staff development specifying the content, frequency, and manner of planned training;

((5)) (6) Activity program plan records;

((6)) (7) A list of each child's allergies and dietary restrictions, if any;

((7)) (8) Any incident involving the use of physical restraint;

((8)) (9) A record of medication ((your)) staff gives to any child; ((and

((9)) (10) A record of accidents and injuries((-)); and

((10)) (11) Personnel records as described in WAC 170-151-470(4).

**NEW SECTION**

**WAC 170-151-461 Recordkeeping—Records available to the department.** The licensee must keep all records required in this chapter for a minimum of five years:

(1) Current records (including records from the previous twelve months) must be kept in the licensed space and be available for the department's review.

(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.

**NEW SECTION**

**WAC 170-151-462 Electronic attendance records—Records retention.** (1) Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

**"Electronic record"** means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

**"Electronic signature"** means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

**"Sign"** includes signing by physical signature, if available, or electronic signature.

#### AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-0003 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

((+1)) **"Able"** means being physically and mentally capable of caring for a child in a responsible manner.

((+2)) **"Authorization"** means the documentation that DSHS gives to providers specifying units of full-day, half-day or hourly child care a family may receive during their eligibility period, which may be adjusted based on the family's need for care or changes in eligibility.

((+3)) **"Available"** means being free to provide care when not participating in an approved work activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055 during the time child care is needed.

((+4)) **"Calendar year"** means those dates between and including January 1st and December 31st.

((+5)) **"Collective bargaining agreement"** or **"CBA"** means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

((+6)) **"Consumer"** means the person receiving:

(a) WCCC benefits as described in part II of this chapter; or

(b) SCC benefits as described in part III of this chapter.

((+7)) **"Copayment"** means the amount of money the consumer is responsible to pay the child care provider toward the cost of child care each month.

**"Days"** means calendar days unless otherwise specified.

((+8)) **"DEL"** means the department of early learning.

((+9)) **"DHS"** means the department of social and health services.

((+10)) **"Days"** means calendar days unless otherwise specified.

((+11)) **"Eligibility"** means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

**"Employment"** or **"work"** means engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States. This includes unsubsidized employment, as verified by an employee's pay stubs or DSHS employer verification form, and subsidized employment, such as:

(a) Working in a federal or state paid work study program; or

(b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

((+12)) **"Eligibility"** means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

((+13)) **"In-home/relative provider((+))" or "license-exempt provider,"** referred to in the collective bargaining agreement as ((**"license-exempt provider,"**)) **"family, friends and neighbors provider"** or **"FFN provider,"** means ((those)) a provider((+)) who meets the requirements in WAC 170-290-0130 through 170-290-0167.

((+14)) **"In loco parentis"** means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

((+15)) **"Night shift"** means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

**"SCC"** means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

((+16)) **"Seasonally available labor"** or **"seasonally available agricultural related work"** means work that is available only in a specific season during part of the calendar year. The work is directly related to the cultivation, production, harvesting or processing of fruit trees or crops.

((17)) "Self-employment" means engaging in any legal income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States, as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

((18)) "Waiting list" means a list of families who are currently working and waiting for child care subsidies when funding is not available to meet the requests from all eligible families.

((19)) "WCCC" means the working connections child care program, which is a child care subsidy program described in part II of this chapter that assists eligible families in obtaining child care subsidies for approvable activities that enable them to work, attend training, or enroll in educational programs outside the consumer's home.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0012 Verifying consumers' information.** (1) A consumer must complete the DSHS application for WCCC benefits and provide all required information to DSHS to determine eligibility when:

- (a) The consumer initially applies for benefits; or
- (b) The consumer reapplys for benefits((;  
e) ~~The consumer reports~~));

(2) A consumer must provide verification to DSHS to determine if he or she continues to qualify for benefits during his or her eligibility period when there is a change of circumstances(;

(d) DSHS finds out that the consumer's circumstances may have changed; or

(e) The information DSHS has is inconsistent, conflicting, or outdated) under WAC 170-290-0031.

((2) The) (3) All verification that ((the consumer gives)) is provided to DSHS must:

- (a) Clearly relate to the information DSHS is requesting;
- (b) Be from a reliable source; and
- (c) Be accurate, complete, and consistent((; and  
d) ~~As applicable, include, but not be~~));

(4) If DSHS has reasonable cause to believe that the information is inconsistent, conflicting or outdated, DSHS may:

(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or

(b) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. See WAC 170-290-0025(9).

(5) The verification that the consumer gives to DSHS includes, but is not limited to, the following:

((1)) (a) A current WorkFirst IRP for consumers receiving TANF;

((ii)) (b) Employer name, address, and phone number;

((iii)) (c) State business registration and license, if self-employed;

((iv)) (d) Work, school, or training schedule (when requesting child care for non-TANF activities);

((v)) (e) Hourly wage or salary;

((vi)) (f) Either the:

((A)) (i) Gross income for the last three months;

((B)) (ii) Federal income tax return for the preceding calendar year; or

((C)) (iii) DSHS employment verification form;

((vii)) (g) Monthly unearned income the consumer receives, such as child support or Supplemental Security Income (SSI) benefits;

((viii)) (h) If the other parent is in the household, the same information for them;

((ix)) (i) Proof that the child belongs to one of the following groups as defined in WAC 388-424-0001:

((A)) (i) A U.S. citizen;

((B)) (ii) A U.S. national;

((C)) (iii) A qualified alien; or

((D)) (iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005;

((x)) (j) Proof of child enrollment in a head start, early head start or early childhood education and assistance program for twelve-month eligibility;

((xi)) (k) Name and phone number of the licensed child care provider; and

((xii)) (l) For the in-home/relative child care provider, a:

((A)) (i) Completed and signed criminal background check form;

((B)) (ii) Legible copy of the proposed provider's photo identification, such as a driver's license, Washington state identification, or passport;

((C)) (iii) Legible copy of the proposed providers' valid Social Security card; and

((D)) (iv) All other information required by WAC 170-290-0135.

((3)) (6) If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.

((4) If the verification that a consumer provides to DSHS is inconsistent, conflicting, or outdated, DSHS may:

(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or

(b) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. See WAC 170-290-0025(9).

((5)) (7) DSHS does not pay for a self-employed consumer's state business registration or license, which is a cost of doing business.

((6)) (8) If a consumer does not provide all of the verification requested, DSHS will determine if a consumer is eligible based on the information already available to DSHS.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0025 Consumers' rights.** When a consumer applies for or receives WCCC benefits, the consumer has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Have WCCC eligibility determined within thirty days from his or her application date per WAC 170-290-0095;

(3) Be informed, in writing, of his or her legal rights and responsibilities related to WCCC benefits;

(4) Receive a written notice at least ten days before DSHS makes changes to lower or stop benefits except as stated in WAC 170-290-0120;

(5) Ask for an administrative hearing if he or she does not agree with DSHS about a decision per WAC 170-290-0280;

(6) Ask a supervisor or administrator to review a decision or action affecting the consumer's benefits without affecting the right to an administrative hearing;

(7) Have an interpreter or translator service provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(8) Choose a provider as long as the provider meets the requirements in WAC 170-290-0125;

(9) Ask the fraud early detection (FRED) investigator from the ((division)) DSHS office of fraud ((investigations (DFI))) and accountability (OFA) to come back at another time. A consumer does not have to let an investigator into his or her home. This request will not affect the consumer's eligibility for benefits. If the consumer refuses to cooperate (provide the information requested) with the investigator, it could affect his or her benefits;

(10) Access his or her child at all times while the child is in child care;

(11) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination;

(12) Not be charged by the consumer's licensed ((or)), certified, or license-exempt provider, or be made to pay for((a)) the difference between the provider's private rate and the state maximum rate, when the provider's private rate for child care ((or the registration fee)) is higher than the maximum state rate;

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

(d) A higher amount than the state allows for field trips.

If the consumer requests, and the provider has a written policy in place, the consumer may voluntarily pay the difference between the amount that the state allows and the actual field trip cost;

(e) A preschool tuition fee in addition to regular child care services; or

(f) Child care services after the final day of care, when the provider ((chooses to)) stops caring for the consumer's children.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0030 Consumers' responsibilities.** When a person applies for or receives WCCC benefits, the applicant or consumer must, as a condition of receiving those benefits:

(1) Give DSHS correct and current information so DSHS can determine eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 170-290-0125;

(3) Pay((or make a plan to have someone pay, the WCCC)) the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(4) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

(5) Only use WCCC benefits while the consumer is working or in WCCC approved activities outside the consumer's home(());

((5)) (6) Pay the provider for child care services when he or she requests additional child care for personal reasons other than working or participating in WCCC approved activities that have been authorized by DSHS;

((6)) (7) Pay the provider for optional child care programs that he or she requests. The provider must have a written policy in place charging all families for these optional child care programs;

((7)) (8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

((8)) (9) Ensure that care is provided in the correct home per WAC 170-290-130 if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;

((9)) (10) Cooperate (provide the information requested) with the ((quality assurance review)) child care subsidy audit process to remain eligible for WCCC. A con-

sumer becomes ineligible for WCCC benefits upon a determination of noncooperation ((by quality assurance)) and remains ineligible until he or she meets ((quality assurance)) child care subsidy audit requirements. If DSHS determines that a consumer is not cooperating, the consumer will not be eligible for WCCC benefits. The consumer may become eligible again when he or she meets WCCC requirements in part II of this chapter;

((10)) (11) Provide the information requested by ((DSHS's WCCC staff or)) the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her benefits;

((11)) (12) Document ((the children's attendance as described in WAC 170-290-0138, 170-295-7030, 170-296-0520, or 170-151-460, as applicable, for that type of provider)) their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from the child care:

(a) If the provider uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the provider;

((12)) (13) Provide to his or her in-home/relative provider the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; and

((13) Seek child support enforcement services from the DSHS division of child support, unless DSHS finds that the applicant or consumer has good cause not to cooperate as defined under WAC 388-422-0020 or as provided in (a) of this subsection.

(a) For the purposes of this subsection, "good cause" also includes the following:

(i) The applicant or consumer has a current court order showing the child support amount ordered on behalf of the child who will receive the child care subsidy benefits;

(ii) The applicant or consumer already complies with child support enforcement services, either voluntarily or to meet other public assistance benefits requirements;

(iii) The applicants or consumers are married parents, or unmarried two-parent families with a child in common needing child care living in the same household;

(iv) The applicant or consumer is a single-parent family when the other parent is deceased;

(v) The applicant or consumer is a single-parent family when the other parent is incarcerated for one year or longer;

(vi) The applicants or consumers are both minor parents; or

(vii) The DSHS division of child support does not have jurisdiction over the child support case, such as for tribal child support cases or cases outside of the United States.

(b) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply.)

(14) Ensure that their children who receive subsidized child care outside of their own home are current on all immuniza-

tions required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

**AMENDATORY SECTION** (Amending WSR 11-01-090, filed 12/14/10, effective 1/14/11)

**WAC 170-290-0031 Notification of changes.** When a consumer applies for or receives WCCC benefits, he or she must:

(1) Notify ((DSHS's WCCC staff)) DSHS, within five days, of any change in providers;

(2) Notify the consumer's provider within ten days when DSHS changes his or her child care authorization;

(3) Notify ((DSHS's WCCC staff)) DSHS within ten days of any change in:

(a) The number of child care hours the consumer needs (more or less hours);

(b) The consumer's countable income, including any TANF grant or child support increases or decreases, only if the change would cause the consumer's countable income to exceed the maximum eligibility limit as provided in WAC 170-290-0005 ((2)(d))). A consumer may notify ((DSHS's WCCC staff)) DSHS at any time of a decrease in the consumer's household income, which may lower the consumer's copayment under WAC 170-290-0085;

(c) The consumer's household size such as any family member moving in or out of his or her home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address and telephone number of the consumer's in-home/relative provider;

(f) The consumer's home address and telephone number; and

(g) The consumer's legal obligation to pay child support;

(4) Report to ((DSHS's WCCC staff)) DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about his or her in-home/relative provider; and

(5) Report to ((DSHS's WCCC staff)) DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

**AMENDATORY SECTION** (Amending WSR 11-01-090, filed 12/14/10, effective 1/14/11)

**WAC 170-290-0032 Failure to report changes.** A consumer's failure to report changes as required in WAC 170-290-0031 within the stated time frames may cause:

(1) A copayment error. The consumer may be required to pay a higher copayment as stated in WAC 170-290-0085; or

(2) A WCCC payment error. If an overpayment occurs, the consumer may receive an overpayment for what the provider is allowed to bill, including billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and*

*Certified Child Care Providers, ((~~DEL 22-877~~)) revised ((2010)) 2012).*

## NEW SECTION

**WAC 170-290-0034 Providers' responsibilities.** Child care providers who accept child care subsidies must do the following:

(1) Comply with:

(a) All of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or

(b) All of the requirements in WAC 170-290-0130 through 170-290-0167, 170-290-0250, and 170-290-0268, for child care providers who provide in-home/relative care;

(2) Report pending charges or convictions to DSHS as provided in:

(a) Chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or

(b) WAC 170-290-0138 (2) and (3), for child care providers who provide in-home/relative care;

(3) Keep complete and accurate daily attendance records for children in their care, and allow access to DEL to inspect attendance records during all hours in which authorized child care is provided as follows:

(a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DEL.

(b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department.

(c) Failure to make available attendance records as provided in this subsection may:

(i) Result in the immediate suspension of the provider's subsidy payments; and

(ii) Establish a provider overpayment as provided in WAC 170-290-0268;

(4) Allow consumers access to their child at all times while the child is in care;

(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;

(6) Follow billing procedures:

(a) As described in "*Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*," revised 2012, for licensed and certified providers, including billing only for actual hours of child care both authorized and provided or allowed under WCCC billing guidelines; or

(b) As described in "*In-Home/Relative Child Care Providers: Information to Help You*," revised 2012, for in-home/relative providers, including billing only for actual hours of child care both authorized and provided;

(7) Not claim a payment in any month in which a child has not attended at least one day in that month;

(8) Invoice the state no later than one calendar year after the actual date of service;

(9) For both licensed and certified providers and in-home/relative providers, not charge subsidized families the

difference between the provider's customary rate and the maximum allowed state rate; and

(10) For licensed and certified providers, not charge subsidized families for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Absence days in excess of five days per month, regardless of whether the child attended or not;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

## AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0035 DSHS's responsibilities to consumers.** ((~~DSHS's WCCC staff~~)) DSHS is responsible to:

(1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Determine a consumer's eligibility within thirty days from the date the consumer applied (application date as described in WAC 170-290-0095);

(3) Allow a consumer to choose his or her provider as long as the provider meets the requirements in WAC 170-290-0125;

(4) Review a consumer's chosen in-home/relative provider's background check results;

(5) Authorize payments only to child care providers who allow a consumer to access his or her children whenever they are in care;

(6) Only authorize payment when no adult in a consumer's family (under WAC 170-290-0015) is able or available (under WAC 170-290-0003) to care for the consumer's children;

(7) Inform a consumer of:

(a) His or her rights and responsibilities under the WCCC program at the time of application and reapplication;

(b) The types of child care providers DSHS can pay;

(c) The community resources that can help a consumer select child care when needed; and

(d) Any change in a consumer's copayment during the authorization period except under WAC 170-290-0120(5).

(8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:

(a) WCCC eligibility;

(b) Copayment; or

(c) Providers.

(9) Provide prompt child care payments to a consumer's child care provider;

(10) Provide an interpreter or translator service within a reasonable amount of time and at no cost to the consumer; ((and))

(11) Ensure that Social Security cards, driver's licenses, or other government-issued identification for in-home/relative providers are valid and verified; and

(12) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0040 Approved activities for ((TANF)) consumers participating in WorkFirst.** ((If a consumer receives a temporary assistance for needy families (TANF) grant, he or she)) Applicants and consumers who participate in WorkFirst activities may be eligible for WCCC benefits((;)) for the following approved activities in ((his or her)) their individual responsibility plans (IRPs), for up to a maximum of sixteen hours per day, including:

(1) An approved WorkFirst activity under WAC 388-310-0200, with the following exception: In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care. These consumers may be eligible for other approved activities in their IRPs;

(2) Employment as defined in WAC 170-290-0003;

(3) Self-employment as defined in WAC 170-290-0003 and as described in the consumer's current WorkFirst IRP;

(4) Transportation time between the location of child care and the consumer's place of employment or approved activity;

(5) Up to ten hours per week of study time for approved classes; and

(6) Up to eight hours ((per day)) of sleep time ((when it is needed, such as if the consumer works nights and sleeps days)) before or after a night shift.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0045 Approved activities for consumers not ((receiving TANF)) participating in WorkFirst.** ((If a consumer does not receive TANF,)) This section applies to applicants and consumers of WCCC who do not participate in WorkFirst activities:

**(1) General requirements for employment or self-employment.** He or she may be eligible for WCCC benefits for((;))

((1))) up to a maximum of sixteen hours per day, including travel, study, and sleep time((, for the hours of his or her participation in the following)) before or after a night shift, when he or she is:

((a)) ((Employment as defined in)) Employed under WAC 170-290-0003; or

((b)) ((Self-employment as defined in)) Self-employed under WAC 170-290-0003((;e));

**(2) Special requirements for education and training.**

((a)) An applicant or consumer who is under twenty-two years of age may be eligible for WCCC benefits for high school (HS) or general ((equivalency diploma)) educational development (GED) program ((until the consumer reaches his or her twenty-second birthday (the consumer may be enrolled in a HS or GED program without a minimum number of employment hours));

((d)) Approved WorkFirst activities according to WAC 388-310-0200 or 388-310-0700 if the consumer is a TANF applicant; or

((e)) Food stamp employment and training program under chapter 388-444 WAC.

((2)) If a consumer is participating in an activity listed in subsections ((3)) through ((8)) of this section, he or she may be eligible for) without a minimum number of employment hours.

((b)) An applicant or consumer who is twenty-two years of age or older:

((i)) May be eligible to receive the benefits under this subsection only once during his or her lifetime. In order to qualify for the general education and training benefits under this subsection, he or she must work either:

((A)) Twenty or more hours per week of unsubsidized employment; or

((B)) Sixteen or more hours per week in a paid federal or state work study program;

((ii)) Is limited to up to twenty-four consecutive months of WCCC benefits for participation in:

((A)) Adult basic education (ABE);

((B)) English as a second language (ESL);

((C)) High school/general educational development (GED) completion; or

((D)) Food stamp employment and training program under chapter 388-444 WAC; and

((iii)) Is limited to up to thirty-six consecutive months of WCCC benefits ((as described in subsection (1) of this section if the consumer is actually working either:

((a)) Twenty or more hours per week; or

((b)) Sixteen or more hours per week in a paid federal or state work study program;

((3)) Adult basic education (ABE);

((4)) English as a second language (ESL);

((5)) High school or GED completion if the consumer is twenty-two years of age or older.

((6))) for participation in vocational education (Voc Ed).

The ((Voc Ed)) vocational education program must((;e))

((7))) lead to a degree or certificate in a specific occupation((;e));

((b)) Cannot include prerequisite classes or programs; and

((e))) and be offered by the following accredited entities only:

((i))) (A) Public and private technical college or school;

((ii))) (B) Community college; or

((iii))) (C) Tribal college.

((7)) Job skills training: For no more than fourteen consecutive days. Job skills training is not tied to a specific occupation but is training in specific skills directly related to employment, such as CPR/First Aid, keyboarding, computer programs, project management, and oral and written communication skills. Training offered or required by a current employer, at or off the consumer's job site, may extend past the fourteen consecutive day limit.

((8)) Post employment services under WAC 388-310-1800.

((9)) Child care for participation in Voc Ed is limited to thirty-six months regardless of the length of the educational

~~program. The thirty-six months includes the months in which the following occurred at the same time:~~

(a) WCCC benefits were paid to support the consumer's participation in a Voe Ed program; or

(b) The consumer or someone in his or her household received TANF benefits.

(10) WCCC may be approved for activities listed in WAC 170-290-0040 (4), (5), and (6), when needed.)

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0060 Countable income.** DSHS counts income as money an applicant or consumer earns or receives from:

(1) A TANF grant, except when the grant is for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(2) The following child support payment amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services ((because they are exempt for good cause under WAC 170-290-0030 (13)(a)(i))), the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;

(c) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply.

(3) Supplemental Security Income (SSI);

(4) Other Social Security payments, such as SSA and SSDI;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation;

(8) Other types of income not listed in WAC 170-290-0070;

(9) VISTA volunteers, AmeriCorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment as defined in WAC 170-290-0003. Gross wages includes any wages that are taxable;

(11) Corporate compensation received by or on behalf of the consumer, such as rent, living expenses, or transportation expenses;

(12) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(13) Income for the sale of property as follows:

(a) If a consumer sold the property before application, DSHS considers the proceeds an asset and does not count as income;

(b) If a consumer sold the property in the month he or she applies or during his or her eligibility period, DSHS counts it as a lump sum payment as described in WAC 170-290-0065(2);

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0070 Excluded income and deductions.** (1) The WCCC program does not count the following income types when determining a consumer's income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(c) Adoption support assistance and foster care payments;

(d) Reimbursements, such as an income tax refund;

(e) Diversion cash assistance;

(f) Military housing and food allowance;

(g) The TANF grant for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(h) Payments to the consumer from his or her employer for benefits such as medical plans;

(i) Earned income of a WCCC family member defined under WAC 170-290-0015(2);

(j) Income of consumers described in WAC 170-290-0005 (1)(c)(iii) through ((i)) (ix);

(k) Earned income from a minor child who DSHS counts as part of the consumer's WCCC household; and

(l) Benefits received by children of Vietnam War veterans who are diagnosed with any forms of manifestations of spina bifida except spina bifida occulta.

(2) WCCC deducts the amount a consumer pays for child support under court order, division of child support administrative order, or tribal government order, from the consumer's other countable income when figuring his or her eligibility and copayment for the WCCC program.

**AMENDATORY SECTION** (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

**WAC 170-290-0085 Change in copayment.** (1) ((One DSHS determines that a consumer is eligible for WCCC benefits, his or her)) A consumer's copayment may change when:

(a) The consumer's monthly income decreases;

(b) The consumer's family size increases;

(c) DSHS makes an error in the consumer's copayment computation;

(d) The consumer did not report all income, activity and household information at the time of ((eligibility determination or)) application(()), reapplication, or when reporting a change in circumstances;

(e) The consumer is no longer eligible for the minimum copayment under WAC 170-290-0090;

(f) DEL makes a mass change in benefits due to a change in law or program funding;

(g) The consumer is approved for a new eligibility period; or

(h) The consumer is approved for the fourteen-day wait period or twenty-eight-day gap period as provided in WAC 170-290-0055.

(2) ((If a consumer's)) Copayment changes ((during his or her eligibility period, the change is)) are effective on the first day of the month immediately following ((DSHS becoming aware of the change)) the date the copayment change was made.

(3) DSHS does not increase a consumer's copayment during his or her current eligibility period when his or her countable income remains at or below the maximum eligibility limit as provided in WAC 170-290-0005, and:

(a) The consumer's monthly countable income increases; or

(b) The consumer's family size decreases.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0090 Minimum copayment.** (1) The minimum copayment is paid when the consumer has countable monthly income at or below eighty-two percent of the federal poverty guidelines.

(2) **First application.** The consumer pays the minimum copayment when he or she first applies for WCCC, and benefits are paid. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(3) **Reapplication.** The consumer pays the minimum copayment when the consumer reapplys for WCCC after a break of at least thirty days in his or her approved activity. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(4) The consumer pays the minimum copayment when he or she is a minor parent, and:

(a) Receives TANF; or

(b) Is part of the parent's or relative's TANF assistance unit.

(5) Two-parent families automatically qualify for the minimum copayment during a twenty-eight-day gap period in WAC 170-290-0055 only if both parents meet the gap requirements. Otherwise, eligibility workers must determine the change in copayment based on the family's countable income and family size, as specified in WAC 170-290-0065 and 170-290-0085.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0110 Termination of and redetermining eligibility for benefits.** (1) DSHS stops a consumer's eligibility for WCCC benefits when:

(a) The consumer's monthly copayment is higher than the state maximum monthly rate for all of the consumer's children in care under WAC 170-290-0005; or

(b) The consumer does not:

(i) ((Pay copayment fees assessed by DSHS and the consumer does not make mutually acceptable arrangements with his or her child care provider to pay the copayment;)) Comply

with the copayment requirements of WAC 170-290-0030 (3) and (4);

(ii) Complete the requested application or reapplication before the deadline noted in WAC 170-290-0109 (2)(a);

(iii) Meet other WCCC eligibility requirements related to family size, income and approved activities; or

(iv) Cooperate with the ((quality assurance review)) child care subsidy audit process or with the DSHS ((division of fraud investigations)) office of fraud and accountability (OFA).

(2) A consumer may be eligible for WCCC again ((when)) beginning on the date that the consumer:

(a) Meets all WCCC eligibility requirements((, and;

(a) The consumer paid back copayment fees));

(b) ((The consumer made mutually acceptable payment arrangements with his or her child care provider; or)) Complies with the copayment requirements of WAC 170-290-0003 (3) and (4); and

(c) ((The consumer cooperated)) Cooperates with the ((quality assurance review)) child care subsidy audit process or with the DSHS ((division)) office of fraud ((investigations)) and accountability (OFA).

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0135 In-home/relative providers—Information provided to DSHS.** (1) When a consumer chooses in-home/relative child care, the consumer and the provider must give DSHS the following information:

(a) The in-home/relative provider's legal name, address, and telephone number;

(b) A copy of the provider's valid Social Security card;

(c) A copy of the provider's photo identification;

(d) A completed, signed and dated background check form; and

(e) A completed WCCC application form, signed and dated by the consumer and the provider, in which they both attest that the provider is:

(i) Of suitable character and competence;

(ii) Of sufficient physical and mental health to be a safe child care provider and meet the needs of the children in care;

(iii) Able to work with the children without using corporal punishment or psychological abuse;

(iv) Able to accept and follow instructions;

(v) Able to maintain personal cleanliness;

(vi) Prompt and regular in job attendance; and

(vii) Informed about basic health practices, prevention and control of infectious disease, and immunizations.

(2) If DSHS requests it, the consumer and/or the provider must provide written medical or legal evidence that the in-home/relative provider is of sufficient physical and mental health to provide safe, reliable and developmentally appropriate child care services.

(3) When a consumer chooses in-home/relative child care, the provider must give DSHS information as to whether an individual sixteen years of age or older living with the provider is a registered sex offender.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0138 In-home/relative providers—Responsibilities.** An in-home/relative provider must:

(1) Provide care, supervision, and daily activities based on the child's developmental needs;

(2) Report to DSHS within ten days any changes to their legal name, address or telephone number;

(3) Report to DSHS within twenty-four hours any pending charges or convictions they have;

(4) Report to DSHS within twenty-four hours any pending charges or convictions for anyone sixteen years of age and older who lives with the provider, including any person sixteen years of age or older who newly resides with the provider, when the provider cares for the child in the provider's home. Background checks must be completed for these persons as provided in WAC 170-290-0143;

(5) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the consumer for his or her DSHS approved activities;

(6) Bill for no more than six children at one time during the same hours of care;

(7)(a) If paper attendance records are used, have the consumer sign and date the attendance records at least weekly, verifying the accuracy of the dates and times.

(b) Providers may use an electronic attendance system as provided in WAC 170-290-0139 to record attendance in lieu of a paper sign-in record.

(c) Providers must keep attendance records for five years documenting the days and hours of care provided;

(8) ((Have the consumer sign and date the records at least weekly, verifying the accuracy of the dates and times;))

((9))) Repay any overpayments under WAC 170-290-0268; and

((10) Provide any of the records in subsections (7) and (8) of this section that are requested by DSHS or DEL, within fourteen consecutive calendar days of the request.) (9) Have at least one working telephone accessible in the home for incoming and outgoing calls during all times that subsidized child care is provided. The telephone must have 911 emergency services calling access.

**NEW SECTION**

**WAC 170-290-0139 In-home/relative providers—Electronic attendance records—Records retention.** (1) In-home/relative providers must record attendance as provided in WAC 170-290-0138(7).

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the in-home/relative provider's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal

and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

**"Electronic record"** means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

**"Electronic signature"** means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

**"Sign"** includes signing by physical signature, if available, or electronic signature.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0160 In-home/relative providers—Background checks—Disqualified providers.** (1) ((#)) DSHS permanently disqualifies the person as an in-home/relative provider for WCCC if:

(a) A consumer's provider or an individual listed in WAC 170-290-0143(2) has a background containing a permanently disqualifying conviction for crimes on the DEL director's list in WAC 170-06-0120(1)((~~DSHS permanently disqualifies the person as an in-home/relative provider for WCCC~~)) or

(b) The in-home/relative provider intentionally or knowingly gives DSHS incorrect or misleading information or withholds information as to whether an individual sixteen years of age or over living with the provider is a registered sex offender.

(2) If the conditions in WAC 170-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not permanently disqualify the provider. This subsection does not apply to subsection (1)(b) of this section.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0200 Daily child care rates—Licensed or certified child care centers and DEL contracted seasonal day camps.** (1) **Base rate.** DSFS pays the lesser of the following to a licensed or certified child care center or DEL contracted seasonal day camp:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$28.53	\$23.99	\$22.67	\$21.34
	Half-Day	\$14.28	\$12.00	\$11.34	\$10.67
Spokane County	Full-Day	\$29.18	\$24.54	\$23.19	\$21.83
	Half-Day	\$14.61	\$12.28	\$11.61	\$10.91
Region 2	Full-Day	\$28.81	\$24.05	\$22.30	\$19.73
	Half-Day	\$14.41	\$12.03	\$11.15	\$9.88
Region 3	Full-Day	\$38.13	\$31.79	\$27.46	\$26.67
	Half-Day	\$19.07	\$15.89	\$13.73	\$13.34

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$24.29	\$24.29	\$21.12	\$21.12	\$18.78
	Half-Day	\$12.14	\$12.14	\$10.56	\$10.56	\$9.39
Spokane County	Full-Day	\$24.84	\$24.84	\$21.60	\$21.60	\$19.21
	Half-Day	\$12.42	\$12.42	\$10.80	\$10.80	\$9.60
Region 2	Full-Day	\$25.65	\$25.65	\$22.30	\$19.95	\$19.95
	Half-Day	\$12.82	\$12.82	\$11.15	\$9.97	\$9.97
Region 3	Full-Day	\$34.03	\$34.03	\$29.33	\$25.81	\$23.46
	Half-Day	\$17.02	\$17.02	\$14.67	\$12.91	\$11.74
Region 4	Full-Day	\$40.04	\$40.04	\$34.81	\$29.33	\$28.16
	Half-Day	\$20.03	\$20.03	\$17.42	\$14.67	\$14.08
Region 5	Full-Day	\$26.99	\$26.99	\$23.46	\$22.30	\$19.95
	Half-Day	\$13.50	\$13.50	\$11.74	\$11.15	\$9.97
Region 6	Full-Day	\$26.99	\$26.99	\$23.46	\$23.46	\$22.30
	Half-Day	\$13.50	\$13.50	\$11.74	\$11.74	\$11.15

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 4	Full-Day	\$44.38	\$37.06	\$31.09	\$28.00
	Half-Day	\$22.63	\$18.54	\$15.55	\$14.00
Region 5	Full-Day	\$32.54	\$28.00	\$24.65	\$21.88
	Half-Day	\$16.26	\$14.00	\$12.32	\$10.95
Region 6	Full-Day	\$31.99	\$27.46	\$23.99	\$23.46
	Half-Day	\$16.01	\$13.73	\$12.00	\$11.74

(i) Centers in Clark County are paid Region 3 rates.

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) The child care center WAC 170-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited ((waiver)) exception from their child care licenser to provide care for a child outside the age listed on the center's license. If the provider has ((a waiver)) an exception to care for a child who has reached his or her thirteenth birthday, the payment rate is the same as subsection (1) of this section, and the five to twelve year age range column is used for comparison.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited ((waiver)) exception and the child must meet the special needs requirement according to WAC 170-290-0220.

**AMENDATORY SECTION** (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0205 Daily child care rates—Licensed or certified family home child care providers.** (1) **Base rate.** DSFS pays the lesser of the following to a licensed or certified family home child care provider:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy daily rate for that child as listed in the following table.

(2) The family home child care WAC 170-296-0020 and 170-296-1350 allows providers to care for children from birth up to and including the day before their twelfth birthday. The provider must obtain a child-specific and time-limited ((waiver)) exception from their child care licenser to provide care for a child outside the age listed on their license. If the provider has ((a waiver)) an exception to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) of this section, and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited ((waiver)) exception and the child must meet the special needs requirement according to WAC 170-290-0220.

(4) DSHS pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) DSHS cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

#### AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0220 Special needs rates—Qualification and required documentation. (1) Qualification.** To qualify for ((the)) a special needs ((daily)) rate ((your)) in addition to the base rate, the consumer must request a special needs rate review for his or her child. The child must either:

((1))) (a) Be thirteen up to nineteen years old and be under court supervision; or

((2))) (b) Be less than nineteen years old((; and (a))) and have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care ((while in the care of a licensed or certified facility, a DEL contracted seasonal day camp or an in-home/relative provider; and

((b))) needed in the child care setting.

**(2) Required documentation.** Documentation must:

(a) Support the severity of the condition and level of care required to meet that child's need;

(b) Describe the child's needs in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care;

(c) Address relevant areas, such as ambulatory assistance, feeding, hygiene assistance, communication, or behavior as applicable and as needed by the child;

(d) Include the DEL special needs request form completed by the consumer and the provider; and

(e) Have ((their)) the child's condition and need for higher level of care verified by an individual who is not

employed by the child care facility nor a relative of the provider or the child's family, and is either a:

(i) Health, mental health, education or social service professional with at least a master's degree; or

(ii) Registered nurse;

(f) Include one or more of the following completed forms from a person listed in (e) of this subsection:

(i) Individualized education plan (IEP);

(ii) Individual habilitation plan (IHP);

(iii) Individual family plan (IFP);

(iv) Basic health records from his or her health care provider;

(v) Comprehensive assessments from a mental health professional; or

(vi) Medical or psychological reports from a mental health professional.

**(3) Special needs review.**

(a) DSHS processes all Level 1 special needs cases.

(b) DEL and DSHS jointly process Level 2 and Level 3 special needs cases.

(c) All requests for Levels 1, 2, and 3 special needs additional rates are decided within fifteen consecutive days of the initial request. The fifteen-day time limit begins on the day after the date that the consumer and provider provide all of the required verification for that case as provided in this section.

**(4) Purpose of special needs rate.** WCCC does not pay for the provider's training needs to care for a specific child or for the child's equipment needs while in the child care setting. The special needs rate is for care provided in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care.

#### AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0225 Special needs rates—Licensed or certified child care centers and seasonal day camps. (1)** In addition to the base rate for licensed or certified child care centers and seasonal day camps listed in WAC 170-290-0200, DSHS may authorize((s)) the following additional special needs daily rates ((to licensed or certified child care centers or DEL contracted seasonal day camps after a consumer has verified that his or her child has a special need and requires a higher level of care according to)) which are reasonable and verifiable as provided in WAC 170-290-0220((; according to whichever of the following is greater)):

(a) ((The provider's reasonable documented additional cost associated with the care of the child; or

((b))) **Level 1.** The daily rate listed in the table below:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

(i) Centers in Clark County are paid Region 3 rates(( ));

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates;

**(b) Level 2.** A rate greater than Level 1, not to exceed \$15.89 per hour; or

**(c) Level 3.** A rate that exceeds \$15.89 per hour.

(2) ((The child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

((3))) If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must ((be)):

(a) Be at least eighteen years of age; and

(b) Meet the requirements for being an assistant under chapter 170-295 WAC and maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

((4))) (3) If the provider has ((a waiver)) an exception to care for a child who:

(a) Is thirteen years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five to twelve year age range for comparison.

#### AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0230 Special needs rates—Licensed or certified family home child care providers.** (1) In addition to the base rate for licensed or certified family home child care providers listed in WAC 170-290-0205, DSHS may authorize((s)) the following additional special needs daily rates ((to licensed or certified family home child care providers after the consumer has verified that his or her child has a special need and requires a higher level of care according to)) which are reasonable and verifiable as provided in WAC 170-290-0220((, according to whichever of the following is greater)):

((a) ((The provider's reasonable documented additional cost associated with the care of the child; or

((b))) **Level 1.** The daily rate listed in the table below:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

**(b) Level 2.** A rate greater than Level 1, not to exceed \$15.89 per hour; or

**(c) Level 3.** A rate that exceeds \$15.89 per hour.

(2) ((A family home child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

((3))) If the provider has ((a waiver)) an exception to care for a child who:

(a) Is twelve years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five to eleven year age range for comparison.

((4))) (3) If a provider is requesting one-on-one supervision/direct care for the child with special needs, the person providing the one-on-one care must ((be)):

(a) Be at least eighteen years old; and

(b) Meet the requirements for being an assistant under chapter 170-296 WAC and maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

#### AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0235 Special needs rates—In-home/relative providers.** (1) ((DSHS authorizes a base rate of two dollars and twenty cents an hour for in-home/relative child care when a child has verified special needs and requires a higher level of care according to WAC 170-290-0220.))

((2))) In addition to the base rate as provided in WAC 170-290-0240(1), the state may authorize((s whichever of)) the following ((is greater)) additional special needs rate which is reasonable and verifiable as provided in WAC 170-290-0220:

(a) **Level 1.** Sixty-two cents per hour, for a total of two dollars and eighty-two cents per hour; ((or))

(b) ((The provider's reasonable documented additional cost associated with the care for that child)) **Level 2.** A rate greater than Level 1, but not to exceed \$9.41 per hour; or

(c) Level 3. A rate that exceeds \$9.41 per hour.

((3) The in-home/relative provider must verify the child's additional care needs when they request a rate above that listed in subsection (2)(a) of this section. The verification must include details about all the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

((4)) (2) If other children in the home are also authorized for in-home/relative care with the same provider, DSHS authorizes two dollars and twenty cents per hour for the child who needs the greatest number of hours of care and two dollars and seventeen cents per hour for the care of each additional child in the family.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0240 Child care subsidy rates—In-home/relative providers.** (1) Base rate. When a consumer employs an in-home/relative provider, ((the maximum)) DSHS pays the lesser of the following to an eligible in-home/relative provider for child care ((is)):—

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy rate of two dollars and twenty cents per hour for the child who needs the greatest number of hours of care and two dollars and seventeen cents per hour for the care of each additional child in the family.

(2) DSHS may pay above the maximum hourly rate for children who have special needs under WAC 170-290-0235.

(3) DSHS makes the WCCC payment directly to a consumer's eligible provider.

(4) When ((appropriate)) applicable, DSHS pays the employer's share of the following:

(a) Social Security and medicare taxes (FICA) up to the wage limit;

(b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA) ((when applicable)).

(5) If an in-home/relative provider receives less than the wage base limit per family in a calendar year, DSHS refunds all withheld taxes to the provider.

## NEW SECTION

**WAC 170-290-0250 Eligible provider capacity and payment.** (1) DSHS may pay:

(a) Licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-080, 170-295-0080, or 170-296A-5700, as appropriate; and

(b) In-home/relative providers for authorized care up to a maximum of six eligible children as provided in WAC 170-290-0138(6).

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

(a) Result in the immediate suspension of the provider's subsidy payments; and

(b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0268 Payment discrepancies—Provider overpayments.** (1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

(a) Bills and receives payment for services not provided;

(b) Bills without attendance records that support their billing;

(c) Bills and receives payment for more than they are eligible to bill; ((or));

(d) With respect to license-exempt providers, bills the state for more than six children at one time during the same hours of care; or

(e) With respect to licensed or certified providers ((only)),

(i) Bills the state for more than the number of children they have in their licensed capacity; or

(ii) Is caring for a WCCC child outside their licensed allowable age range without ((a waiver)) a DEL-approved exception; or

(f) With respect to certified providers caring for children in a state bordering Washington:

(i) Is determined not to be in compliance with their state's licensing regulations; or

(ii) Fails to notify DSHS within ten days of any suspension, revocation, or change to their license.

(2) ((DEL's or DSHS's WCCC program staff)) DEL or DSHS may request documentation from a provider when preparing to establish an overpayment. The provider has fourteen consecutive calendar days to supply any requested documentation.

(3) Providers are required to repay any payments that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the provider is still required to repay that amount.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

**WAC 170-290-0271 Payment discrepancies—Consumer overpayments.** (1) DSHS establishes overpayments for past or current consumers when the consumer:

(a) Received benefits when he or she was not eligible;

(b) Used care for an unapproved activity or for children not in his or her WCCC household;

(c) Failed to report information to DSHS resulting in an error in determining eligibility, amount of care authorized, or copayment;

(d) Used a provider that was not eligible per WAC 170-290-0125; or

(e) Received benefits for a child who was not eligible per WAC 170-290-0015 or 170-290-0020.

(2) ((~~DEL's or DSHS's staff~~)) DEL or DSHS may request documentation from a consumer when preparing to establish an overpayment. The consumer has fourteen consecutive calendar days to supply any requested documentation.

(3) Consumers are required to repay any benefits paid by DSHS that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the consumer is still required to repay that amount.

(5) If a consumer is not eligible under WAC 170-290-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment, including any absent days.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3530 Verifying consumers' information.** DSHS ((~~staff verify~~)) verifies a consumer's information as provided in WAC 170-290-0012.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3560 Consumers' rights.** When a consumer applies for or receives SCC program subsidies, he or she has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;

(2) Have the consumer's application accepted and acted upon within thirty days;

(3) Be informed, in writing, of the consumer's legal rights and responsibilities related to the SCC subsidy program;

(4) Have the consumer's information shared with other agencies only when required by federal or state regulations;

(5) Be allowed to choose a licensed or certified child care provider as long as the provider meets requirements in WAC 170-290-3750;

(6) Receive a written notice at least ten days before changes are made to lower or stop benefits except as stated in WAC 170-290-3730;

(7) Ask for an administrative hearing if the consumer does not agree with a decision per WAC 170-290-3860;

(8) Ask to speak to a supervisor or administrator at DSHS to review a decision or action affecting the consumer's benefits without affecting the consumer's right to an administrative hearing;

(9) Have interpreter or translator services provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(10) Refuse to speak to a fraud early detection (FRED) investigator from the DSHS ((~~division~~)) office of fraud ((~~investigations (DFI)~~)) and accountability (OFA) when they ask to come into your home. This request will not affect eligibility for SCC program subsidies. If the consumer refuses to cooperate with the investigator at a later date, it could affect his or her SCC program subsidies;

(11) Access his or her child at all times while the child is in child care;

(12) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination; ((~~and~~))

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay, for((~~the~~))

((~~their~~)) the provider's private rate for child care ((or the registration fee)) is higher than the maximum state rate; and

(14) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

(d) A higher amount than the state allows for field trips;

(e) A preschool tuition fee in addition to regular child care services; or

(f) Child care services after the final day of care, when the provider ((~~chooses to~~)) stops caring for the consumer's children.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3565 Consumers' responsibilities.** When a ((~~consumer~~)) person applies for or receives SCC program subsidies, ((~~he or she~~)) the applicant or consumer must, as a condition of receiving those subsidies:

(1) Give DSHS correct and current information so that DSHS can determine the consumer's eligibility and authorize child care payments correctly;

(2) Choose a licensed or certified child care provider who meets requirements of WAC 170-292-3750;

(3) Leave the consumer's children with his or her provider while the consumer is in SCC approved activities outside of the consumer's home;

(4) Pay the provider for child care services when the consumer requests additional child care for personal reasons other than working or participating in SCC approved activities that have been authorized by DSHS;

(5) Pay the provider for optional child care programs for the child that the consumer requests. The provider must have a written policy in place charging all families for these optional child care programs;

(6) Pay((~~, or make arrangements for someone to pay, the consumer's SCC~~)) the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(7) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or  
 (c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

(8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

((8) Sign his or her children in and out of child care as provided in WAC 170-295-7030, 170-296-0520, or 170-151-460, as applicable, for that type of provider; and)

(9) Document their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from child care;

(a) If the licensee uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the licensee;

(10) Provide the information requested by the ((DSHS)) fraud early detection (FRED) investigator from the DSFS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her SCC program subsidies. If DSFS determines a consumer is not cooperating by supplying the requested information, the consumer will not be eligible for SCC program subsidies. The consumer may become eligible again when he or she meets SCC program requirements in part III of this chapter;

(11) Ensure that their children who receive subsidized child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

## NEW SECTION

**WAC 170-290-3566 Subsidized child care providers' responsibilities.** Licensed or certified child care providers who accept SCC subsidies must do the following:

(1) Comply with all of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC;

(2) Report pending charges or convictions to DSFS as provided in chapter 170-295, 170-296A, or 170-151 WAC;

(3) Keep complete and accurate daily attendance records for children in their care; and allow access to DEL to inspect attendance records during all hours in which authorized child care is provided as follows:

(a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DEL.

(b) Attendance records older than twelve months to five years old must be provided to DSFS or DEL within two weeks of the date of a written request from either department.

(c) Failure to make available attendance records as provided in this subsection may:

(i) Result in the immediate suspension of the provider's subsidy payments; and

(ii) Establish a provider overpayment as provided in WAC 170-290-0268;

(4) Allow consumers access to their child at all times while the child is in care;

(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSFS if the consumer has not paid a copayment to the provider within the previous sixty days;

(6) Follow billing procedures as described in "Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers" revised 2012, including billing only for actual hours of child care provided or allowed under WCCC billing guidelines;

(7) Not claim a payment in any month in which a child has not attended at least one day in that month;

(8) Invoice the state no later than one calendar year after the actual date of service;

(9) Not charge subsidized families for:

(a) The difference between the provider's customary rate and the maximum allowed state rate;

(b) Registration fees in excess of what is paid by subsidy program rules;

(c) Absence days in excess of five days per month, regardless of whether the child attended or not;

(d) Handling fees to process consumer copayments, child care services payments, or paperwork;

(e) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(f) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state; and

(10) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations, and notify DSFS within ten days of any suspension, revocation, or changes to their license.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3580 Failure to report changes.** (1) If a consumer fails to report any changes as required in WAC 170-290-3570 within the stated time frames, DSFS may establish an overpayment to the consumer per WAC 170-290-3850 or the consumer may have to pay additional costs, such as a higher copayment.

(2) The consumer may receive an overpayment for what the provider is allowed to bill to include billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, ((DEL 22-877,)) revised ((2010)) 2012).

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3590 DSHS's responsibilities to consumers.** DSHS ((staff)) must:

(1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;

(2) Complete applications for SCC program subsidies based on information the consumer provides, and determine a consumer's eligibility within thirty days from the date the consumer applied;

(3) Accept a variety of forms of verification and may not specify the type of documentation required;

(4) Authorize payments only to a licensed or certified child care provider the consumer chooses who meets the requirements in WAC 170-290-3750;

(5) Authorize payments only when no adult in a consumer's family (under WAC 170-290-3540) is able or available to care for the consumer's children as defined in WAC 170-290-3550;

(6) Inform a consumer of:

(a) The consumer's copayment amount as determined in WAC 170-290-3620 and defined in WAC 170-290-0075;

(b) The consumer's rights and responsibilities under the SCC program when he or she applies or reapplies;

(c) The types of child care providers the SCC program will pay;

(d) The community resources that can help the consumer select child care when needed;

(e) Other options for child care subsidies, if the consumer does not qualify for SCC program subsidies; and

(f) The consumer's rights to an administrative hearing;

(7) Provide prompt child care authorizations to a consumer's child care provider;

(8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:

(a) SCC eligibility;

(b) Copayment; or

(c) Providers; and

(9) Provide an interpreter or translator service at no cost to the consumer to explain information related to the SCC program.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3610 Countable income.** DSHS counts income as money a consumer earns or receives from:

(1) Wages and commissions earned from employment;

(2) Unemployment compensation;

(3) ((A TANF or other welfare grant;

(4)) The following child support payment((s received)) amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services, the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;

((5)) (4) Supplemental Security Income (SSI);

((6)) (5) Other Social Security payments, such as Social Security Administration (SSA) and Social Security disability insurance (SSDI);

((7)) (6) Refugee assistance payments;

((8)) (7) Payments from the Veterans' Administration;

((9)) (8) Pensions or retirement income;

((10)) (9) Payments from labor and industries (L&I), or disability payments;

((11)) (10) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings;

((12)) (11) Other types of income not listed in WAC 170-290-3630; and

((13)) (12) Gross wages from employment or self-employment income as defined in WAC 170-290-0003. Gross wages include any wages that are taxable.

**AMENDATORY SECTION** (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3660 Eligibility period.** (1) A consumer who meets all of the requirements of part III of this chapter is eligible ((for)) to receive SCC subsidies for six months before having to redetermine his or her income eligibility. The six-month eligibility period applies only if enrollments in the SCC program are capped as provided in WAC 170-290-0001(1) and 170-290-3501. Regardless of the length of eligibility, consumers are still required to report changes of circumstances to DSHS as provided in WAC 170-290-3570.

(2) A consumer's eligibility may be for less than six months if requested by the consumer.

(3) A consumer's eligibility may end sooner than six months if:

(a) The consumer no longer wishes to participate in SCC; or

(b) DSHS terminates the consumer's eligibility as stated in WAC 170-290-3855.

**NEW SECTION**

**WAC 170-290-3800 Eligible provider capacity and payment.** (1) DSHS may pay licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-080, 170-295-0080, or 170-296A-5700, as appropriate.

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

(a) Result in the immediate suspension of the provider's subsidy payments; and

(b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

**WAC 170-290-3855 Termination of and redetermining eligibility for SCC program subsidies.** (1) A consumer's continued eligibility for SCC program subsidies stops when:

(a) The consumer's monthly copayment is equal to or higher than the state maximum monthly child care rate for all of the consumer's children in care; or

(b) The consumer:

(i) Is not participating in an approved activity as defined in WAC 170-290-3555;

(ii) Does not meet other SCC eligibility requirements related to family size, income and approved activities;

(iii) Does not ((pay the copayment fees to the consumer's child care provider or does not make mutually acceptable arrangements with the consumer's child care provider for payment)) comply with the copayment requirements of WAC 170-290-3565 (6) and (7); or

(iv) Refuses to cooperate with ((investigations conducted by quality assurance staff)) the child care subsidy audit process or the ((division)) DSHS office of fraud ((investigations)) and accountability (OFA).

(2) A consumer might be eligible for SCC program subsidies again ((when)) beginning on the date that the consumer:

(a) ((The consumer)) Meets all SCC program eligibility requirements;

(b) ((The consumer pays back copayment fees or made mutually acceptable payment arrangements with his or her child care provider; or)) Complies with the copayment requirements of WAC 170-290-3565(6); and

(c) ((The consumer cooperated with the quality assurance review process or with the DSHS division of fraud investigations.)) Cooperates with the child care subsidy audit process or with the DSHS office of fraud and accountability (OFA).

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

**WAC 170-295-0030 ((What must I do to be eligible)) Eligibility to receive state child care subsidies((?)).** To be eligible to receive state child care subsidies for children in ((your)) their care ((you)), individuals, entities and agencies must:

(1) Be licensed or certified;

(2) Be a seasonal camp that has a contract with ((us)) DEL and is certified by the American Camping Association;

(3) Follow billing policies and procedure in *Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*, ((DEL 22-877)) revised 2012;

(4) Bill ((us)) at ((your)) the individual's, entity's, or agency's customary rate or the state rate, whichever is less; and

(5) Keep ((the)) attendance records as described in WAC 170-295-7030 and ((the)) invoices for state-paid children on-site for at least five years as provided in WAC 170-295-7031.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-7010 ((What)) Information ((must)) to be kept in the child's individual file((?)).** (1) ((You)) Licensees must keep current organized confidential records and information about each child in care on the premises((You)) as provided in WAC 170-295-7031, and must make sure that each child's record contains, at a minimum:

(a) Completed enrollment application signed by the parent;

(b) Name, birth date, dates of enrollment and termination, and other identifying information;

(c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;

(d) Health history;

(e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;

(f) Written consent from the parent for ((you)) the licensee to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or the parent's alternate plans for emergency medical and surgical care if the parent can not be reached;

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from the parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) ((You)) Licensees must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information on which the parent may need to be advised ((of)).

(3) ((You)) Licensees may use any health history form ((you)) that the licensee chooses as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address, and phone number of the child's health care provider; and

(g) Name, address, and phone number of the child's dentist, if the child has a dentist.

- (4) The individual records, including the certificate of immunization status, must be kept on the premises:
- (a) For each child currently in care; and
  - (b) For ((one)) five years after the child leaves ((your)) enrollment in the licensee's care.

**AMENDATORY SECTION** (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-7030 ((What type of)) Attendance records ((do I have to keep?)). ((You)) Licensees must keep daily attendance records.**

(1) The parent or other person authorized by the parent to take the child to or from the center must:

(a) Sign in the child on arrival and sign out the child at departure, using their full ((legal)) signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the licensee under WAC 170-295-7032;

(2) When the child leaves the center to attend school or participate in offsite activities as authorized by the parent, ((you or your)) the licensee or staff must sign out the child, and sign in the child on return to the center; and

(3) Paper and electronic attendance records and invoices for state ((paid)) subsidized children must be kept on the premises for at least five years after the child leaves ((your)) the licensee's care as provided in WAC 170-295-7031.

**NEW SECTION**

**WAC 170-295-7031 Recordkeeping—Records available to the department.** The licensee must keep all records required in this chapter for a minimum of five years:

(1) Current records (including records from the previous twelve months) must be kept in the licensed space and be available for the department's review.

(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.

**NEW SECTION**

**WAC 170-295-7032 Electronic attendance records—Records retention.** (1) Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

- (c) Uniquely identify each record;
- (d) Capture an electronic record for each transaction conducted;
- (e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;
- (f) Retain electronic records in an accessible form for their legal minimum retention period;
- (g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;
- (h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;
- (i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;
- (j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and
- (k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

- (a) The contents of the electronic record;
  - (b) The method used to sign the electronic record, if applicable;
  - (c) The person signing the electronic record; and
  - (d) The date when the signature was executed.
- (5) As used in this section:

**"Electronic record"** means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

**"Electronic signature"** means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

**"Sign"** includes signing by physical signature, if available, or electronic signature.

**AMENDATORY SECTION** (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

**WAC 170-296A-2125 Child attendance records—Staff to child ratio records.** The licensee must also keep records of:

(1) Daily attendance for each child counted in capacity that includes the:

- (a) Child's dates of attendance;
- (b) Time the child arrives or returns to the child care, including signature of the person authorized by the child's parent or guardian to sign the child in; and

(c) Time the child leaves from the licensee's care including signature of the person authorized by the child's parent or guardian to sign the child out; and

(2) Names of staff being counted to meet the daily staff-to-child ratio requirements.

(3) Electronic attendance records if the child's attendance is recorded using an electronic system under WAC 170-296A-2126.

#### NEW SECTION

**WAC 170-296A-2126 Electronic attendance records—Records retention.** (1) Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

**"Electronic record"** means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

**"Electronic signature"** means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

**"Sign"** includes signing by physical signature, if available, or electronic signature.

#### **WSR 12-11-033**

#### **PERMANENT RULES**

#### **PUBLIC DISCLOSURE COMMISSION**

[Filed May 10, 2012, 10:22 a.m., effective June 10, 2012]

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

Purpose: Correct typographical/math error on forms for contributions and expenditures of out-of-state political committees. Correction necessary after recodification of chapter 42.17 RCW to chapter 4217A [42.17A] RCW changed the disclosure threshold for contributions received from persons residing outside of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-050.

Statutory Authority for Adoption: RCW 42.17A.110 and 42.17A.250 (1)(g).

Adopted under notice filed as WSR 12-06-026 on March 1, 2012.

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 0, Repealed 0.

Date Adopted: May 8, 2012.

Lori Anderson  
Communications and  
Training Officer

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

**WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees.** The official form for the report required by RCW 42.17A.250 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW ((42.17A.250)) 42.17A.205 through 42.17A.240 is designated "C-5," revised ((4/12)) 6/12. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

((STRICKEN GRAPHIC)



Form  
**C5**  
(1/12)

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**Out-of-State Political Committee Campaign Finance Report**

1. Name and full address of committee making the contribution  
Name  
Street address  
City / State / Zip

2. Check appropriate box  
 This is the first report submitted during 20\_\_  
 This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.

3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee:  
Name and full address

Title

5. States where this political committee is registered and has been actively reporting campaign finance information for the preceding two years:

Name of state(s) & administrative agency(s)

Agency(s) website address

6. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate name	Office sought	Political party	Date	Amount

7. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name & full address	Ballot number	For or Against?	Date	Amount

8. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient name & full address	Purpose	Date	Amount
Check here <input type="checkbox"/> if continued on an attached sheet			

9. Total contributions and expenditures (Add parts 6, 7, 8) .....

PDC Form C-5 (1/12)

CONTINUE ON  
NEXT PAGE

((STRICKEN GRAPHIC))

((STRICKEN GRAPHIC)

<b>10. Aggregate contributions and expenditures made during this calendar year in Washington State.</b> Include amounts shown on this report and C5 reports previously submitted this calendar year. ....				
Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y <input type="checkbox"/> N <input type="checkbox"/>				
<b>11. Contributions received from Washington residents.</b> List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.				
Name and full address	Date	Amount	Aggregate Total	
Check here <input type="checkbox"/> if continued on an attached sheet				
<b>12. Contributions received from persons residing outside of Washington.</b> List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,700 in the aggregate to this out-of-state committee during the current calendar year.				
Name and full address	Employer name, city and state	Date	Amount	Aggregate Total
Check here <input type="checkbox"/> if continued on an attached sheet				
<b>13. Eligibility to Give to Political Committees and State Office Candidates:</b> A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.				
<input type="checkbox"/> A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.				
<b>14. Certification:</b> I certify the information contained in this report is true, complete and correct to the best of my knowledge.				
Signature of Committee Official		Name – Typed or Printed		
(_____)		(_____)		
Title (_____)		Daytime Telephone No. (        ) (_____)		
		E-Mail Address (_____)		

STRICKEN GRAPHIC))



711 CAPITOL WAY RM 206  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(360) 753-1111  
TOLL FREE 1-877-601-2828

<b>Form</b> <b>C5</b> (6/12)	This space for office use P M O A S R T K  R E C E I
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## **Out-of-State Political Committee Campaign Finance Report**

<b>10. Aggregate contributions and expenditures made during this calendar year in Washington State.</b> Include amounts shown on this report and C5 reports previously submitted this calendar year. ....				
Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y <input type="checkbox"/> N <input type="checkbox"/>				
<b>11. Contributions received from Washington residents.</b> List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.				
Name and full address	Date	Amount	Aggregate Total	
Check here <input type="checkbox"/> if continued on an attached sheet				
<b>12. Contributions received from persons residing outside of Washington.</b> List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,615.00 in the aggregate to this out-of-state committee during the current calendar year.				
Name and full address	Employer name, city and state	Date	Amount	Aggregate Total
Check here <input type="checkbox"/> if continued on an attached sheet				
<b>13. Eligibility to Give to Political Committees and State Office Candidates:</b> A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.				
<input type="checkbox"/> A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.				
<b>14. Certification:</b> I certify the information contained in this report is true, complete and correct to the best of my knowledge.				
Signature of Committee Official		Name – Typed or Printed		
<hr/>		<hr/>		
Title		Daytime Telephone No. (      ) _____		
<hr/>		<hr/>		
E-Mail Address		_____		
<hr/>				

**Instructions – (Statutory reference: RCW 42.17A.250)**

**Who Must Report on C5 Form:** An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state. See WAC 390-16-049 reprinted below. A political committee making contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state that fails to satisfy all of the conditions of WAC 390-16-049(3) shall not use the C5 form but instead shall register and report as a political committee pursuant to RCW 42.17A.205 through 42.17A.240 and as otherwise required by RCW 42.17A.

**When to Report:** A C5 report is due no later than the 10<sup>th</sup> day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10<sup>th</sup> day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made. The C5 report is considered filed as of the postmark date.

**Send Report to:** Public Disclosure Commission, 711 Capitol Way, Room 206, PO Box 40908, Olympia, Washington 98504-0908

**Questions?** Contact PDC at [www.pdc.wa.gov](http://www.pdc.wa.gov), toll free at 1-877-601-2828 or 1-360-753-1111

**WAC 390-16-049 Out-of-state political committees – Implementation of RCW 42.17A.250**

(1) RCW 42.17A.250 governs campaign reporting in Washington State by committees located outside of Washington. The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17A.250 on a C5 form (WAC 390-16-050). The committee begins reporting on a C5 form when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) below must be satisfied:

(a) **Out-of-State.** First, the committee must be located out-of-state. It must be maintaining its office or headquarters in another U.S. state or the District of Columbia, and has no office, street address or corporate registered agent in Washington State. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington State, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational Purpose and Campaign Activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. The political committee may be described in other states as a political committee, political action committee (PAC), group (Alaska) or similar terms to describe a committee. Therefore, to qualify as a current out-of-state committee, the committee must also:

- (i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and,
- (ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and,
- (iii) Have spent less than 20 percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria subsection (2) shall file as an in-state committee under RCW 42.17A, including RCW 42.17A.205 – RCW 42.17A.240.

(4) Out-of-state political committees reporting under RCW 42.17A.250 are also subject to reporting pursuant to RCW 42.17A.260 (political advertising independent expenditures) and 42.17A.305 through 42.17A.315 (electioneering communications).

**WSR 12-11-038**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**ENTERPRISE SERVICES**

[Filed May 10, 2012, 11:21 a.m., effective June 10, 2012]

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

Purpose: The purpose is to repeal the department of general administration's (GA) procedures dealing with public records as laid out under chapter 236-56 WAC.

Citation of Existing Rules Affected by this Order: Repealing chapter 236-56 WAC.

Statutory Authority for Adoption: RCW 43.19.011.

Other Authority: Chapter 42.56 RCW.

Adopted under notice filed as WSR 12-06-049 on March 5, 2012.

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 15.

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: May 10, 2012.

Jack Zeigler  
 Rules Coordinator

**WSR 12-11-058**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 15, 2012, 9:57 a.m., effective June 15, 2012]

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

Purpose: WAC 246-320-199, hospital licensing fee increase, in 2011, the Washington state legislature adopted the 2011-2013 operating budget (2ESHB 1087, chapter 50, Laws of 2011 1st sp. sess.), giving the department authority to raise hospital licensing fees to cover the cost of administering the program. The fee increase is necessary to meet the actual costs of operating the acute care hospital program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-320-199.

Statutory Authority for Adoption: Chapter 43.70 RCW; 2ESHB 1087 (chapter 50, Laws of 2011 1st sp. sess.)

Adopted under notice filed as WSR 12-06-051 on March 5, 2012.

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: May 15, 2012.

Mary C. Selecky  
 Secretary

**AMENDATORY SECTION** (Amending WSR 09-07-050, filed 3/11/09, effective 4/11/09)

**WAC 246-320-199 Fees.** This section establishes the license and annual use fees for hospitals.

(1) Applicants must:

(a) Send the department an initial license fee of one hundred ((thirteen)) twenty-three dollars for each bed space within the authorized bed capacity for the hospital;

(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient care;

(c) Include level 2 and 3 bassinet spaces;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The hospital currently possesses the required movable equipment and certifies this fact to the department;

(e) Exclude all normal infant bassinets.

(2) Licensees shall:

(a) Send the department by November 30 of each year an annual use fee of one hundred ((thirteen)) twenty-three dollars for each bed space within the authorized bed capacity of the hospital;

(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(c) Include level 2 and 3 bassinet spaces;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The hospital currently possesses the required movable equipment and certifies this fact to the department;

(e) Exclude all normal infant bassinets; and

(f) Exclude beds banked as authorized by certificate of need under chapter 70.38 RCW.

(3) A licensee shall send a late fee in the amount of one hundred dollars per day whenever the annual use fee is not

paid by November 30. The total late fee will not exceed twelve hundred dollars.

(4) An applicant may request a refund for initial licensure as follows:

(a) Two-thirds of the initial fee paid after the department has received an application and not conducted an on-site survey or provided technical assistance; or

(b) One-third of the initial fee paid after the department has received an application and conducted either an on-site survey or provided technical assistance but not issued a license.

limited to: Lithotripters, CT scans, linear accelerators, and MRIs.

(2) **Project fee table.** Except as provided in subsection (4) and (5) of this section, the following fees will be charged for project review based on the cost of the project:

PROJECT FEE TABLE

	Project Cost	Project Review Fee
\$	\$ 0 to \$ 999	\$ ((120)) <u>150</u>
1,000 to	1,999	((250)) <u>305</u>
2,000 to	2,999	((325)) <u>400</u>
3,000 to	4,999	((410)) <u>500</u>
5,000 to	9,999	((530)) <u>650</u>
10,000 to	19,999	((665)) <u>815</u>
20,000 to	29,999	((820)) <u>1,000</u>
30,000 to	39,999	((975)) <u>1,190</u>
40,000 to	49,999	((1,125)) <u>1,375</u>
50,000 to	64,999	((1,325)) <u>1,620</u>
65,000 to	79,999	((1,535)) <u>1,875</u>
80,000 to	99,999	((1,845)) <u>2,250</u>
100,000 to	124,999	((2,200)) <u>2,690</u>
125,000 to	149,999	((2,550)) <u>3,120</u>
150,000 to	199,999	((2,970)) <u>3,625</u>
200,000 to	249,999	((3,325)) <u>4,060</u>
250,000 to	324,999	((3,650)) <u>4,455</u>
325,000 to	449,999	((4,100)) <u>5,000</u>
450,000 to	574,999	((4,600)) <u>5,615</u>
575,000 to	699,999	((5,200)) <u>6,350</u>
700,000 to	849,999	((5,825)) <u>7,110</u>
850,000 to	999,999	((6,550)) <u>7,995</u>

**WSR 12-11-061****PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed May 15, 2012, 11:19 a.m., effective June 15, 2012]

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

Purpose: WAC 246-314-990 Construction review services (CRS) fees, in 2011, the Washington state legislature adopted the 2011-2013 operating budget (2ESHB 1087, chapter 50, Laws of 2011 1st sp. sess.), giving the department authority to raise CRS fees to cover the cost of administering the CRS program. Increasing the fees will allow the department of health to continue providing plan reviews and technical assistance to clients in a timely manner.

Citation of Existing Rules Affected by this Order:  
Amending WAC 246-314-990.

Statutory Authority for Adoption: Chapter 43.70 RCW,  
2ESHB 1087 (chapter 50, Laws of 2011).

Adopted under notice filed as WSR 12-05-078 on February 16, 2012.

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: May 15, 2012.

Mary C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 10-22-109, filed 11/2/10, effective 12/3/10)

**WAC 246-314-990 Construction review fees.** (1)  
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

## PROJECT FEE TABLE

Project Cost	Project Review Fee
1,000,000 to 1,249,999	( <u>7,150</u> ) <u>8,725</u>
1,250,000 to 2,499,999	( <u>7,850</u> ) <u>9,560</u>
2,500,000 to 2,999,999	( <u>8,550</u> ) <u>10,430</u>
3,000,000 to 3,499,999	( <u>9,300</u> ) <u>11,350</u>
3,500,000 to 4,999,999	(( <u>10,750</u> )) <u>13,115</u>
5,000,000 to 6,999,999	(( <u>12,200</u> )) <u>14,885</u>
7,000,000 to 9,999,999	(( <u>13,800</u> )) <u>16,840</u>
10,000,000 to 14,999,999	(( <u>15,850</u> )) <u>19,340</u>
15,000,000 to 19,999,999	(( <u>17,850</u> )) <u>21,780</u>
20,000,000 to 29,999,999	(( <u>19,900</u> )) <u>24,280</u>
30,000,000 to 39,999,999	(( <u>23,000</u> )) <u>28,060</u>
40,000,000 to 59,999,999	(( <u>25,600</u> )) <u>31,235</u>
60,000,000 and over	(( <u>28,700</u> )) <u>31,235 plus 0.05% per dollar above 60 million</u>

**(3) Existing building conversions.** Building conversion fees will be based on the value of existing construction. Fees will be charged for project review based on the project fee table in subsection (2) of this section.

(a) The existing construction value is based on the local area cost data.

(b) Current cost data (will be made) is available and posted on the construction review services web site: (<http://www.doh.wa.gov/hsqa/fsl/CRS>) <http://www.doh.wa.gov/crs>.

(c) Project sponsors may submit specific cost data that accurately describes the estimate good faith value for the program's consideration.

**(4) Flat fees.** The following projects will receive a discount on project review fees:

(a) Installation of finishes only, one hundred (twenty) fifty dollars;

(b) Change of approved use only, one hundred (twenty) fifty dollars;

(c) The first submission for review and approval of the site installation of a mobile unit, (four) five hundred (seventy) seventy-five 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) five hundred (seventy) seventy-five 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) five hundred (ten) dollars. For technical assistance requiring travel, the program may increase the fee to include travel expenses;

(f) Special projects as determined by the program that requires minimal or highly repetitive review, (four) five hundred (ten) dollars for every review(or) inspection after the initial review;

(g) Plan review and inspection for the on-site installation of the foundation, and hook-ups including, but not limited to, potable water, sewage disposal systems, or gas connections for factory assembled structures, two hundred fifty dollars per site visit regardless of the number of sites installed and completed at the time of inspection;

(h) On-site inspection and plan review for foundation pad for temporary structures including, but not limited to, tents and RVs, one hundred and twenty dollars per site visit regardless of the number of pads installed and completed at the time of inspection.

**(5) 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. 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 DHS) Washington state department of health or the Washington state department of social and health services, wishes to be reviewed for relicensure. The project may qualify for a reduction of up to fifty percent. The amount of fee reduction will be determined by the estimated amount of systems review required to ensure that the rules have been met.

(6) Total fee reductions may not exceed seventy percent of the original estimated project review fee.

**(7) Refunds.** The program shall refund fees paid when requested by the applicant as follows:

(a) The final attested project cost is less than the project estimated on the application. Fees paid may be refunded by the program according to the project fee table in subsection (2) of this section.

(b) If a project is canceled after an application and fee has been received but no plan review or technical assistance has been performed by the program, seventy-five percent of the fees paid.

(c) If a project is canceled after an application and fee has been received and plan review or technical assistance has been performed by the department, fifty percent of the fees paid.

(8) No fees paid by the applicant will be refunded after project cancellation if any of the following applies:

(a) More than two on-site visits, conferences, or plan reviews for any purpose have been performed by the program;

(b) 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, and the applicant has not pursued the project in good faith;

(c) The amount to be refunded as calculated by subsection (7)(a), (b), or (c) of this section is one hundred twenty dollars or less;

(d) Approval or authorization to begin construction or a permit has been issued or construction has begun prior to a request from the applicant to cancel the project; or

(e) A written request has not been received to cancel the project.

**WSR 12-11-062**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 15, 2012, 11:28 a.m., effective June 15, 2012]

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

Purpose: WAC 246-310-990 Certificate of need review fees, the rule increases review fees for certificate of need (CoN) applicants. RCW 43.70.250 requires the cost of each licensing program to be fully borne by members of that business. In 2011, the Washington state legislature adopted the 2011-2013 operating budget (2ESHB 1087, chapter 50, Laws of 2011), giving the department authority to raise review fees to cover the costs of administering the program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-310-990.

Statutory Authority for Adoption: Chapter 43.70 RCW, RCW 70.38.105(5), and 2ESHB 1087 (2011).

Adopted under notice filed as WSR 12-06-052 on March 5, 2012.

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: May 15, 2012.

Mary C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 08-12-036, filed 5/30/08, effective 7/1/08)

**WAC 246-310-990 Certificate of need review fees.** (1)

An application for a certificate of need under chapter 246-310 WAC must include payment of a fee consisting of the following:

(a) A review fee based on the facility/project type;

(b) If more than one facility/project type applies to an application, the review fee for each type of facility/project must be included.

Facility/Project Type	Review Fee
Ambulatory Surgical Centers/Facilities	\$((17,392.00)) <u>20,427.00</u>
Amendments to Issued Certificates of Need	\$((+1,961.00)) <u>12,874.00</u>
Emergency Review	\$((7,055.00)) <u>8,286.00</u>

**Exemption Requests**

• Continuing Care Retirement Communities (CCRCs)/Health Maintenance Organization (HMOs)	\$((7,055.00)) <u>8,286.00</u>
• Bed Banking/Conversions	\$((+1,147.00)) <u>1,347.00</u>
• Determinations of Nonreviewability	\$((+1,639.00)) <u>1,925.00</u>
• Hospice Care Center	\$((+1,476.00)) <u>1,733.00</u>
• Nursing Home Replacement/Renovation Authorizations	\$((+1,476.00)) <u>1,733.00</u>
• Nursing Home Capital Threshold under RCW 70.38.105 (4)(e) (Excluding Replacement/Renovation Authorizations)	\$((+1,476.00)) <u>1,733.00</u>
• Rural Hospital/Rural Health Care Facility	\$((+1,476.00)) <u>1,733.00</u>

**Extensions**

• Bed Banking	\$((656.00)) <u>770.00</u>
• Certificate of Need/Replacement Renovation Authorization Validity Period	\$((656.00)) <u>770.00</u>

Home Health Agency	\$((21,001.00)) <u>24,666.00</u>
Hospice Agency	\$((18,704.00)) <u>21,968.00</u>
Hospice Care Centers	\$((+1,961.00)) <u>12,874.00</u>
Hospital (Excluding Transitional Care Units-TCUs, Ambulatory Surgical Center/Facilities, Home Health, Hospice, and Kidney Disease Treatment Centers)	\$((34,457.00)) <u>40,470.00</u>

Facility/Project Type	Review Fee
Kidney Disease Treatment Centers	\$((21,331.00)) <u>25,054.00</u>
Nursing Homes (Including CCRCs and TCUs)	\$((39,380.00)) <u>46,253.00</u>

(2) The fee for amending a pending certificate of need application is determined as follows:

(a) If an amendment to a pending certificate of need application results in the addition of one or more facility/project types, the review fee for each additional facility/project type must accompany the amendment application;

(b) If an amendment to a pending certificate of need application results in the removal of one or more facility/project types, the department shall refund to the applicant the difference between the review fee previously paid and the review fee applicable to the new facility/project type; or

(c) If an amendment to a pending certificate of need application results in any other change as identified in WAC 246-310-100, a fee of ~~((one thousand seven hundred fifty-six))~~ two thousand sixty dollars must accompany the amendment application.

(3) If a certificate of need application is returned by the department under WAC 246-310-090 (2)(b) or (e), the department shall refund seventy-five percent of the review fees paid.

(4) If an applicant submits a written request to withdraw a certificate of need application before the beginning of review, the department shall refund seventy-five percent of the review fees paid by the applicant.

(5) If an applicant submits a written request to withdraw a certificate of need application after the beginning of review, but before the beginning of the ex parte period, the department shall refund one-half of all review fees paid.

(6) If an applicant submits a written request to withdraw a certificate of need application after the beginning of the ex parte period the department shall not refund any of the review fees paid.

(7) Review fees for exemptions and extensions are non-refundable.

of 2011 1st sp. sess.), giving the department authority to raise IHS licensing fees to cover the cost of administering the program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-335-990.

Statutory Authority for Adoption: Chapter 43.70 RCW, 2ESHB 1087, chapter 50, Laws of 2011 1st sp. sess.

Adopted under notice filed as WSR 12-05-073 on February 16, 2012.

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 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: May 15, 2012.

Mary C. Selecky  
Secretary

#### AMENDATORY SECTION (Amending WSR 08-12-036, filed 5/30/08, effective 7/1/08)

**WAC 246-335-990 Fees.** (1) A licensee or applicant shall submit to the department:

(a) An initial twelve-month license fee of two thousand ~~((one hundred sixty two))~~ four hundred thirty-two dollars for each service category for new persons not currently licensed in that category to provide in-home services in Washington state, or currently licensed businesses which have had statement of charges filed against them;

(b) A twenty-four month renewal fee ~~((based on the number of full time equivalents (FTEs), which is a measurement based on a forty hour week and is applicable to paid agency personnel or contractors, or the number of beds, as follows)) for home care, home health and hospice agencies, based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, according to the following table. A twenty-four month renewal fee for hospice care centers, based on the number of beds, according to the following table:~~

~~((e))) (i) For single service category licenses:~~

# of FTEs	Home Health	Hospice	Home Care	# of Beds	Hospice Care Center
5 or less	\$((2,162.00)) <u>2,432.00</u>	\$((1,081.00)) <u>1,216.00</u>	\$((649.00)) <u>730.00</u>	5 or less	\$((720.00)) <u>810.00</u>
6 to 15	\$((3,041.00)) <u>3,421.00</u>	\$((1,138.00)) <u>1,280.00</u>	\$((1,174.00)) <u>1,321.00</u>	6 to 10	\$((1,442.00)) <u>1,622.00</u>

# of FTEs	Home Health	Hospice	Home Care	# of Beds	Hospice Care Center
16 to 50	\$((3,460.00)) <u>3,893.00</u>	\$((1,694.00)) <u>1,906.00</u>	\$((1,261.00)) <u>1,419.00</u>	11 to 15	\$((2,162.00)) <u>2,432.00</u>
51 to 100	\$((4,361.00)) <u>4,906.00</u>	\$((2,713.00)) <u>3,052.00</u>	\$((1,477.00)) <u>1,662.00</u>	16 to 20	\$((2,883.00)) <u>3,243.00</u>
101 or more	\$((4,491.00)) <u>5,052.00</u>	\$((2,854.00)) <u>3,211.00</u>	\$((1,586.00)) <u>1,784.00</u>		

((d)) (ii) For multiple service category licenses:

((i)) (A) One hundred percent of the home health category fee and seventy-five percent of the appropriate service category fee for each additional service category (hospice, home care, hospice care center); or

((ii)) (B) One hundred percent of the hospice category fee and seventy-five percent of the appropriate service category fee for each additional service category (home care, hospice care center); and

((e)) (c) A change of ownership fee of two hundred ((sixteen)) fifty dollars for each licensed service category. A new license will be issued and valid for the remainder of the current license period.

(2) The department may charge and collect from a licensee a fee of one thousand ((eighty-one)) two hundred ninety-seven dollars for:

(a) A second on-site visit resulting from failure of the licensee to adequately respond to a statement of deficiencies((z));

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(3) A licensee with deemed status shall pay fees according to this section.

(4) A licensee shall submit an additional late fee in the amount of ((thirty-six)) fifty dollars per day, not to exceed ((five)) six hundred fifty dollars, from the renewal date (which is thirty days before the current license expiration date) until the date of mailing the fee, as evidenced by the postmark.

(5) Refunds. The department shall refund fees paid by the applicant for initial licensure as follows:

(a) If an application has been received but no on-site survey or technical assistance has been performed by the department, two-thirds of the fees paid, less a fifty dollar processing fee; or

(b) If an application has been received and an on-site survey or technical assistance has been performed by the department, one-third of the fees paid, less a fifty dollar processing fee.

(6) The department may not refund applicant fees if:

(a) The department has performed more than one on-site visit for any purpose;

(b) One year has elapsed since an initial licensure application is received by the department, but no license is issued because applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (5)(a) or (b) of this section is ten dollars or less.

**WSR 12-11-074**  
**PERMANENT RULES**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**

[Filed May 16, 2012, 12:41 p.m., effective June 16, 2012]

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

Purpose: Repeal chapter 132P-20 WAC, Drug policy, the rules and regulations regarding drugs are promulgated in other college WAC and policies and procedures.

Citation of Existing Rules Affected by this Order: Repealing chapter 132P-20 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 12-06-042 on March 5, 2012.

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 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 10.

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: May 10, 2012.

Suzanne West  
Rules Coordinator

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

Chapter 132P-20 WAC

**WSR 12-11-087**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)

[Filed May 17, 2012, 4:39 p.m., effective June 17, 2012]

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

Purpose: The securities division hereby amends the rules set forth in chapter 460-33A WAC, which provide an optional method of registration for "mortgage paper securities" as defined in WAC 460-33A-015(4). The securities division amends the rules in chapter 460-33A WAC in order to address issues raised during the routine examination of mortgage broker-dealers and the investigation of complaints from investors. The amendments are designed to increase investor protection and to reduce the potential for fraud. The rules strengthen investor suitability requirements; revise the calculation of the number of investors that may participate in a loan; establish requirements for participation agreements; revise net worth and bonding requirements; revise provisions regarding escrow accounts and escrow agreements; establish requirements for servicing agreements; codify the requirement for a disclaimer in advertisements; clarify the fiduciary duties of a mortgage broker-dealer; include additional "dishonest and unethical practices" in WAC 460-33A-090; clarify the requirements for appraisals; clarify investors' rights to receive information and access records concerning their investments; update record-keeping requirements at WAC 460-33A-115; and make other updates and changes.

Citation of Existing Rules Affected by this Order: Amending 21.

Statutory Authority for Adoption: RCW 21.20.060, [21.20].070, [21.20].090, [21.20].100, [21.20].180, [21.20].210, [21.20].250, [21.20].270, and [21.20].450.

Adopted under notice filed as WSR 12-07-033 on March 14, 2012.

Changes Other than Editing from Proposed to Adopted Version:

- The securities division made changes to WAC 460-33A-040(2), which provides that a mortgage broker-dealer must maintain a positive net worth at all times. For clarity, the securities division revised WAC 460-33A-040(2) to state that positive net worth will be determined in accordance with generally accepted accounting principles.
- The securities division made changes to WAC 460-33A-036(7) and 460-33A-065(3). The previous versions stated that the participation and servicing agreements shall not provide for the payment of default fees to the mortgage broker-dealer "once a loan has been foreclosed." For clarity, WAC 460-33A-036(7) and 460-33A-065(3) were revised to replace "once a loan has been foreclosed" with "in the event the investors acquire the property securing the loan at the foreclosure sale."

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 2, Amended 21, 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: May 17, 2012.

Scott Jarvis  
Director

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-015 Definitions.** As used in this chapter:

(1) "Mortgage broker-dealer" means a person who is defined as a "broker-dealer" in RCW 21.20.005(3) and who effects transactions in mortgage paper securities registered under the provisions of this chapter.

(2) "General offering circular" means a disclosure document that gives a general description of what is involved in the purchase of mortgage paper securities and the business of offering the mortgage paper securities including a description of the mortgage broker-dealer.

(3) "Mortgage salesperson" means a person other than a mortgage broker-dealer who is defined as a "salesperson" in RCW 21.20.005(2) and who represents a mortgage broker-dealer in effecting offers or sales of mortgage paper securities registered under the provisions of this chapter.

(4) "Mortgage paper securities" means notes and ((bonds, or)) other debt securities secured by mortgages or trust deeds on real or personal property or by a vendor's interest in a property sales contract or options granting the right to purchase any of the foregoing, including any guarantee of or interest in the foregoing.

(5) "Specific offering circular" means a disclosure document describing the specific mortgage paper securities offering, which is meant to accompany the general offering circular.

(6) "Financial institution" means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or other similarly regulated financial institution, or holding company for any of the foregoing.

(7) "Construction loan" means a loan in which twenty-five percent or more of the loan proceeds will be used to fund future improvements to real estate securing the loan.

(8) "Income-producing properties" means real property that produces income on a regular basis.

(9) "Participation agreement" means the agreement entered into by investors in mortgage paper securities that sets forth the rights and responsibilities of the investors as to

each other and as to others and that may provide for the delegation of authority and responsibility for the management of the loan underlying the mortgage paper securities, the management of property acquired by the investors through foreclosure, and other assigned duties.

**AMENDATORY SECTION** (Amending WSR 92-18-009, filed 8/21/92, effective 9/21/92)

**WAC 460-33A-017 Registration not required.** Securities exempt from registration pursuant to RCW 21.20.310 and transactions exempt from registration pursuant to RCW 21.20.320 need not be registered under the rules of this chapter((z)).

Note: Persons intending to rely upon RCW 21.20.320(5) should consult WAC 460-44A-075.

**AMENDATORY SECTION** (Amending WSR 96-11-025, filed 5/6/96, effective 6/6/96)

**WAC 460-33A-020 Optional registration procedures for mortgage paper securities.** An applicant for registration of a mortgage paper securities offering may elect to register the offering under the rules of this chapter in lieu of following the registration procedure for debt securities under the Securities Act of Washington. Registration under this chapter requires the filing of a registration application as prescribed by the director of the department of financial institutions accompanied by the following:

- (1) The general offering circular;
- (2) A sample specific offering circular;
- (3) The mortgage paper escrow and trust agreement;
- (4) The participation agreement;
- (5) The mortgage paper service agreement;
- ((6)) (6) The mortgage broker-dealer's articles of incorporation and bylaws or articles of organization;

((6)) (7) Sample documents to include any note, bond, mortgage, deed of trust, master deed of trust, real or personal property contract, indenture, guaranty, or other such instrument;

((7)) (8) The financial statements of the mortgage broker-dealer, including a balance sheet, profit and loss statement, and statement of cash flow as set forth in RCW 21.20.210(14). Pursuant to RCW 21.20.210 (14)(c), if the estimated proceeds of the mortgage paper securities offering, together with the proceeds from registered offerings during the year preceding the date of filing of the mortgage paper securities offering, exceed one million dollars, said financial statements shall be audited. If such proceeds exceed five million dollars, said financial statements for the previous two fiscal years shall be audited;

((8)) (9) The subscription and ((acknowledgement)) acknowledgment agreements;

((9)) (10) An opinion of counsel, if requested, on the legality and validity of the mortgage paper securities being issued;

((10)) (11) An opinion of counsel, if requested, regarding the application of the usury laws to the mortgage paper securities being offered;

((11)) (12) Such other information as the director may prescribe or request.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-031 Minimum investor suitability requirements.** (1) In addition to complying with the suitability requirements set forth in RCW 21.20.702, in each purchase, sale, or exchange of mortgage paper securities registered under the rules of this chapter, the mortgage broker-dealer shall ((have reasonable grounds to believe and after making reasonable inquiry shall believe that both the conditions of subsections (1) through (3) of this section are satisfied:

(1) The investment is suitable for the purchaser upon the basis of the facts disclosed by the purchaser as to the purchaser's other security holdings, the purchaser's other mortgage paper security holdings, and the purchaser's financial situation and needs;

(2) The purchaser qualifies for at least one of the following:

(a) The purchaser's investment in the mortgage paper securities being offered does not exceed twenty percent of the purchaser's net worth, or joint net worth with that person's spouse: Provided, That the purchaser's total investment in mortgage paper securities involving any one borrower or his affiliates may not exceed twenty percent of the purchaser's net worth, or joint net worth with that person's spouse;

(b) The purchaser's investment in the mortgage paper securities being offered does not exceed ten percent of the purchaser's (including spouse) taxable income for federal tax purposes for the last year: Provided, That the purchaser's total investment in mortgage paper securities involving any one borrower or his affiliates may not exceed twenty percent of the purchaser's net worth, or joint net worth with that person's spouse;

(c) The purchaser, either alone or with a purchaser representative as defined in WAC 460-44A-501, has, as stated in WAC 460-44A-505, such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment; or

(d) The purchaser is an accredited investor as defined in WAC 460-44A-501.

((3))) have reasonable grounds to believe that either:

(a) The investor is an accredited investor as defined in WAC 460-44A-501; or

(b) The following requirements are satisfied:

(i) The investor has a minimum net worth of either:

(A) Two hundred fifty thousand dollars; or

(B) Seventy thousand dollars provided the investor has a minimum annual income of seventy thousand dollars; and

(ii) The prospective investment by the investor qualifies for one of the following:

(A) The investment in the mortgage paper securities being offered does not exceed twenty percent of the investor's net worth, or joint net worth with that person's spouse: Provided, That the investor's total investment in mortgage paper securities involving any one borrower or the borrower's affiliates may not exceed twenty percent of the investor's net worth, or joint net worth with that person's spouse; or

(B) The investment in the mortgage paper securities being offered does not exceed ten percent of the investor's

(including spouse) taxable income for federal tax purposes for the last year: Provided, That the investor's total investment in mortgage paper securities involving any one borrower or the borrower's affiliates may not exceed twenty percent of the investor's net worth, or joint net worth with that investor's spouse.

(2) For purposes of subsections (1)(b)(i)(A) and (B) of this section, net worth shall be determined exclusive of home, home furnishings and automobiles.

(3) The mortgage broker-dealer shall document its determination that an investment in mortgage paper securities is ((appropriate)) suitable for each investor in accordance with WAC 460-33A-115 (1)(f).

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-035 Limitations on the use of optional registration of this chapter.** Unless the director makes a special notation on the permit issued to the mortgage broker-dealer granting permission to offer the following types of securities based upon a showing that the investors will be adequately protected, the following types of securities cannot be offered or sold under the rules of this chapter:

(1) Offerings involving construction loans may not be sold using the rules of this chapter unless the loan to value ratio, as determined utilizing the current value of the property without considering future improvements, is within the limits established by subsection (7) of this section.

(2) Offerings involving the mortgage broker-dealer, its officers, agents, affiliates, and persons controlling the mortgage broker-dealer or affiliates may not be sold as part of the optional registration of the rules of this chapter unless the registration with the director includes a full description of these transactions. An offering "involves" the persons listed where the person is the owner, the borrower, or has an interest in the proceeds other than fees, commissions, or mark-ups.

(3) Offerings involving documents reserving the right to subordinate the position of any investor to any mortgage, trust deed or lien created at or after the sale.

(4) Offerings involving pooling or participations involving more than ten investors may not be sold under the optional registration of the rules of this chapter. However, where ((only first liens are involved and the note amount equals or exceeds one hundred thousand dollars)) the amount of the loan is greater than five hundred thousand dollars and the loan is secured by a first lien, the registrant may sell to ((up to twenty five investors)) the number of investors that results from dividing the loan amount by fifty thousand dollars. A husband and wife and their dependents may be counted as one investor.

(5) Offerings in which the real property or other collateral securing the notes((, bonds)) or other obligations is not within this state unless the general offering circular contains disclosure of all material facts concerning the relevant laws of the state in which the real property is situated and a risk factor discussing the risks of investing in out-of-state real estate.

(6) Offerings involving notes((, bonds)) or other obligations secured by a single mortgage, deed of trust or real estate contract or a single group of mortgages, deeds of trust or real estate contracts that are not identical in their underlying terms, including the right to direct or require foreclosure, rights to and rate of interest, and other incidents of being ((a tender)) an investor, and the sale to each ((purchaser or)) investor is not upon the same terms; provided however, an offering may be subject to adjustment for the face or principal amount or percentage interest purchased and for interest earned or accrued.

(7) Offerings in which the aggregate principal amount of the notes((, bonds)) or other obligations sold, together with the unpaid principal amount of any encumbrances upon the real property senior thereto, exceed the following percentages of the current market value (as determined by WAC 460-33A-105) of the real property:

(a) Single-family residences - Eighty percent.

(b) Commercial and income-producing properties - Seventy percent.

(c) Unimproved property which has been zoned for commercial or residential development - Fifty percent. For purposes of this section, "unimproved property" includes real property with structures that cannot be legally occupied, do not substantially conform with the appraisal of the property prepared pursuant to WAC 460-33A-105, or otherwise lack the functional attributes or basic amenities customarily found in the type of structures in question.

(d) Other real property - Forty percent.

(8) Offerings involving real estate paper in which a default in any note((, bond)) or other obligation will not be a default in all notes((, bonds)) or other obligations concerning a specific loan.

(9) ((Offerings in which the following actions may be taken on behalf of the investors without the consent of investors holding a majority percentage of the unpaid dollar amount of notes, bonds, or obligations:

(a) Consenting to the sale or transfer by the borrower of the collateral securing the loan, or the substitution of a new borrower;

(b) Approving any modification to the loan which decreases the rate of interest payable to the investors;

(c) Deferring or forgiving the payment of any principal or interest;

(d) Making any agreements concerning the release, substitution, or exchange of any collateral, or any portion of the collateral, for the loan;

(e) Entering into any agreement to reduce the principal amount of the loan (except for actual payments of principal);

(f) Making any concession with respect to compliance with any material obligations imposed by the instruments evidencing or securing the loan; or

(g) Extending or renewing the loan.

(10))) Loans in which investors are required to designate the servicing agent as their attorney-in-fact with respect to documents and instruments, other than those described below, which would otherwise require signing or other action by the investors:

(a) Escrow instructions concerning the closing and collection of the loan;

(b) Instruments necessary to substitute investors; and

(c) Partial or full satisfaction or release of the deed of trust or other security instrument pursuant to the provisions of the deed of trust or security agreement upon receipt of the appropriate payment.

((14)) (10) Offerings in which the investors holding a majority percentage of the unpaid ((dollar)) amount of any loan may not remove the servicing agent.

((12)) (11) A registrant requesting a modification under this section must request it in writing and must provide satisfactory evidence that the interest of the public will be adequately protected.

#### NEW SECTION

**WAC 460-33A-036 Participation agreement.** (1) In each sale of mortgage paper securities, the mortgage broker-dealer shall obtain a signed participation agreement from the investor prior to the release of funds from escrow.

(2) The participation agreement shall address the following:

(a) The rights of investors to interest on the loan and other amounts derived from the loan and the property securing the loan;

(b) The rights and responsibilities of investors to contribute additional funds;

(c) Any restrictions on transfer;

(d) Any rights of first refusal;

(e) The intended tax treatment of an investment in mortgage paper securities and income derived therefrom;

(f) The nature and the extent of the authority of the mortgage broker-dealer to negotiate any loan modifications or workouts with borrowers, or to seek or negotiate the sale or lease of real property acquired by investors through foreclosure of their lien; and

(g) The requirements for amending the participation agreement.

(3) The participation agreement shall provide that the following actions may not be taken on behalf of the investors without the consent of investors holding a majority percentage of the unpaid amount of notes or other obligations:

(a) Consenting to the sale or transfer by the borrower of the collateral securing the loan, or the substitution of a new borrower;

(b) Approving any modification to the loan that decreases the rate of interest payable to the investors;

(c) Deferring or forgiving the payment of any principal, interest, or other amounts due in connection with the loan;

(d) Making any agreements concerning the release, substitution, or exchange of any collateral, or any portion of the collateral, for the loan;

(e) Entering into any agreement to reduce the principal amount of the loan (except for actual payments of principal);

(f) Making any concession with respect to compliance with any material obligations imposed by the instruments evidencing or securing the loan; or

(g) Extending or renewing the loan.

(4) The participation agreement shall provide that to the extent the mortgage broker-dealer owns an interest in the loan, the mortgage broker-dealer, or any successor or

assignee, shall be bound by the terms of the participation agreement.

(5) The participation agreement shall provide that investors holding interests representing at least ten percent of the unpaid amount of the loan, or that hold interests representing at least ten percent of the property acquired by investors through foreclosure, may call a meeting of the investors in the loan.

(6) The participation agreement shall provide that in the event a loan is foreclosed and the property that secures the loan is sold, the excess of the sale proceeds after payment of expenses and repayment of any funds advanced by the mortgage broker-dealer or others shall be distributed to the investors, including the mortgage broker-dealer to the extent it owned an interest in the loan and owns an interest in the property, in proportion to their respective interests in the loan. The participation agreement shall not provide for any such excess to be distributed to the mortgage broker-dealer except to the extent the mortgage broker-dealer owned an interest in the loan and owns an interest in the property.

(7) The participation agreement shall not provide for the payment of late fees, default interest, or other fees and expenses that are assessed against a borrower who has defaulted on a loan, but that are not paid prior to foreclosure, to the mortgage broker-dealer in the event the investors acquire the real property securing the loan at the foreclosure sale. The mortgage broker-dealer may, however, be compensated at a reasonable rate for services performed in pursuing foreclosure and the management or sale of property acquired by investors through foreclosure.

(8) The participation agreement shall not provide for the indemnification of the mortgage broker-dealer by the investors for acts or omissions that constitute a violation of the Securities Act of Washington, chapter 21.20 RCW, or the rules adopted thereunder.

#### AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-037 Disclosure requirements in the sale of real estate owned property.** The following apply to real property acquired by owners of mortgage paper securities through foreclosure or otherwise in settlement of the note or bond which is the subject of the mortgage paper security (real estate owned or REO):

(1) The mortgage broker-dealer shall provide investors a written disclosure document when making a recommendation to investors to sell REO.

(2) The disclosure document required by subsection (1) of this section shall include an appraisal ((or updated appraisal)) meeting the requirements of WAC 460-33A-105 and dated within twelve months of the recommendation unless:

(a) A real estate broker's opinion of value dated within twelve months of the recommendation is obtained pursuant to WAC 460-33A-038;

(b) In offering the mortgage paper securities to the current owners, the loan-to-value ratio was established by relying on the tax assessment valuation pursuant to WAC 460-33A-105(6). In this instance, the specific offering circular

required by subsection (1) of this section may use the current tax assessment valuation; or

(c) The investors, excluding the mortgage broker-dealer and its affiliates, holding a majority percentage interest in the unpaid ((dollar)) amount of the notes((,bonds)) or other obligations consent to the waiver of this requirement. The mortgage broker-dealer may not require investors to consent to this waiver prior to issuing its recommendation to sell REO.

(3) Regardless of whether an appraisal is required or furnished pursuant to subsection (2) of this section, investors holding a majority percentage interest in the unpaid ((dollar)) amount of the notes((,bonds)) or other obligations may direct the mortgage broker-dealer to obtain an appraisal or a new appraisal that is dated within twelve months of the mortgage broker-dealer's recommendation. The costs of such an appraisal shall be the responsibility of the mortgage paper security investors unless the mortgage broker-dealer agrees to pay for the appraisal.

(4) The disclosure document required by subsection (1) of this section shall disclose the following:

(a) A summary of the purchase and sale agreement;

(b) The estimated expenses and other disbursements from the sale proceeds together with the estimated net proceeds to investors if the sale is approved:

(c) A summary of property marketing completed prior to receipt of the purchase and sale agreement;

((e))) (d) Estimated marketing period necessary to obtain fair market value of the property established by the current appraisal, if an appraisal is required under subsection (2) or (3) of this section;

((f))) (e) Current appraised value or a real estate broker's opinion of value pursuant to WAC 460-33A-038 of the property, as well as the appraised value of the property at the time the loan was originated, if an appraisal or opinion of value is required under subsection (2) or (3) of this section;

((g))) (f) Current tax assessed value of the property, as well as the tax assessed value at the time the loan was originated;

((h))) (g) A summary of the reasons for which the mortgage broker-dealer is making the recommendation to investors to accept the purchase and sale agreement;

((i))) (h) A summary of the options available to investors should they elect to reject the purchase and sale agreement;

((j))) (i) The right of investors to obtain upon written request a list of all investors holding an interest in the property subject to the purchase and sale agreement and their respective addresses; and

((k))) (j) The right of investors holding a majority percentage of the interest in the property to remove the mortgage broker-dealer as the servicing agent in accordance with WAC 460-33A-035(11).

(5) If the terms of the purchase and sale agreement include seller financing, the disclosure document required in this section shall disclose the following in addition to the disclosure required under subsection (4) of this section:

(a) A loan application completed by the prospective buyer;

(b) The credit report of the prospective buyer;

(c) The financial statements of the prospective buyer, if available;

(d) A comparison of the loan terms in the original offering with those proposed in the purchase and sale agreement; and

(e) A summary of the options available to an individual investor who does not wish to participate in the loan should investors holding a majority percentage of the interest in the property accept the purchase and sale agreement.

(6) The disclosure document required in this section shall be sent to all the investors holding an interest in the property subject to the purchase and sale agreement at their last known addresses at least ten days prior to the closing date of the sale.

#### AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

##### **WAC 460-33A-040 Net worth or bond requirement.**

(1) All persons and entities meeting the definition of a mortgage broker-dealer must meet and maintain one of the following at all times:

(a) A minimum tangible net worth, as determined by generally accepted accounting principles, of the greater of one hundred thousand dollars or ten percent of the amount of securities registered pursuant to this chapter up to a maximum of one million dollars; or

(b) File a surety bond in ((the face amount of one hundred thousand dollars satisfactory to the securities administrator)) a form acceptable to the securities administrator with a face amount of the greater of one hundred thousand dollars or one percent of the amount of securities registered pursuant to this chapter up to a maximum of two hundred fifty thousand dollars; or

(c) In the event the mortgage broker-dealer and any affiliate does not handle the funds of ((lenders)) investors and borrowers, minimum tangible net worth of five thousand dollars, as determined by generally accepted accounting principles.

(2) Every mortgage broker-dealer must maintain a positive net worth, as determined by generally accepted accounting principles, at all times.

(3) Every mortgage broker-dealer((s failing)) that fails to ((maintain the above mentioned minimum)) comply with the net worth requirements set forth in this section must inform the securities division of such failure within seventy-two hours at which time all sales of securities must be suspended.

#### AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-055 Escrow account.** (1) Escrow account required. All funds received from ((lenders or)) investors to purchase mortgage paper securities shall be deposited within forty-eight hours of receipt in an escrow account acceptable to the director. All checks by which purchases or investments are made shall be made payable to the escrow account.

(2) Escrow agent. The escrow account shall be maintained in a financial institution as set forth in WAC 460-33A-015(6), with an escrow agent registered under chapter 18.44

RCW, or with some other independent escrow agent acceptable to the director. The entity acting as the escrow agent must be independently audited or examined, in a manner acceptable to the director, on a regular basis. ((All checks by which purchases or investments are made shall be made payable to the escrow account.))

**(3) Disbursements from escrow account.** All necessary disbursements shall be made from the escrow account. ((No person acting as a mortgage broker-dealer or its agent shall accept any purchase or investment funds for mortgage paper securities in advance of the time necessary to fund the loan transaction. No such fund shall be maintained in such account for longer than sixty days without disbursing the funds and the escrow agreement must provide that funds maintained in such)) Funds held in the escrow account shall be returned to ((the)) investors on the sixty-first day from deposit in the account if the funds have not previously been disbursed following the recordation of the applicable instrument in accordance with WAC 460-33A-060(1).

**(4) Interest on funds held in escrow account.** No interest earned on escrow account funds shall be paid to the mortgage broker-dealer or its affiliates. ((The escrow agreement must provide that funds may be disbursed from the escrow account only to a specific loan escrow, where funds will be disbursed only upon closing and recordation, or to return the funds to the lenders or investors.))

(2) The escrow agreements shall provide that the funds will not be subject to the mortgage broker-dealer's creditors.

**(3) The account shall be subject to an audit at any reasonable time by the securities division.))** **(5) Prohibition on commingling funds of mortgage broker-dealer in escrow account.** Funds belonging to the mortgage broker-dealer shall not be commingled in the escrow account except insofar as the mortgage broker-dealer purchases mortgage paper securities for its own account. Payments to which a mortgage broker-dealer is entitled in connection with a particular loan or sale of mortgage paper securities shall be promptly distributed to the mortgage broker-dealer upon the closing of the loan or the recordation of the applicable instrument in accordance with WAC 460-33A-060(1).

**(6) Contents of escrow agreement.** The escrow account required to be maintained pursuant to WAC 460-33A-055 shall be governed by an agreement that provides:

(a) Funds may be disbursed from the escrow account only to a specific loan escrow, where funds will be disbursed only upon closing and recordation, or to return the funds to the investors;

(b) Funds will not be held in the escrow account for more than sixty days without disbursing the funds and that funds maintained in such account shall be returned to the investor on the sixty-first day from deposit in the account;

(c) Funds held in the escrow account will not be subject to the mortgage broker-dealer's creditors;

(d) The escrow agent agrees that the escrow account is subject to examination at any reasonable time by the securities division; and

(e) The escrow agent agrees to follow the law of escrow and maintain its independence from all parties to the agreement, including the mortgage broker-dealer.

**AMENDATORY SECTION** (Amending Order SDO-140-86, filed 10/20/86)

**WAC 460-33A-060 Recordation. (1) Instrument.**

Every person acting as a mortgage broker-dealer or ((his)) its agent selling mortgage paper securities must record the applicable instrument in the applicable place before any disbursement of funds takes place. Such recorded instrument must bear the name of the lien holder or beneficiary and not the name of the mortgage broker-dealer unless the mortgage broker-dealer is the actual lender. Such recorded instrument must reflect the amount or percentage of the loan purchased by the investor.

**(2) Notice to investors.** Every person acting as a mortgage broker-dealer or its agent selling mortgage paper securities must provide notice of recording to the investor within ten days of receipt by the mortgage broker-dealer of the recorded instrument. The notice must be in writing and must include a copy of the recorded instrument.

**AMENDATORY SECTION** (Amending Order SDO-124-89, filed 8/17/89, effective 9/17/89)

**WAC 460-33A-065 Service agreement.** (1) Every person acting as a mortgage broker-dealer, or an agent or affiliate thereof, who undertakes to service a mortgage paper security shall have a written agreement with the ((lender or holder of the contract)) investors setting forth specifically what services will be provided.

(2) The service agreement shall ((require)) provide:

(a) That payments received on the note, bond or obligation be immediately deposited to a trust account and in accordance with the provisions of this rule;

(b) That such payments shall not be commingled with the assets of the servicing agent or used for any transaction other than the transaction for which the funds are received;

(c) That payments received on the note, bond or obligation shall be transmitted to the ((purchasers or lenders)) investors pro rata according to their respective interests within thirty-one days after receipt thereof by the agent. If the source for such payment is not the maker of the note, bond or obligation, the agent will inform the ((purchasers or lenders)) investors of the source for payment. A broker or servicing agent who transmits to the ((purchasers or lenders)) investors such broker's and/or servicing agent's own funds to cover payments due from the borrower but unpaid may recover the amount of such advances from the trust fund when the past due payment is received; ((and))

(d) That the servicing agent will file a request for notice of default upon any prior encumbrances and promptly notify the ((purchasers or lenders)) investors of any default on such prior encumbrances or on the note or ((notes)) other obligations subject to the servicing agreement;

(e) That any fee to be collected by the servicing agent shall be reasonable in relation to the services performed;

(f) That the servicing agent may not accept, provide, or charge any undisclosed compensation or realize any undisclosed remuneration;

(g) That in the event a borrower defaults on a loan or the investors acquire property that secured a loan, the servicing agent shall send, at least once every calendar quarter or

ninety-day period, each investor a statement setting forth all income and expenses incurred in connection with the loan or the property during that period, or since the last statement, within fifteen days after the end of the calendar quarter or ninety-day period or receipt of an investor's request for a statement, until such time that the default has been cured or the property has been sold, at which time a final statement shall be provided to each investor;

(h) That any provision providing for the indemnification of the servicing agent shall not provide for indemnification by the investors for acts or omissions that constitute a violation of the Securities Act of Washington, chapter 21.20 RCW, or the rules adopted thereunder;

(i) That whenever the servicing agreement requires the consent or approval of the investors, the investors shall have a minimum of fifteen days from the date the request for consent or approval is sent by the servicing agent to approve or disapprove of the matter in writing unless a shorter period of time is permitted under this chapter or consented to in writing by investors holding interests representing a majority interest in the unpaid amount of the loan; and

(j) That the servicing agent will, upon request by an investor, provide a list of the investors holding an interest in a loan to the investor, along with the respective percentage interests in that loan held by each investor and their most recent mailing addresses on file with the servicing agent.

(3) The servicing agreement shall not provide for the payment of late fees, default interest, or other fees and expenses that are assessed against a borrower who has defaulted on a loan, but that are not paid prior to foreclosure, to the mortgage broker-dealer in the event the investors acquire the real property securing the loan at the foreclosure sale. The mortgage broker-dealer may, however, be compensated at a reasonable rate for services performed in pursuing foreclosure and the management or sale of property acquired by investors through foreclosure.

(4) Every person acting as a mortgage broker-dealer, or an agent or affiliate thereof, that provides servicing on loans sold as mortgage paper securities owes the duties of a fiduciary to each investor.

(5) Any notices to investors concerning the servicing of the loan in which they have invested, or property that has been acquired by investors through foreclosure, shall be sent to each investor at the investor's last known address.

AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

#### **WAC 460-33A-070 Origination and assignment.**

Every mortgage broker-dealer or his agent or affiliate that originates loan transactions and later intends to offer these as mortgage paper securities to ((~~tenders or~~)) investors must obtain the permission of the director. Every mortgage broker-dealer or its agent or affiliate that purchases or takes mortgage paper in its own name, whether for its own account or the account of others, and intends to offer such as mortgage paper securities to ((~~tenders or~~)) investors must disclose its interest in the property or the transaction and must not disburse funds from the escrow account until the applicable

instrument has been properly recorded in the name of the ((~~tenders or~~)) investors.

AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-075 Advertising.** (1) No person effecting a transaction in mortgage paper securities shall advertise in any manner any statement or representation, with regard to any mortgage paper security, which is false, misleading or deceptive.

(2) Every mortgage broker-dealer or its agent shall file with the director ((~~five~~)) seven calendar days prior to use, true copies of all advertising materials. If not disallowed by written notice or otherwise within ((~~five~~)) seven calendar days from the date filed, the material may be disseminated. No person shall use any such material in any way after the director gives written notice that such material contains any statement or omission that is false or misleading.

(3) All advertisements concerning the offer or sale of mortgage paper securities that are not rated by a nationally recognized statistical rating organization or insured against loss shall include the following legend: Mortgage paper securities are not rated or insured against loss and may be subject to substantial risks that are further described in the general and specific offering circulars. Past performance is not a guarantee of future results. Investors are urged to read the general and specific offering circulars prior to investing.

AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-081 Expiration of mortgage broker-dealer registration, renewal procedure((, delinquency fees)).** A license issued to a mortgage broker-dealer shall expire on the expiration date of the securities registration of the mortgage paper securities offered by the mortgage broker-dealer. The license shall be renewed, or if not renewed, shall ((~~be deemed delinquent~~)) terminate at the expiration of the issuer's securities registration. ((For any renewal application postmarked after the expiration date but received by the director within two months of the expiration date, the licensee shall pay a delinquency fee of one hundred dollars in addition to the renewal fee. No renewal applications will be accepted after that time.))

AMENDATORY SECTION (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-086 Expiration of mortgage securities salesperson registration, renewal procedure((, and delinquency fees)).** A license issued to a mortgage securities salesperson shall expire on the expiration date of the securities registration of the mortgage paper securities offered by the mortgage broker-dealer. The license shall be renewed, or if not renewed, shall ((~~be deemed delinquent~~)) terminate at the expiration of the issuer's securities registration. ((For any renewal application postmarked after the expiration date but received by the director within two months of the expiration date, the licensee shall pay a delinquency fee of fifty dollars

~~in addition to the renewal fee. No renewal applications will be accepted after that time.)~~

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-090 Dishonest and unethical practices—Mortgage broker-dealers.** The phrase "dishonest and unethical practices" as used in RCW 21.20.110((~~(7)~~)) (1)(g) includes the following acts by mortgage broker-dealers or mortgage salespersons:

(1) To cause investors to sign reconveyances of title, quit claim deeds, or any other like instruments before such instruments are required in connection with some transaction such as payoff or foreclosure.

(2) To fail to deliver, within a reasonable time, to the investor proceeds, received by the mortgage broker-dealer, of sale, refinancing, or foreclosure of an obligation owned by the investor.

(3) To engage in any dishonest or unethical practice as set forth in WAC 460-21B-060 or 460-22B-090.

(4) To fail to comply with the material terms of agreements between the mortgage broker-dealer and the investors in mortgage paper securities.

(5) To obtain an agreement from investors in mortgage paper securities that provides for the indemnification of the mortgage broker-dealer or its affiliates by investors for violations of the Securities Act of Washington, chapter 21.20 RCW, or the rules adopted thereunder.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-095 Fiduciary duty—Mortgage broker-dealers.** A mortgage broker-dealer owes the duties of a fiduciary to investors in mortgage paper securities. For the purposes of this section, examples of these duties include, but are not limited to, the following:

(1) A mortgage broker-dealer must act in the best interests of and in the utmost good faith toward the investors in mortgage paper securities;

(2) In the event a conflict arises in connection with a mortgage broker-dealer acting as an agent for both mortgage borrowers and ((~~purchasers of~~)) investors in mortgage paper securities, every mortgage broker-dealer shall resolve the conflict in favor of the ((~~purchasers of~~)) investors in mortgage paper securities;

(3) A mortgage broker-dealer shall disclose any potential and actual conflicts of interest it may have in mortgage paper securities transactions to the prospective investors in mortgage paper securities;

(4) A mortgage broker-dealer must comply with the material terms of agreements with investors in mortgage paper securities, including servicing and participation agreements;

(5) A mortgage broker-dealer must use reasonable care in performing its duties; and

(6) A mortgage broker-dealer has a duty to allow reasonable access to each investor to pertinent records concerning loans in which the investor has invested and property in

which the investor has acquired an interest through foreclosure.

**AMENDATORY SECTION** (Amending Order SDO-140-86, filed 10/20/86)

**WAC 460-33A-100 Written statement.** Every person selling a mortgage paper security that is required to be registered under the regulations of this chapter shall ((~~require the purchaser or his agent to sign a~~)) obtain a signed receipt for the general and the specific offering circulars containing all the applicable information required by WAC 460-33A-025 and 460-33A-030 from the investor or his agent before the ((~~purchaser~~)) investor shall be obligated to fund the transaction. No person shall permit the ((~~purchaser~~)) investor to sign such receipt if any of the required information is omitted. The mortgage broker-dealer shall retain an executed copy of receipt for four years.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-105 Appraisals.** (1) An appraisal of each parcel of real property or other property which secures or relates to a transaction subject to the provisions of this chapter shall be made by an independent appraiser. The appraisal shall be kept on file by the mortgage broker-dealer for four years.

(2) The appraisal shall be prepared and reported in accordance with the Uniform Standards of Professional Appraisal Practice promulgated by The Appraisal Foundation.

(3) The appraisal shall reflect the value of the property on an "as is" basis not ((~~an~~)) "((as built)) subject to repair," ((~~basis~~)) "per plans and specifications," or otherwise.

((~~(7)~~)) (4) The appraisal shall conform to the following requirements:

(a) The appraisal shall be prepared by a competent, independent appraiser acceptable to the administrator; and

(b) The appraiser shall be appropriately licensed ((~~or certified~~)) in conformance with the ((~~Certified~~)) The Real Estate Appraiser Act, chapter 18.140 RCW.

((~~(An)~~)) (5) The effective date of the appraisal ((made)) must be within the twelve-month period prior to the sale of the mortgage paper security ((~~is sufficient~~)).

((~~(5)~~)) (6) The written consent of any appraiser who is named as having prepared an appraisal in connection with the mortgage paper securities offering shall be kept on file by the mortgage broker-dealer.

((~~(6)~~)) (7) In lieu of the appraisal required by this section, the mortgage broker-dealer may elect to rely on the most recent tax assessment valuation of each parcel of real property.

((~~(7)~~)) (8) The specific offering circular shall disclose the ratio of the aggregate principal amount of the notes((, bonds)) or other obligations sold, together with the unpaid principal amount of any encumbrances upon the real property senior thereto, compared to the most recent tax assessment valuation of the real property or the appraised amount, if an appraisal was obtained pursuant to this section. If the loan to value ratio is disclosed based on the appraised value of the real property,

the specific offering circular shall also disclose the most recent tax assessment valuation of the real property.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-110 Financial statements and annual reports.** Every mortgage broker-dealer shall file with the director upon registration under WAC 460-33A-080 and annually, a report containing financial statements prepared in accordance with generally accepted accounting principles by an independent certified public accountant, or by the chief executive and accounting officers of the mortgage broker-dealer who shall certify that they each have verified the material accuracy and completeness of the information contained therein. The annual report shall include, but not be limited to the receipt and disposition of all funds handled in connection with transactions subject to the rules of this chapter. The annual report shall be filed with the director within ((ninety)) one hundred twenty days after the close of the period of the report unless, for good cause shown, the director in writing, extends the time therefor. The report shall contain the following:

- (1) Total number of sales, as principal or agent, subject to the rules of this chapter during the period(( )); and
- (2) Total dollar volume of such sales.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-115 Books and records.** Each mortgage broker-dealer ((shall)) has a duty to make and keep current in this state ((the following)) books and records relating to its business. This duty includes the duty to make, keep and preserve the records referenced in WAC 460-21B-050, as well as the following records concerning sales of mortgage paper securities and other asset-backed securities:

(1) A file for each loan which the mortgage broker-dealer has funded through sales of mortgage paper securities and other asset-backed securities, including securities not registered pursuant to chapter 460-33A WAC, which file shall contain the following:

(a) A copy of each appraisal or tax assessment valuation ((required by WAC 460-33A-105));

(b) Copies of all documents of title representing current interests in the real property securing the loan;

(c) Copies of title insurance policies and any other insurance policies on the real property securing the loan;

(d) Evidence of payments for the purchase of securities in the loan to include copies of checks submitted by investors, ACH payments, and records of other electronic payments;

(e) A copy of the signed participation agreement for each investor;

(f) The ((acknowledgement)) acknowledgment of receipt by each investor of the specific and general offering circulars or other disclosure materials;

((e))) (g) The subscription agreement for each investor;

((f))) (h) A copy of the investor suitability questionnaire for each investor and documentation of the mortgage broker-dealer's determination that an investment in mortgage paper

securities or other asset-backed securities is suitable for each investor in accordance with RCW 21.20.702 and WAC 460-33A-031. If the mortgage broker-dealer has not verified the suitability of an investment in mortgage paper securities for ((a purchaser)) an investor within the prior twelve months, the mortgage broker-dealer shall conduct a reasonable inquiry to verify that further investment in mortgage paper securities is suitable based on the criteria set forth in WAC 460-33A-031 and document such a determination. As an alternative to maintaining this documentation in the loan files, the mortgage broker-dealer may maintain this documentation in separate files provided a list of all investors participating in the loan is included in the loan file with an indication of the location of this documentation for each investor;

((g))) (i) The specific offering circular for the offering or other offering materials provided in sales of asset-backed securities;

((h))) (j) All correspondence with investors relating to the loan;

((i))) (k) The loan application of the borrower and all supporting documents such as the credit report on the borrower;

((j))) (l) Copies of all service agreements with investors relating to the loan;

((k))) (m) Copies of the escrow instructions and settlement statements relating to the loan;

((l))) (n) Copies of all real estate broker's opinions of value obtained in accordance with WAC 460-33A-038 and their written consent to use their opinions of value in connection with an offering of mortgage paper securities.

(2) A file for each loan for which the mortgage broker-dealer is soliciting funds through the sale of mortgage paper or other asset-backed securities, which file shall contain the same items required under subsection (1) of this section except for those items which are not yet available because the mortgage paper or asset-backed security has not yet been sold.

(3) A file containing copies of all service agreements required under WAC 460-33A-065.

(4) Ledgers (or other records) reflecting all assets, liabilities, income, expense, and capital accounts.

(5) Ledgers, accounts (or other records) itemizing separately each cash account of every customer including, but not limited to, all funds in the mortgage broker's escrow and trust account, all proceeds of sale, refinancing, foreclosure, or similar transaction involving the real or personal property securing a loan funded by sales of mortgage paper, and all moneys collected from the borrower on behalf of the investors.

(6) A record of the proof of money balances of all ledger accounts in the form of trial balances and a record of the computation of net liquid assets as of the trial balance date pursuant to WAC 460-33A-040. Such trial balances and computations shall be prepared currently at least once a month.

(7) A questionnaire or application for employment executed by each agent of such broker-dealer, which questionnaire or application shall be approved in writing by an authorized representative of such broker-dealer and shall contain at least the following information with respect to each such person:

(a) His or her name, address, Social Security number, and the starting date of his or her employment or other association with the broker-dealer.

(b) His or her date of birth.

(c) The educational institutions attended by him or her and whether or not he or she graduated therefrom.

(d) A complete, consecutive statement of all his or her business connections for at least the preceding ten years, including his or her reason for leaving each prior employment, and whether the employment was part time or full time.

(e) A record of any denial of a certificate, membership or registration, and of any disciplinary action taken, or sanction imposed, upon him or her by any federal or state agency, or by any national securities exchange or national securities association, including a record of any finding that he or she was a cause of any disciplinary action or had violated any law.

(f) A record of any denial, suspension, expulsion or revocation of a certificate, membership or registration of any broker-dealer with which he or she was associated in any capacity when such action was taken.

(g) A record of any permanent or temporary injunction entered against him or her or any broker-dealer with which he or she was associated in any capacity at the time such injunction was entered.

(h) A record of any arrests, indictments or convictions for any felony or any misdemeanor, except minor traffic offenses, of which he or she has been the subject.

(i) A record of any other name or names by which he or she has been known or which he or she has used.

**(8) A file containing all written complaints and memoranda prepared by the mortgage broker-dealer summarizing each oral complaint received from investors in mortgage paper securities or other securities sold by the mortgage broker-dealer.**

#### NEW SECTION

**WAC 460-33A-116 Access to loan records by investors.** (1) An investor in mortgage paper securities has a right to access the books and records maintained by a mortgage broker-dealer concerning the loan underlying the mortgage paper securities purchased by that investor, as well as records concerning property in which an investor has acquired an interest through foreclosure of loans sold as mortgage paper securities, to the extent it is reasonably necessary in the interest of the investor.

(2) Every mortgage broker-dealer shall provide investors in mortgage paper securities and their agents and attorneys access to the books and records required to be maintained by WAC 460-33A-115 (1) and (2), except for the records set forth in WAC 460-33A-115 (1)(d) through (h) to the extent those records concern investments in mortgage paper securities by persons other than the requestor, concerning loans in which the investors have invested. Every mortgage broker-dealer shall provide investors in mortgage paper securities and their agents and attorneys the opportunity to inspect and copy books and records during ordinary business hours at the mortgage broker-dealer's principal office if the investor or its agent or attorney gives the mortgage broker-dealer notice of

the investor's demand at least five business days before the date on which the shareholder wishes to inspect and copy. A mortgage broker-dealer may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(3) Every mortgage broker-dealer shall furnish to an investor in mortgage paper securities, and to the legal representative of a deceased investor or investor under legal disability:

(a) Without demand, any information concerning the mortgage paper securities purchased that is reasonably required for the proper exercise of the investor's rights under the participation agreement or this chapter; and

(b) On demand, any other information concerning the mortgage paper securities purchased, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

**AMENDATORY SECTION** (Amending WSR 01-23-002, filed 11/7/01, effective 12/8/01)

**WAC 460-33A-125 Notice of changes by mortgage broker-dealers.** (1) Each mortgage broker-dealer shall, upon any material change in the information contained in its application for registration promptly file an amendment to such application setting forth the changed information (and in any event within thirty days after the change occurs).

(2) Each mortgage broker-dealer shall notify the director of the employment of any new agent in Washington and of the termination of employment of any agent in Washington, giving the full name and Social Security number of the individual involved, the date of employment or termination, and the location of the office in which he or she was or will be employed by submitting a completed ((NASD)) FINRA Form U-4 to the director or the director's designee within twenty-one days after the event occurs.

(3) Each mortgage broker-dealer shall notify the director of the termination of employment of any agent in Washington by submitting a completed ((NASD)) FINRA Form U-5 to the director or the director's designee, within thirty days after the event occurs.

**WSR 12-11-089  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 12-61—Filed May 18, 2012, 10:46 a.m., effective June 18, 2012]

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

Purpose: The purpose of this proposal is to amend several WAC sections to clarify rule titles and to align a WAC with previous commission action taken in February 2012. WAC 220-16-230, 220-16-235, 220-16-275, 220-16-280, 220-130-010, and 232-13-010 are repealed, as they are outdated and unnecessary.

Reasons Supporting Proposal: This rule change proposal was discussed during the fish and wildlife commission conference call on May 4, 2012. The commission adopted the proposed changes during the May 18, 2012, conference

call. The changes are part of an agency WAC overhaul project that will increase clarity, accuracy, and efficiency of the Washington department of fish and wildlife administrative code.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-16-230, 220-16-235, 220-16-275, 220-16-280, 220-130-010 and 232-13-010; and amending WAC 220-56-129, 220-76-130, 220-77-081, and 232-13-020.

Statutory Authority for Adoption: RCW 34.05.353  
(1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(o).

Adopted under notice filed as WSR 12-05-101 on February 21, 2012.

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 4, Repealed 6.**

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: May 18, 2012.

Miranda Wecker, Chair  
Fish and Wildlife Commission

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-16-230	Geographical definitions—Outside Initiative 77 line.
WAC 220-16-235	Geographical definitions—Inside Initiative 77 line.
WAC 220-16-275	Geographical definitions—Village Point.
WAC 220-16-280	Geographical definitions—Clam and oyster districts.

**AMENDATORY SECTION** (Amending Order 10-64, filed 3/19/10, effective 5/1/10)

**WAC 220-56-129 Unclassified freshwater invertebrates and fish.** (1) Definitions. For purposes of this section, "freshwater clams and mussels" means all freshwater bivalves existing in Washington in a wild state, except prohibited aquatic animal species classified under WAC 232-12-090.

(2) It is unlawful for any person to take or possess freshwater clams and mussels taken for personal use. Freshwater clams and mussels include all bodily parts but does not include five pounds or less of relic shells of freshwater clams.

and mussels. A relic (dead) shell is defined as one which apparently died of natural causes and contains no meat or soft parts: It readily exhibits noticeable sediment, vegetation, algal or mineral stains, discolorations, soiling, weathering or other visual evidence on its interior surface which clearly and unambiguously shows the shell has not been cooked-out or freshly cleaned. No license or permit is required to take or possess up to five pounds of relic shells per day. It is unlawful to take or possess more than five pounds of relic shells without first obtaining a scientific collection permit.

(3) It is unlawful to retain any freshwater fish not classified as a food fish or game fish, with the exception of northern pike when taken in accordance with WAC 220-12-090.

(4) It is unlawful for any person to take, fish for or possess Pacific lamprey, western brook lamprey, or river lamprey taken for personal use.

(5) Violation of this rule is punishable under RCW 77.15.140.

**AMENDATORY SECTION** (Amending Order 02-309, filed 12/24/02, effective 7/1/03)

WAC 220-76-130 ((Marine finfish aquaculture))  
))Aquaculture facility inspection authority—Marine finfish aquaculture. Authorized department employees shall, at reasonable times and in a reasonable manner, have access to marine aquatic farming locations to conduct inspections to determine conformity with the law and the rules of the department relating to preventing escaped finfish and/or the recapture of escaped finfish. The department shall conduct at least annual inspections of marine finfish aquaculture facilities of the state.

**AMENDATORY SECTION** (Amending Order 01-281, filed 12/21/01, effective 1/21/02)

**WAC 220-77-081 Aquaculture facility inspection authority—Generally.** Authorized department employees shall, at reasonable times and in a reasonable manner, have access to all finfish aquaculture facilities to conduct inspections for the prevention and suppression of aquaculture diseases, including, but not limited to, taking samples for detection of regulated finfish pathogens and other diseases. If the department is denied access, a court of competent jurisdiction may issue a search warrant authorizing access to the facility upon a showing that the facility is engaged in aquaculture production and that access has been denied.

## REPEALER

The following section of the Washington Administrative Code is repealed:

## WAC 220-130-010 Purpose.

AMENDATORY SECTION (Amending Order 07-293, filed 12/17/07, effective 1/17/08)

**WAC 232-13-020 Declaration of purpose—Department lands.** The primary purpose of department lands is the preservation, protection, perpetuation and management of

fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities when compatible with healthy and diverse fish and wildlife populations.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-13-010

Introduction.

**WSR 12-11-093  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed May 18, 2012, 4:23 p.m., effective June 18, 2012]

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

Purpose: Amend rules for commercial salmon fishing in Grays Harbor and Willapa Bay, includes WAC 220-36-023 Salmon—Grays Harbor fall fishery, 220-40-021 Willapa Bay salmon—Summer fishery, and 220-40-027 Salmon—Willapa Bay fall fishery.

Citation of Existing Rules Affected by this Order: Amending WAC 220-36-023, 220-40-021, and 220-40-027.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 12-05-111 on February 22, 2012.

Changes Other than Editing from Proposed to Adopted Version: In WAC 220-36-023, the Washington department of fish and wildlife (WDFW) amended the proposal to allow harvest of hatchery origin chinook in fisheries directed on Chehalis River stocks (Catch Areas 2A and 2D). However, predicted abundance of chum is not sufficient to allow harvest without significantly constraining the harvest of abundant coho and hatchery origin chinook.

The expected abundance of Humptulips coho is sufficient to allow harvest of both hatchery and natural origin coho in Catch Area 2C. The expected encounter of chum is very small, and allowing retention of chum will not constrain chinook and coho harvest beyond achieving conservation objectives for each of these stocks.

In WAC 220-40-021, WDFW amended the proposal to require the release of chum and wild chinook, and the agency adjusted the dates for the fisheries to reduce the impact to the sport fishery. Forecasts for chum and wild chinook returning to Willapa Bay are not of sufficient abundance to allow directed fisheries. Additionally, requiring the release of unmarked chinook provides additional protection for chinook stocks originating from the Columbia River that "dip-in" to Willapa Bay.

In WAC 220-40-027, WDFW amended the proposal to require the release of chum and wild chinook, and the agency modified the season structure and open areas to reduce the interaction between sport and commercial fisheries. Release requirements for chum and wild chinook reflect 2012 fore-

casts for chum and wild chinook returning to Willapa Bay. The numbers of these fish are insufficient to allow directed fisheries.

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 3, 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: May 18, 2012.

Philip Anderson

Director

**AMENDATORY SECTION** (Amending Order 11-91, filed 6/22/11, effective 7/23/11)

**WAC 220-36-023 Salmon—Grays Harbor fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

(1) ((Gill net)) Gillnet gear may be used to fish for Chinook, coho, chum salmon, and white sturgeon ((only according to)) as provided for in subsections (6) and (7) of this section and in the times and area identified in the chart below. ((All nonlegal sturgeon, all steelhead, and all other species including Chinook, coho, chum and white sturgeon must be handled with care to minimize injury and must be released immediately to the river/bay:))

Time:	Areas:
6:00 p.m. August ((18)) 19 through 6:00 p.m. August ((19, 2011)) 20, 2012;	Area 2C
6:00 p.m. August ((21)) 23 through 6:00 p.m. August ((22, 2011)) 24, 2012;	
6:00 p.m. August ((25)) 27 through 6:00 p.m. August ((26, 2011)) 28, 2012;	
6:00 p.m. August ((28)) 29 through 6:00 p.m. August ((29, 2011)) 30, 2012;	
((6:00 p.m. September 1 through 6:00 p.m. September 2, 2011;))	
6:00 p.m. September ((7)) 5 through 6:00 p.m. September ((8, 2011)) 6, 2012;	
((6:00 p.m. September 11 through 6:00 p.m. September 12, 2011;))	
<u>AND</u>	

Time: Areas:

6:00 p.m. September ((15)) 28 through  
6:00 p.m. September ((16, 2011)) 29,  
2012.

((9:30 a.m. October 24 through 7:30  
p.m. October 24, 2011;

AND

5:00 a.m. October 25 through 3:00 p.m.  
October 25, 2011.)

((9:00)) 6:00 a.m. October ((8)) 1  
through ((7:00)) 6:00 p.m. October ((8,  
2011)) 1, 2012;

((7:00)) 6:00 a.m. October ((12)) 2  
through ((5:00)) 6:00 p.m. October  
((12, 2011)) 2, 2012;

((AND

8:30 a.m. October 18 through 6:30 p.m.  
October 18, 2011;)) 6:00 a.m. October  
12 through 6:00 p.m. October 12, 2012;

AND

6:00 a.m. October 14 through 6:00 p.m.  
October 14, 2012.

**Area 2A** ((shall include those  
waters of Grays Harbor and the  
Chehalis River estuary  
upstream from the Highway  
101 Bridge at Aberdeen to a  
line projected from the Lake-  
side Industries asphalt plant  
tower at a right angle to the  
thread of the stream to the  
opposite shore;))

AND

That portion of **Area 2D** lying  
easterly of a north-south line  
from the confluence of the  
Hoquiam and Chehalis rivers to  
Renney Island, then easterly to  
"Range Marker G," located on  
the south shore of Grays Har-  
bor, then to the eastern bound-  
ary of **Area 2D** at the Highway  
101 Bridge.

**Area 2A** ((shall include those  
waters of Grays Harbor and the  
Chehalis River estuary  
upstream from the Highway  
101 Bridge at Aberdeen to a  
line projected from the Lake-  
side Industries asphalt plant  
tower at a right angle to the  
thread of the stream to the  
opposite shore;)) **and**

**Area 2D.**

((8:30)) 6:00 a.m. October ((23)) 19  
through ((6:30)) 6:00 p.m. October  
((23, 2011)) 19, 2012;

6:00 a.m. October 20 through 6:00 p.m.  
October 20, 2012;

AND

((7:30 a.m.)) 6:00 p.m. October ((28))  
21 through ((4:30)) 6:00 p.m. October  
((28, 2011)) 22, 2012.

## Gear:

(2) ((Gill net)) **Gillnet** gear restrictions: All areas:

(a) Drift ((gill net)) **gillnet** gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

It is unlawful to use a ((gill net)) **gillnet** to fish for salmon or white sturgeon if the lead line weighs more than two pounds per fathom of net as measured on the cork line((, provided that)). It is ((lawful)) **permissible** to have a ((gill net)) **gillnet** with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or ((in)) transiting through Grays Harbor.

(b) From August 16 through September 30, ((2011)) 2012: In Area 2C, mesh size must not exceed ((seven)) eight and one-half inch ((minimum to nine inch)) maximum.

((c)) From October 1 through October ((22, 2011)) 31, 2012: In Areas 2A and 2D, mesh size must not exceed ((six-  
inch)) six and one-half inch maximum. Nets may be no more than fifty-five meshes deep. ((Nets must hang straight from top to the bottom. Strings may only be used to secure break-away panels.

From October 23 through October 31, 2011: In Areas 2A and 2D mesh size must not exceed six and one-half inch maximum.

From October 24 through October 31, 2011: In Area 2C mesh size must not exceed nine inch maximum.

(e) Only one net may be fished at a time; other nets must be properly stored.

((d)))

## Other:

(3) Recovery boxes and soak times:

(a) For Areas 2A and 2D, soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the ((gill net)) **gillnet** web is deployed into the water until the ((gill net)) **gillnet** web is fully retrieved from the water.

((f))) (b) Any steelhead or salmon that is required to be released and is bleeding or lethargic must be placed in a recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (d) of this subsection.

(c) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

(d) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A((,-2C,)) and 2D. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

((f)) **Releases:**

(i) All wild (unmarked) coho, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the

~~fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Area 2C.~~

(ii) All Chinook, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing Areas 2A and 2D.

(g) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.

(h) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

#### **Other**

((3))) (4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

((4))) (5) Fishers must take department observers if requested by department staff when participating in these openings. ((Pursuant to WAC 220-69-240,)) Fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August ((14, 2011, for August and September openings and prior to 12:00 p.m. on October 18 for the October)) 15, 2012, for openings in Area 2C. Notice of intent must be given prior to 12:00 p.m. ((October 4, 2011)) on September 26, 2012, for ((the)) openings in Areas 2A and 2D.

((5)) (6) Retention of ((green sturgeon)) any species other than Chinook, coho, and chum, and white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, is prohibited in Area 2C.

((6))) (7) Retention of any species other than coho salmon, white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin, is prohibited in Areas 2A and 2D from October 1 through October 20, 2012. Retention of any species other than coho, chum, white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin, is prohibited in Areas 2A and 2D from October 21 through October 24, 2012.

(8) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at [harborfishtickets@dfw.wa.gov](mailto:harborfishtickets@dfw.wa.gov). Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and include encounters with each day's quick reporting.

(9) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork length measure of no less than 43 inches and no more than 54 inches.

(10) Do NOT remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size and all green

sturgeon, obtain available information from tags without removing the tags.

(11) It is unlawful to fish for salmon with ((gill net)) gill net gear in Areas 2A, 2C, and 2D unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in ((their)) his or her possession a department-issued certification card.

**AMENDATORY SECTION** (Amending Order 09-108, filed 5/27/10, effective 6/27/10)

**WAC 220-40-021 Willapa Bay salmon—Summer fishery.** From July 5 through August 15, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes((,-)), except that:

#### **Fishing periods:**

(1) Gillnet gear may be used to fish for coho salmon, white sturgeon, and adipose fin-clipped hatchery Chinook salmon:

Time:	Areas:
6:00 p.m. August 12 through 11:59 p.m. August 15, 2012.	2M, 2N, 2R, 2T, and 2U

#### **Gear:**

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

Only one net may be fished at a time; other nets must be properly stored.

It is unlawful to use a gillnet to fish for salmon or white sturgeon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transit through Willapa Bay.

(b) Mesh size must not exceed nine inches.

#### **Other:**

(3) Recovery boxes and soak times:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must

be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(c) All wild (unmarked) Chinook, chum, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or an operating recovery box when fishing in Willapa Bay Salmon Management Catch Reporting Areas (SMCRA) 2M, 2N, 2R, 2T, and 2U.

(d) Any steelhead or salmon that is required to be released and is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (a) of this subsection.

(e) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

(5) Retention of any species other than coho salmon, white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin, is prohibited.

(6) Report ALL encounters of wild (unmarked) Chinook, green sturgeon, and steelhead (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork-length measure of no less than 43 inches and no more than 54 inches.

(8) Do NOT remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size and all green sturgeon, obtain available information from tags without removing the tags.

(9) It is unlawful to fish with gillnet gear in Areas 2K, 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in his or her possession a department-issued certification card.

(10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August 8, 2012.

#### AMENDATORY SECTION (Amending Order 11-91, filed 6/22/11, effective 7/23/11)

#### **WAC 220-40-027 Salmon—Willapa Bay fall fishery.**

From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

#### **Fishing periods:**

(1) ((Gill net)) Gillnet gear may be used to fish for ((salmon and white sturgeon only as shown below. All nonlegal sturgeon, all steelhead, and all other species including Chinook, coho, chum and white sturgeon, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay)) coho salmon, white sturgeon, and adipose fin-clipped hatchery Chinook:

Time:	Area:
<u>12:00 a.m. August 16 through 6:00 a.m. August 16, 2012;</u>	<u>Area 2M, Area 2N, Area 2R, Area 2T, and Area 2U</u>
<u>6:00 p.m. August ((29)) 21 through 6:00 a.m. August ((30, 2011)) 22, 2012;</u>	<u>((Area 2N and)) Area 2U</u>
<u>6:00 p.m. August ((34)) 26 through 6:00 a.m. ((September 1, 2011.)) August 27, 2012;</u>	<u>Area 2N, Area 2R, and Area 2U</u>
<u>6:00 p.m. ((September 6)) August 28 through 6:00 a.m. ((September 7, 2011)) August 29, 2012;</u>	<u>((Area 2N, Area 2R, and Area 2U))</u>
<u>6:00 p.m. August 30 through 6:00 a.m. August 31, 2012;</u>	<u>Area 2N and Area 2U</u>
<u>6:00 p.m. September ((8)) 4 through 6:00 a.m. September ((9, 2011.)) 5, 2012;</u>	<u>Area 2N, Area 2R, and Area 2U</u>

**Time:**

6:00 p.m. September ((+3))  
6 through 6:00 ((p.m.)) a.m.  
September ((22, 2011.)) 7,  
2012;

6:00 p.m. September 9  
through 6:00 a.m. Septem-  
ber 10, 2012;  
6:00 p.m. September 12  
through 6:00 a.m. Septem-  
ber 13, 2012;

6:00 p.m. September ((24))  
19 through 6:00 p.m. Sep-  
tember ((22, 2011)) 20,  
2012;

AND

6:00 p.m. September ((28))  
26 through 6:00 p.m. Sep-  
tember ((29, 2011.)) 27,  
2012;

6:00 p.m. September ((24))  
15 through 6:00 p.m. ((Sep-  
tember 30, 2011)) October  
13, 2012;

((6:00 p.m. October 2  
through 6:00 p.m. October  
7, 2011;

6:00 p.m. October 10  
through 6:00 p.m. October  
14, 2011.))

AND

12:00 p.m. November 6  
through 12:00 p.m. Novem-  
ber 30, ((2011)) 2012.

**Gear:**

## (2) ((Gill net)) Gillnet gear restrictions - All areas:

(a) Drift ((gill net)) gillnet gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

**Area:**

((Area 2M, Area 2N, Area  
2R, Area 2T, and Area  
2U))

Area 2M, Area 2N, Area  
2R, Area 2T, east of a line  
projected from the eastern  
most upland at Toke Point  
(approximately 46° 42'  
26"N, 123° 57' 58"W) to  
Goose Point (approximately  
46° 38' 12" N, 123° 57' 31"  
W) then to the eastern  
boundary at Range Marker  
"B" (located at 46° 42' 34"  
N, 123° 51' 18" W), and  
Area 2U

Area 2K

Area 2M, Area 2N, Area  
2R, Area 2T, and Area 2U

Only one net may be fished at a time; other nets must be  
properly stored.

It is unlawful to use a ((gill net)) gillnet to fish for salmon and/or white sturgeon if the lead line weighs more than two pounds per fathom of net as measured on the cork line((, provided that)). It is ((lawful)) permissible to have a ((gill net)) gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transiting through Willapa Bay.

(b) From August 16 through September ((12, 2011)) 13, 2012: Mesh size must not exceed nine-inch maximum mesh.

(c) From September ((13)) 15 through ((September 23, 2011)) October 31, 2012: Mesh size must not exceed ((six-  
 inch)) six and one-half inch maximum mesh.

(d) ((From September 24 through October 31, 2011:  
 Mesh size must not exceed six and one-half inch maximum  
 mesh.

((e))) From November 6 through November 30, ((2011)) 2012: Mesh size must ((not exceed)) be nine-inch minimum mesh, except that from 6:00 p.m. November 11 through 6:00 p.m. November 19, ((2011)) 2012 (coho directed), there are two alternatives:

- (i) Use six and one-half inch maximum mesh; or
- (ii) Use nine-inch minimum mesh.

Only one net of either six and one-half inch or nine-inch configuration, not exceeding fifteen hundred feet, may be used when in the act of fishing.

((f)) Only one net may be fished at a time; other nets must be properly stored.

((g)))

**Other:**

## (3) Recovery boxes and soak time:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2K, 2M, 2N, 2R, 2T, and 2U from August 16 through October 31, ((2011)) 2012. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

((h))) (b) From August 16 through October 31, 2012, soak time must not exceed 45 minutes. Soak time is defined

as the time elapsed from when the first of the ((gill net)) gill-net web is deployed into the water until the ((gill net)) gillnet web is fully retrieved from the water.

((+)) (c) From August 16 through ((September 30, 2011)) October 31, 2012, all ((wild (unmarked) Chinook,)) chum, nonlegal sturgeon ((and)), all steelhead, and wild (unmarked) Chinook must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas 2K, 2M, 2N, 2R, 2T, and 2U.

((From October 1 through October 31, 2011, all wild (unmarked) Chinook, chum, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas 2K, 2M, 2N, 2R, 2T, and 2U.))

From November 6 through November 30, ((2011)) 2012, all chum, all nonlegal sturgeon, and all steelhead must be handled with ((eard)) care to minimize injury to the fish and must be released immediately to the river/bay when fishing in Willapa Bay Areas ((2K,)) 2M, 2N, 2R, 2T, and 2U.

((+)) (d) Any ((fish that)) steelhead or salmon required to be released and is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (a) of this subsection.

((+)) (e) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

#### **((Other:))**

((3)) (4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

((+)) (5) Retention of ((green sturgeon)) any species other than coho salmon, white sturgeon with fork length measure not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

((+)) (6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at [harborfishtickets@dfw.wa.gov](mailto:harborfishtickets@dfw.wa.gov). Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork length measure of no less than 43 inches and no more than 54 inches.

(8) Do NOT remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size and all green sturgeon, obtain available information from tags without removing tags.

(9) It is unlawful to fish with ((gill net)) gillnet gear in Areas 2K, 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

(10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August 15, 2012.

## **WSR 12-11-100**

### **PERMANENT RULES**

### **PROFESSIONAL EDUCATOR STANDARDS BOARD**

[Filed May 21, 2012, 4:01 p.m., effective June 21, 2012]

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

Purpose: Technical edits to WAC 181-79A-206. Removes references to transition dates and procedure between the time the professional certification programs were eliminated and the implementation of the external assessment and its September 2011 effective date.

Citation of Existing Rules Affected by this Order: Amending x.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 12-06-060 on March 5, 2012.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail [david.brenna@k12.wa.us](mailto:david.brenna@k12.wa.us).

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

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

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

Date Adopted: May 21, 2012.

David Brenna  
Senior Policy Analyst

**AMENDATORY SECTION** (Amending WSR 09-20-088, filed 10/6/09, effective 11/6/09)

**WAC 181-79A-206 Academic and experience requirements for certification—Teachers.** Candidates for

teachers' certificates shall complete the following requirements in addition to those set forth in WAC 181-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university pursuant to WAC 181-79A-030(5).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) ((Beginning January 1, 2010 and pursuant to WAC 181-79A-206 (3)(f))) Candidates for the professional certificate shall have successfully completed ((a professional educator standards board approved, professional certificate program, or submit to)) the external portfolio of evidence assessment as directed by RCW 28A.410.220(2). The professional certificate requires successful demonstration of the three standards (effective teaching, professional development, and professional contributions) and twelve criteria, pursuant to WAC 181-79A-207.

(i) ((Individuals who hold a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirements of the professional certificate, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.))

((ii))) A candidate may submit a portfolio of evidence to the external assessment for evaluation as per RCW 28A.410.-220(2) following two years of successful teaching in a state-approved public, private or state operated education program for children as defined in Title 28A RCW: Provided, the candidate was employed at least three-quarters time each year or a total of one and one-half full-time equivalent over a minimum of two years as defined in WAC 392-121-212. The portfolio assessment elements shall be determined by the pro-

fessional educator standards board and include requirements for the candidates to prepare and submit a professional growth plan approved and supported by a professional growth team.

((b))) (ii) A professional growth plan identifying the specific competencies, knowledge, skills and experiences needed to meet the standards set forth in WAC 181-79A-207 is prepared by the candidate for a professional certificate, in collaboration with members of the professional growth team. The candidate will identify a professional growth team as defined in WAC 181-79A-030(11).

((c))) (iii) Teacher professional certificate portfolio evidence of assessment pilot participants who have not attended a program but received a "met criteria" on all entries submitted to the pilot assessment would receive the professional certificate and not be required to attend a program.

((d))) (b) Provided, individuals who hold a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirements of the professional certificate, in place of the requirements in (a) of this subsection.

(c) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

((e) Prior to January 1, 2010, candidates pursuing the professional certificate will submit a portfolio to the professional educator standards board approved professional certificate program.

((f) Between January 1, 2010, and September 1, 2011, candidates pursuing the professional certificate will have two options:

((i) Submit a portfolio for evaluation to the college or university professional certificate program. The college or university has until December 31, 2011, to verify completion.

((ii) Submit a portfolio for evaluation to the uniform and external portfolio of evidence assessment as administered by the professional educator standards board.

((g) After September 1, 2011, candidates pursuing the professional certificate must submit a portfolio for evaluation to the uniform and external portfolio of evidence assessment as administered by the professional educator standards board.)) (d) Candidates who have successfully completed the requirements for the professional certificate prior to the expiration of their residency certificate which would subject them to reinstatement according to WAC 181-79A-251 (1)(a)(iii) but failed to apply for the certificate may apply for the professional certificate. Individuals who are subject to reinstatement according to WAC 181-79A-251 (1)(a)(iii) who do not meet requirements for the professional certificate prior to the expiration of the residency certificate may apply for the professional certificate following not less than five years from the final residency expiration.

**WSR 12-11-106**  
**PERMANENT RULES**  
**FOREST PRACTICES BOARD**

[Filed May 22, 2012, 9:12 a.m., effective June 22, 2012]

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

Purpose: Amend chapter 222-21 WAC, Forestry riparian easement program (FREP) to incorporate ESHB 1509 (2011 legislation) that amended chapter 76.13 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 222-21-020, 222-21-035, 222-21-060, 222-21-061 and 222-21-065; and amending WAC 222-21-005, 222-21-010, 222-21-030, 222-21-040, 222-21-045, 222-21-050, 222-21-070, 222-21-080, and 222-21-090.

Statutory Authority for Adoption: RCW 76.090.040 [76.09.040] and 76.09.370.

Other Authority: RCW 76.13.120.

Adopted under notice filed as WSR 12-05-094 on February 17, 2012.

A final cost-benefit analysis is available by contacting Patricia Anderson, Department of Natural Resources, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1428, e-mail forest.practicesboard@dnr.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 4, Amended 9, Repealed 5.

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: May 8, 2012.

B. Moran  
Chair

**AMENDATORY SECTION** (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

**WAC 222-21-005 Policy.** The legislature has found that further reduction in harvestable timber owned by small forest landowners as a result of the rules adopted under RCW 76.09.055 or 76.09.370 will further erode small landowners' economic viability and willingness or ability to keep the lands in forestry use and, therefore, reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources. The legislature addressed these concerns by establishing a forestry riparian easement program to acquire easements from qualifying small forest landowners along riparian and other areas of value to the state for protection of aquatic resources.

**AMENDATORY SECTION** (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

**WAC 222-21-010 Definitions.** The following definitions apply to this chapter:

(1) ("Commercially reasonable harvest unit" means a harvest area that meets the requirements of WAC 222-21-060.)

(2)) "Completion of harvest" means that the trees within the area under an approved forest practices application have been harvested ((from an area under an approved forest practices application)) and ((that)) further entry into that area by any type of logging or slash treating equipment or method is not expected.

((3)) "Compliance costs" includes the cost of preparing and regrading the easement, and any business and occupation tax and real estate excise tax imposed because of entering into the easement.

(4) "Danger tree" means any qualifying timber reasonably perceived to pose an imminent danger to life or improved property.

((5))) (2) "Easement premises" means the geographic area designated in a forestry riparian easement((;)) including ((the)) areas in which qualifying timber is located. ((Easement premises may be categorized as follows:

(a) Riparian area easement premises means riparian areas and areas upon which qualifying timber associated with riparian areas are located.

(b) Other easement premises means areas of land required to be left unharvested under rules adopted under RCW 76.09.055 or 76.09.370 including areas upon which other qualifying timber outside riparian areas is located and areas of land upon which uneconomic qualifying timber is located.

((6))) (3) "Forestry riparian easement" means ((an)) a conservation easement covering qualifying timber granted voluntarily to the state by a qualifying small forest landowner.

((7))) (4) "Forests and fish rules" means the rules adopted by the board in accordance with RCW 76.09.055, 76.09.370, and the amendments to those rules.

(5) "Hazardous substances" ((means)) includes, but is not limited to, hazardous substances as defined in RCW 70.102.010((5,)) and 70.105D.020((7)), and solid waste as defined in RCW 70.95.030((22))).

((8)) "High impact regulatory threshold" means the threshold where the value of qualifying timber is greater than 19.1% (for timber in Western Washington) or 12.2% (for timber in Eastern Washington) of the value of the harvested timber and qualifying timber under the approved forest practices application covering the qualifying timber.

((9))) (6) "Qualifying small forest landowner" means an owner of forest land with qualifying timber meeting all of the criteria in (a)(i) through (iv) of this subsection as of the date the department receives a forest practices application associated with a proposed forestry riparian easement, and the date the department offers compensation for the easement.

(a) A qualifying small forest landowner:

(i) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity. If a landowner

grants timber rights to another entity for less than five years, the landowner may still be a qualifying small forest landowner under this chapter:

(ii) Has a fee interest in the land and timber or has rights to harvest the timber to be included in the forestry riparian easement that extend at least fifty years from the date the completed forestry riparian easement application is submitted to and received by the small forest landowner office;

(iii) Has no outstanding violations of chapters 76.09 or 76.13 RCW or any associated forest practices rules;

(iv) Has harvested or expects to harvest from his or her forest lands in this state as follows:

(A) No more than the average volume that would qualify the landowner as a "small harvester" under RCW 84.33.035 during the three years prior to the year the department receives a complete forest practices application associated with the easement, and certifies that he or she does not expect to exceed that average timber volume during the ten years following the date of the offer of compensation for the easement; or

(B) If the landowner can establish to the satisfaction of the small forest landowner office that those harvest limits were or will be exceeded to raise funds to pay estate taxes or other equally compelling and unexpected obligations such as court-ordered judgments or extraordinary expenses, the landowner may still be a qualifying small forest landowner.

(b) To be eligible for a forestry riparian easement, a qualifying small forest landowner must have submitted a forest practices application covering qualifying timber to the appropriate region office, and the department must have approved the application or disapproved it because of forests and fish rule restrictions. See WAC 222-21-032 for more information about easement eligibility.

(7) "**Qualifying timber**" means ((these)) forest trees that meet criteria (a) through (c) of this subsection:

(a) Are covered by a forest practices application ((that the small forest landowner is required to leave unharvested under rules adopted under RCW 76.09.055 or 76.09.370 or that are made uneconomic to harvest by those rules, and for which the small forest landowner is willing to grant the state a forestry riparian easement. Qualifying timber is timber within or bordering a commercially reasonable harvest unit, or timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules. Qualifying timber is categorized as follows:

(a) **Permanent qualifying timber** includes trees that shall not be harvested or damaged or removed from the easement premises during the term of the easement.

(i) Where permanent qualifying timber is in areas in which no harvest may take place, the easement shall describe the boundaries of the areas. No harvest of any tree within this area shall take place during the term of the easement.

(ii) Where permanent qualifying timber is located in areas in which selective harvest may take place, the permanent qualifying timber must be tagged for the duration of the easement.

(b) **Reserve qualifying timber** includes trees that may be harvested and removed but only in compliance with the

terms of the easement. Reserve qualifying timber shall be identified separately from the permanent qualifying timber.

(e) **Replacement qualifying timber** includes trees which, in the future, will be substituted for the reserve qualifying timber before the reserve qualifying timber may be harvested or removed from the property. Replacement qualifying timber will be selected from time to time pursuant to the provisions of the easement and will be subject to the terms and protections of the easement.

(d) **Uneconomic qualifying timber** includes trees made uneconomical to harvest. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

(e) **Other qualifying timber outside riparian areas** includes trees that may not be harvested under forest practices rules adopted under RCW 76.09.055 or 76.09.370 for reasons other than protection of riparian functions. It includes without limitation trees that are unharvestable because of public safety concerns. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

(10) "**Reimbursement**" means the repayment that the department shall provide to small forest landowners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program.

(11) "**Riparian areas**" include the areas designated in a forestry riparian easement. Riparian areas include without limitation all riparian and other special management zones required by the forest practices rules for protection of aquatic resources and includes associated qualifying timber.

(12) "**Riparian function**" includes bank stability, recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic systems conditions.

(13) "**Small forest landowner**" means:

(a) A forest landowner meeting all of the following characteristics as of the date a forest practices application is received (see WAC 222-20-010(7)), or the date the landowner provides written notification to the small forest landowner office that the harvest is to begin, for which the forestry riparian easement is associated:

(i) Is an individual, partnership, corporate, or other non-governmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forest landowner under this section;

(ii) Has a fee interest in the land and timber or has rights to harvest the timber to be included in the forestry riparian easement that extend at least fifty years from the date the forest practices application associated with the easement is received;

(iii) Has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the forest landowner as a small harvester under RCW 84.33.035(14); and

(iv) Certifies at the time the forest practices application is received that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035(14) during the ten years following receipt of the application.

~~(b) A forest landowner whose prior three year average harvest exceeds the limit of RCW 84.33.035(14), or who expects to exceed this limit during the ten years following receipt of the forest practices application, may still qualify as a small forest landowner if that landowner establishes to the small forest landowner office reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court ordered judgments or extraordinary medical expenses. (Note: The small forest landowner office will establish a board manual governing these exceptions.)~~

~~(e) A landowner may still qualify as a small forest landowner if the landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules adopted under RCW 76.09.055 or 76.09.370).~~

(b) Fit one of the following situations:

(i) The timber is required to be left unharvested because of forests and fish rule restrictions and is within, immediately adjacent to, or physically connected to a commercially reasonable harvest unit under an approved forest practices application; or

(ii) The timber cannot be approved for harvest under a forest practices application because of forests and fish rule restrictions.

(c) Are located within one or more of the following areas:

(i) Riparian or other sensitive aquatic areas;

(ii) Channel migration zones; or

(iii) Areas of potentially unstable slopes or landforms, verified by the department, that have the potential to deliver sediment or debris to a public resource or threaten public safety and are immediately adjacent to or physically connected to other qualifying timber that is located within riparian or other sensitive aquatic areas.

Qualifying timber may also mean forest trees that do not meet criteria (b) or (c) of this subsection if they are uneconomic to harvest as determined under WAC 222-21-032(6).

((14)) (8) "Small forest landowner office" ((is)) means an office within the department ((described in RCW 76.13.110, and it shall be)) of natural resources. The office is a resource and focal point for small forest landowner concerns and policies, and ((shall have significant)) has expertise regarding the management of small forest holdings and government programs applicable to such holdings((, and the)). The office manages the forestry riparian easement program.

((15) "Uneconomic to harvest" means that a harvest area meets the requirements of WAC 222-21-065.)

## AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

**WAC 222-21-030 ((Document)) Documentation and standards.** ~~((1) Riparian easement.~~ The riparian easement document must be substantially in the following form, but may be modified by the small forest landowner office wherever necessary to accomplish the purposes of RCW 76.13.120.

*(This version assumes ownership of land and trees)*

### **FORESTRY RIPARIAN EASEMENT**

THIS GRANT OF A FORESTRY RIPARIAN EASEMENT is made on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by [a corporation, limited liability company, partnership, limited partnership, limited liability partnership] [husband and wife] [individual] [or others as appropriate] having an address at ("Grantor"), to and in favor of the State of Washington, acting by and through the Department of Natural Resources ("Grantee").

#### **1.0 RECITALS AND PURPOSE**

**1.1** This Easement is intended to implement the goals of the Forest Practices Salmon Recovery Act, ESHB 2091, sections 501 through 504, chapter 4, Laws of 1999 ("Salmon Recovery Act"). The goals include avoiding the further erosion of the small forest landowners' economic viability and willingness or ability to keep the lands in forestry use which would reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, through the establishment of a forestry riparian easement program to acquire easements from small forest landowners along riparian and other areas of value to the state for protection of aquatic resources.

**1.2** This Easement is intended to protect the Qualifying Timber and riparian functions associated with the qualifying timber located on the Easement Premises as provided by the terms of this Easement as set forth in Exhibit B while preserving all lawful uses of the Easement Premises by Grantor consistent with the Easement objectives, and to provide Grantee with the ability to enforce the terms thereof.

**1.3** The Easement Premises and Qualifying Timber are located, as described in **Exhibit A**; that the encumbrances, if any, are as set forth in **Exhibit A**; that all Exhibits referenced herein and attachments thereto are incorporated into this Easement as part of this Easement; and that the Grantor wishes to execute this Forestry Riparian Easement.

**2.0 CONVEYANCE AND CONSIDERATION**

**2.1** In consideration of the mutual covenants contained herein, including without limitation the monetary consideration set forth in subsection 2.2 below, the Grantor does hereby voluntarily warrant and convey to the Grantee a Forestry Riparian Easement under the Salmon Recovery Act, which Easement shall remain in full force and effect from the date hereof until it expires on (month, date, year) [50 years from the date the complete and accurate forest practices application is submitted], which Easement shall consist of the rights and restrictions expressly set forth herein.

**2.2** In consideration of this Easement, Grantee shall pay to Grantor the sum of \_\_\_\_ dollars (\$\_\_\_\_\_.00).

~~IN WITNESS WHEREOF~~ Grantor and Grantee have executed this instrument on the day and year written.

GRANTOR:

Date: \_\_\_\_\_

By: \_\_\_\_\_

GRANTEE:

State of Washington

By and Through the Department of  
Natural Resources

Date: \_\_\_\_\_

\_\_\_\_\_  
(Title)

(insert form of acknowledgement, as appropriate)

**EXHIBIT A****A1 DESCRIPTION AND LOCATION OF QUALIFYING TIMBER**

The Qualifying Timber includes the following categories of trees located within the Easement Premises:

*[List the categories relevant to particular Easement, i.e., Permanent, Reserve, Replacement, Uneconomic, or Other Qualifying Timber.]* The Qualifying Timber is located as shown in the documentation attached hereto as Attachment A-1.

**A2 DESCRIPTION AND LOCATION OF EASEMENT PREMISES**

The Easement Premises is *[insert description using the standards developed under Section 504(9)(b) of the Salmon Recovery Act including the categories relevant to particular Easement, i.e., Riparian Area and Other Easement Premises]* as shown in the documentation attached hereto as Attachment A-2 and is located in *[insert legal subdivision/lot, etc., in which the Easement Premises exists.]*

**A3 BASELINE IDENTIFICATION, DESCRIPTION AND DOCUMENTATION OF PROPERTY, EASEMENT PREMISES AND QUALIFYING TIMBER**

The parties agree that the current use, condition of the Easement Premises and the condition of the Qualifying Timber are documented in the inventory of their relevant features and identified in Attachment A-3 ("Baseline Documentation"), and that this documentation provides, collectively, an accurate representation at the time of this grant and is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

**EXHIBIT B****FORESTRY RIPARIAN EASEMENT TERMS AND CONDITIONS****B1 DEFINITIONS**

The terms used in this Easement, including without limitation the following, are defined by the forest practices rules incorporated in Attachment B-1 to this Exhibit:

- "Danger Tree"**
- "Easement Premises"**
- "Qualifying Timber"**
- "Hazard Substances"**
- "Riparian Areas"**
- "Riparian Function"**

**B2 RIGHTS OF GRANTEE \*\*[Subsection B2.4 should be included only for multiple entry Easements.]\*\***

To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement:

**B2.1** To enforce the terms of this Easement as provided in subsection **B9**.

**B2.2** To enter upon the Easement Premises, or to allow Grantee's agents or any experts consulted by Grantee in exercising its rights under this Easement to enter upon the Easement Premises in order to evaluate Grantor's compliance with this Easement, and to otherwise enforce the terms of this Easement.

**B2.3** To convey, assign, or otherwise transfer Grantee's interests herein to another agency of the State of Washington, as provided for and limited by Section 504 of the Salmon Recovery Act.

**B2.4** Where harvest of Reserve Qualifying Timber is allowed during the term of this Easement, to approve Replacement Qualifying Timber that will be protected by this Easement as provided in subsection **B3.5**.

**B3 RESTRICTIONS ON GRANTOR \*\*[Subsection B3.6 should be included only for multiple entry Easements.]\*\*****B3.1 Inconsistent Uses of Riparian Easement Premises**

Any use of, or activity on, the Easement Premises inconsistent with the purposes and terms of this Easement, including without limitation converting to a use incompatible with growing timber, is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in, or permit any such use or activity.

**B3.2 Property Outside the Easement Premises**

~~Grantor may change its use of the property on which the Easement lies to any lawful use. Grantor shall provide Grantee sixty (60) days notice prior to changing the use of the property as a courtesy to Grantee.~~

**B3.3 Qualifying Timber**

~~Grantor shall not engage in any activity which would result in the cutting of Qualifying Timber or the removal of that timber from the Easement Premises, except as provided in this Easement. The parties further agree that use, harvest, and treatment of the Qualifying Timber are restricted according to the forest practices rules in Attachment B-1.~~

**B3.4 Danger Trees and Salvage**

~~Grantor may cut a Danger Tree, which shall be left in place within the Easement Premises or moved by Grantor inside the Easement Premises. Grantor shall notify DNR within seven (7) days that a Danger Tree has been felled. Grantor shall not engage in any activities pertaining to salvage of Qualifying Timber including without limitation blowdown except as provided for in the forest practices rules.~~

**B3.5 Harvest of Reserve Qualifying Timber and Designation of Replacement Qualifying Timber on Riparian-Area Easement Premises**

~~Grantor shall not, during the term of this Easement, harvest or remove any Reserve Qualifying Timber except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of Reserve Qualifying Timber, except that where a permit or approval is required from any governmental entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark Reserve Qualifying Timber and Replacement Qualifying Timber, where Replacement Qualifying Timber is required, for review by Grantee. Grantor's thirty (30) days written notice to Grantee is effective only after both Reserve Qualifying Timber and Replacement Qualifying Timber (if required) are marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest and remove the Reserve Qualifying Timber. If Grantee does object and gives Grantor written notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest or remove Reserve Qualifying Timber until the objection is resolved. If Reserve Qualifying Timber is to be removed but Replacement Qualifying Timber is required to be left standing for the balance of the term of this Easement, then Grantor shall mark the Replacement Qualifying Timber and, if approved by Grantee, such Timber shall be considered Qualifying Timber under this Easement. A new Exhibit A shall be prepared along with a supplement to this Easement, executed by Grantor and Grantee, and recorded.~~

**B3.6 Multiple Entry Easements**

~~Grantor shall not, during the term of this Easement, make multiple entry harvests except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of timber, except that where a permit or approval is required from any government entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark timber to be removed for review by Grantee. Grantor's thirty (30) day written notice to Grantee is effective only after the timber to be removed is marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest. If Grantee does object and gives Grantor notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest until the objection is resolved.~~

**B4 RESERVED RIGHTS**

~~Other than specifically provided herein, Grantor is not restricted in its use of the Easement Premises.~~

**B5 PUBLIC ACCESS**

No right of public access to or across, or any public use of, the Easement Premises or the property on which it lies is conveyed by this Easement.

**B6 COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION****B6.1 Costs, Legal Requirements, and General Liabilities**

Except as is expressly placed on Grantee herein, Grantor retains full responsibility for the Qualifying Timber and Easement Premises. Grantor shall keep the Qualifying Timber and Easement Premises free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor. Grantor remains responsible for obtaining all permits required by law.

**B6.2 Taxes and Obligations**

Grantor shall remain responsible for payment of taxes or other assessments imposed on the Easement Premises or the Qualifying Timber. Grantor shall furnish Grantee with satisfactory evidence of payment upon request.

**B6.3 Hold Harmless****B6.3.a Grantor**

To the extent permitted by law, Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantor; (b) a breach by Grantor of its obligations under subsection B3; (c) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law or requirement by Grantor in any way affecting, involving, or relating to the Easement Premises or the Qualifying Timber; (d) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantor.

**B6.3.b Grantee**

To the extent permitted by law, Grantee hereby releases and agrees to hold harmless, indemnify and defend Grantor and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantee; or (b) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantee.

**B7 SUBSEQUENT TRANSFERS****B7.1 Grantee**

~~Grantee may assign, convey, or otherwise transfer its interest as evidenced in this Easement, but only to another agency of the State of Washington under any circumstances in which it determines, in its sole discretion, that such transfer is in the best interests of the state. Grantee shall give written notice to Grantor of the same within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).~~

#### **B7.2 Grantor**

~~Grantor may assign, convey, or otherwise transfer without restriction its interest in the Easement Premises or the Qualifying Timber identified in Exhibit A hereto. Grantor agrees to incorporate the restrictions of the Easement in any deed or other legal instrument by which Grantor divests itself of all or a portion of its interests in the Easement Premises or Qualifying Timber. Grantor shall give written notice to the Grantee of the assignment, conveyance, or other transfer of all or a portion of its interest in the Easement Premises or the Qualifying Timber within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).~~

#### **B7.3 Termination of Grantor's Rights and Obligations**

~~The Grantor's personal rights and obligations under this Easement terminate upon transfer of the Grantor's interest in the property on which the Easement lies or the Qualifying Timber, except that liability under the Easement for acts or omissions occurring prior to transfer shall survive transfer.~~

### **B8 DISPUTE RESOLUTION**

~~The parties may at any time by mutual agreement use any nonbinding alternative dispute resolution mechanism with a qualified third party acceptable to Grantor and Grantee. Grantor and Grantee shall share equally the costs charged by the third party. The existence of a dispute between the parties with respect to this Easement, including without limitation the belief by one party that the other party is in breach of its obligations hereunder, shall not excuse either party from continuing to fully perform its obligations under this Easement. The dispute resolution provided for in this subsection is optional, not obligatory, and shall not be required as a condition precedent to any remedies for enforcement of this Easement.~~

### **B9 ENFORCEMENT**

#### **B9.1 Remedies**

~~Either party may bring any action in law or in equity in the superior court for the county in which the Easement Premises are located or in Thurston County (subject to venue change under law) to enforce any provision of this Easement, including without limitation, injunctive relief (permanent, temporary, or ex parte, as appropriate) to prohibit a breach of this Easement, enforce the rights and obligations of this Easement, restore Qualifying Timber cut or removed in violation of this Easement or for damages. Grantee may elect to pursue some or all of the remedies provided herein.~~

##### **B9.1.a Damages and Restoration**

~~If Grantor cuts or removes (or causes another to cut or remove) Qualifying Timber from the Easement Premises in violation of this Easement, Grantee shall be entitled to damages, or restoration. Damages for the cutting of Qualifying Timber or the removal of Qualifying Timber from the Easement Premises in violation of the terms of this Easement may be up to triple stumpage value times the proportion of the original compensation. The maximum amount of damages shall be calculated according to the following formula:~~

**Where:**

~~Sv = The stumpage value of the Qualifying Timber that is cut or removed from the Easement Premises at the time the damage was done;~~

~~C = The compensation paid by the state to the Grantor at the time the Easement became effective;~~

~~Vq = The original value of Qualifying Timber at the time the Easement became effective as calculated in WAC 222-21-050.~~

$$\text{Maximum Damages} = 3 * \text{Sv} * (\text{C}/\text{Vq})$$

~~In addition the Grantor shall pay interest on the amount of the damages at the maximum interest rate allowable by law.~~

~~Grantee's rights to damages under this section shall survive termination. Restoration of Qualifying Timber may include either replanting or replacing trees or both, as determined by Grantee, in its sole discretion, to be appropriate. Replanting shall be by nursery transplant seedlings approved by Grantee with subsequent silvicultural treatment including without limitation weed control and fertilization approved by Grantee. Replacing trees shall be accomplished by designation of replacement trees of the size and species acceptable to Grantee. If replacement trees are designated to replace the Qualifying Timber cut or removed in violation of the terms of this Easement, the designated trees shall be thereafter treated as Qualifying Timber under this Easement.~~

**B9.1.b** ~~Injunctive Relief.~~ Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate and that Grantee may be entitled to injunctive relief, both prohibitive and mandatory, in addition to other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies.

**B9.1.c** ~~Relationship to Remedies in Other Laws.~~ The remedies provided for in this section are in addition to whatever other remedies the state may have under other laws including without limitation the Forest Practitioners Act. Nothing in this Easement shall be construed to enlarge, diminish or otherwise alter the authority of the state to administer state law.

**B9.2 Costs of Enforcement**

~~The costs, including reasonable attorneys' fees, of enforcing this Easement shall be borne by Grantee unless Grantee prevails in a judicial action to enforce the terms of this Easement, in which case costs shall be borne by Grantor, provided that nothing herein shall make Grantor liable for costs incurred by Grantee in taking enforcement actions pursuant to other state laws.~~

**B9.3 Forbearance/Waiver**

~~Enforcement of this Easement against the Grantor is at the sole discretion of the Grantee, and vice versa. Any forbearance by either party to exercise its rights hereunder in the event of a breach by the other party shall not be deemed a waiver by the forbearing party of the term being breached or of a subsequent breach of that term or any other term or of any other of the forbearing party's rights under this Easement.~~

**B9.4 Waiver of Certain Defenses**

~~Grantor hereby waives any defense of laches, estoppel, or prescription.~~

**B9.5 Acts Beyond Grantor's Control**

Nothing herein shall be construed to entitle Grantee to bring any action or claim against Grantor on account of any change in the condition of the Easement Premises or of the Qualifying Timber that was not within Grantor's control, including without limitation fire, flood, storms, insect and disease outbreaks, earth movement, or acts of trespassers, that Grantor could not reasonably have anticipated and prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Premises or Qualifying Timber resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantor could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

#### **B10 CONSTRUCTION AND INTERPRETATION**

##### **B10.1 Controlling Law**

Interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

##### **B10.2 Liberal Construction**

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The parties acknowledge that each has had an opportunity to have this Easement reviewed by an attorney and agree that the terms shall not be presumptively construed against either party.

##### **B10.3 Captions**

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

#### **B11 AMENDMENT**

This Easement may be jointly amended. The amendments shall be in writing and signed by authorized representatives. Grantee shall record any such amendments in a timely fashion in the official records of \_\_\_\_\_ County, Washington. All amendments shall be consistent with the purposes of this Easement.

#### **B12 TERMINATION**

Grantee may unilaterally terminate this Easement if it determines, in its sole discretion, that termination is in the best interest of the State of Washington. Grantee shall provide thirty (30) days written notice to Grantor of such termination.

#### **B13 EXTINGUISHMENT**

If circumstances arise that render the purpose of this Easement impossible to accomplish, this Easement can only be extinguished, in whole or in part, by mutual agreement of the parties or through judicial proceedings brought by one of the parties. Grantee shall be entitled to the value of the Easement as such value is determined pursuant to forest practices rules governing extinguishment or eminent domain, if no rule for extinguishment exists.

#### **B14 CONDEMNATION**

If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantee shall be entitled to compensation in accordance with the forest practices rules.

**B15 NOTICE**

Notices given pursuant or in relation to this Easement shall be in writing and delivered personally or by first class mail (postage prepaid), addressed as follows:

(a) If to Grantor:

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(b) If to Grantee:

Washington State Department of Natural Resources  
Small Forest Landowner Office  
DNR Forest Practices Division  
P.O. Box 47012  
Olympia, WA 98504-7012

If either party's address changes during the term of this Easement, that party shall notify the other party of the change.

Any notice required to be given hereunder is considered as being received: (i) if delivery in person, upon personal receipt by the person to whom it is being given; or (ii) if delivered by first class U.S. mail and properly addressed, three (3) days after deposit into the U.S. mail; or (iii) if sent by U.S. mail registered or certified, upon the date receipt is acknowledged by the recipient.

**B16 RECORDATION**

Grantee shall record this instrument in timely fashion in the official records of County, Washington and may rerecord it at any time as may be required to preserve its rights in this Easement.

**B17 GENERAL PROVISIONS****B17.1 Severability**

If any provision in this Easement, or the application hereof to any person or circumstance, is found to be invalid, the remainder of this Easement, or the application hereof to other persons or circumstances shall not be affected thereby and shall remain in full force and effect.

**B17.2 Entire Agreement**

This instrument sets forth the entire agreement of the parties with respect to the Easement. This instrument supercedes all other and prior discussions, negotiations, understandings, or agreements of the parties. No alteration or variation of this instrument shall be binding unless set forth in an amendment to this instrument consistent with subsection **B11**.

#### **B17.3 Successors and Assigns**

The covenants, terms, conditions, and restrictions of this Easement shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective successors and assigns and shall continue as a servitude running with the property on which the Easement lies for the term of this Easement set forth in subsection **2.1**.

#### **B17.4 No Forfeiture**

Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

#### **B17.5 Counterparts**

The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original as against the party that has signed it. In the event of any disparity between counterparts produced, the recorded counterpart shall be controlling.

#### **B17.6 References to Statutes and Rules**

Except as otherwise specifically provided, any references in this Easement to any statute or rule shall be deemed to be a reference to such statute or rule in existence at the time the action is taken or the event occurs.

#### **B17.7 Adherence to Applicable Law**

Any activity pertaining to or use of the Easement Premises or Qualifying Timber shall be consistent with applicable federal, state, or local law including chapter 76.09 RCW, the Forest Practices Act, chapter 36.70A RCW, the Growth Management Act, chapter 90.58 RCW, the Shoreline Management Act, chapter 77.55 RCW, Construction Projects in State Waters Act ("Hydraulics Code"), the Endangered Species Act (16 U.S.C. Sec. 1531, et seq.), and the Clean Water Act (33 U.S.C. Sec. 1251, et seq.), and rules adopted pursuant to these statutes (including all rules adopted under Section 4(d) of the Endangered Species Act).)

(1) **Forest practices application.** Prior to submitting a forestry riparian easement application, the landowner must have an approved forest practices application or an application that was disapproved because of forests and fish rule restrictions.

(2) **Forestry riparian easement application.** The landowner will provide the following ((items are required for)) information in a ((complete)) forestry riparian easement application:

(a) ((A certification by the small forest landowner that he or she meets the qualifications of a small forest landowner;)) County tax parcel numbers of the property in the proposed easement premises;

(b) A list of all forest practices application numbers ((for the commercially reasonable harvest units and the associated qualifying timber on the property)) of approved and/or disapproved forest practices applications;

(c) The ((dates and areas of all planned future harvest entries on the easement premises;)) landowner's signature

certifying that the landowner meets the criteria of a qualifying small forest landowner and documenting that the landowner is willing to sell or donate such easements to the state; and

(d) ((A preliminary litigation guarantee or similar report from a title company for the tax parcels that contain the easement premises;

(e) A description of past and current uses of the easement premises;

(f) Any information not specifically listed that the small forest landowner office needs to evaluate the easement and eligibility of the small forest landowner.) Documentation that qualifying timber is harvested, cannot be harvested because of forests and fish rule restrictions, or is uneconomic to harvest because of forests and fish rule restrictions. See WAC 222-21-032 for additional information about these eligibility criteria.

The small forest landowner office may require additional information from the applicant to process the application and

evaluate the eligibility of the proposed easement premises and the landowner.

(3) **Baseline documentation.** The small forest land-owner office will gather baseline documentation ((must)) that will describe the features and current uses on the proposed forestry riparian easement premises and the qualifying timber. The ((information provided by the small forest land-owner in subsection (2) of this section is considered part of the baseline)) documentation((- In addition, the department will provide documentation that includes, but is not limited to) will include but not be limited to):

(a) A summary of cruise information consistent with the standards and methods in WAC 222-21-040; and

(b) An assessment to determine site condition and potential liabilities associated with the proposed riparian easement ((see the board manual section 17 for procedures for conducting assessment); and

(c) A description of the easement consistent with WAC 222-21-035) premises.

(4) **Forestry riparian easement contract.** The forestry riparian easement contract will identify the parties, describe the land, locate the easement, state the terms and conditions, and provide a statement of consideration. The contract will include language consistent with RCW 76.13.120(5) concerning the preservation of all lawful uses of the easement premises by the landowner. The easement will be for a term of fifty years from the date the completed forestry riparian easement application is submitted to and received by the small forest landowner office.

#### **(5) Land description standards.**

(a) The forestry riparian easement contract will include a description of the easement premises using a land survey provided by the department unless the cost of securing the survey would be unreasonable in relation to the value of the easement conveyed.

(b) When the small forest landowner office determines a land survey is not required, the department will prepare a written description that suitably and accurately depicts the location of the easement conveyed, or the department may consider other methods, such as producing a map, to accurately describe the easement premises.

#### **NEW SECTION**

**WAC 222-21-031 Forestry riparian easement application review and processing.** After the small forest landowner office makes a preliminary determination of eligibility:

(1) The department will verify the timber harvest associated with the easement is complete.

(2) The department will submit the list of eligible projects to the state legislature for budget approval.

(3) The landowner or the landowner's representative will mark the boundary of the area containing the qualifying timber.

(4) The department will verify eligibility of qualifying timber.

(5) The department will perform a timber cruise on the qualifying timber to establish the compensation value.

(6) The department will inform the landowner in writing of the easement value. All compensation and reimbursement is subject to available funding.

(7) If an application is ineligible, the department will notify the landowner in writing the reasons why. The department will return ineligible applications to landowners.

#### **NEW SECTION**

**WAC 222-21-032 Eligibility criteria.** (1) Qualifying small forest landowners must complete a timber harvest to be eligible for a forestry riparian easement, unless a commercially reasonable harvest is not possible according to subsection (5) of this section or the only timber available to harvest meets the criteria of uneconomic to harvest according to subsection (6) of this section.

(2) The easement premises cannot contain unacceptable liabilities as determined by the small forest landowner office. Unacceptable liabilities include, but are not limited to, the presence of hazardous substances on the land or other conditions that may create a liability to the department, any existing uses of the property that may jeopardize the protection of the easement premises and qualifying timber, and situations in which the applicant is unwilling or unable to provide reasonable protection against financial loss to the state.

(3) Where more than one person has an interest in property to be covered by a forestry riparian easement, all persons holding rights to control or affect the easement premises and qualifying timber must execute the easement documents or otherwise subordinate their interest to the easement being acquired by the state. This includes tenants in common, joint tenants, holders of reversionary interests, lien holders, and mortgages.

(4) **Commercially reasonable harvest.** The small forest landowner office will consider the following criteria to determine if an area covered by a forest practices application involves a commercially reasonable harvest. The proposed harvest must meet all five of the following requirements:

(a) The harvest unit is immediately adjacent to or physically connected to qualifying timber;

(b) The application is for a forest practice involving a timber harvest and the harvest would not result in a conversion to a use other than commercial timber operation;

(c) The landowner is not eligible for the twenty acre exemption under WAC 222-30-023;

(d) The value of the timber in the harvest unit, excluding qualifying timber, equals or exceeds one thousand dollars, which is the minimum required by department of revenue for taxing purposes; and

(e) The value of the taxable harvest equals or exceeds the value of the qualifying timber established under WAC 222-21-045 unless otherwise approved by the small forest landowner office.

(5) **Commercially reasonable harvest is not possible.** The small forest landowner office will consider the following criteria to determine if a forest practices application for harvest may qualify for the forestry riparian easement program because it involves an area where a commercially reasonable harvest is not possible. The proposed harvest must meet all four of the following requirements:

(a) The forest practices application has been disapproved because the area covered by the application cannot be harvested due to forests and fish rule restrictions;

(b) The forest practices application involves a proposed timber harvest and the harvest would not result in a conversion to a use other than commercial timber operation;

(c) The landowner is not eligible for the twenty acre exemption under WAC 222-30-023; and

(d) The value of the qualifying timber equals or exceeds one thousand dollars, which is the minimum required by the department of revenue for taxing purposes.

(6) **Uneconomic to harvest.** The small forest landowner office will consider the following criteria to determine whether timber is qualifying timber because the forests and fish rules made it uneconomic to harvest. The proposed harvest must meet all four of the following requirements:

(a) The timber could have been included in a commercially reasonable harvest unit if there were no additional requirements imposed by the forests and fish rules;

(b) The area is not reasonably accessible economically because of requirements imposed by the forests and fish rules;

(c) There is no reasonable unit size alternative which, if used, would make the area economical to harvest; and

(d) The cost to access the harvest unit plus the cost to harvest would equal or exceed thirty-five percent of the stumpage value in the portion of the unit considered uneconomic. The small forest landowner office will determine these costs and values consistent with WAC 222-21-045. Costs include harvest, construction of nonpermanent roads and/or water crossing structures, and associated expenses. When using the small harvester tax return method to calculate stumpage values and allowable costs, the landowner may include actual timber appraisal and sale layout costs incurred as part of the cost calculations.

**AMENDATORY SECTION** (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

**WAC 222-21-040 Timber cruises.** (1) This section (~~is designed to establish methods and standards for cruises of qualifying timber for the proposed forestry riparian easements for purposes of establishing the compensation. It~~) applies only to timber cruises related to the ((department, small forest landowners, and the small forest landowner office in connection with the)) forestry riparian easement program to establish easement compensation.

(2) ((The following standards will be used for the)) A timber cruise~~((s:))~~ is required to determine the volume by species and grade to accurately determine the value of the qualifying timber.

(a) ((The purpose of the timber cruise is to determine the volume by species and grade sufficient to value the qualifying timber.)

(b) Additional trees left voluntarily by the small forest landowner may be noted, but are not included in the cruise volume.

(e)) The cruise method will be a ((+100)) one hundred percent inventory of qualifying timber on the proposed easement premises. The inventory will include species, diameter

class, grade, and any other information necessary to determine ~~((valuation of)) a value for the ((easement)) qualifying timber. ((See the board manual for specific cruise standards.)~~

~~((+))) (b) A sampling cruise method may be used ((for easement premises)) under certain circumstances((. (See the board manual section 17 for standards for sampling cruise method.))) such as where easement premises are greater than ten acres or where the forest trees are homogeneous.~~

(3) Additional trees left voluntarily by the small forest landowner may be noted but will not be included in the cruise volume.

**AMENDATORY SECTION** (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

**WAC 222-21-045 Valuation.** (1) ~~This section is designed to establish methods and standards for valuation of forestry riparian easements for purposes of establishing the compensation. It applies only to the department, small forest landowners, and the small forest landowner office in connection with the forestry riparian easement program.~~

~~((2))) The small forest landowner office will calculate the ((fair market value of the)) compensation amount for forestry riparian easements ((as of the date of receipt of the forest practices application associated with the qualifying timber, or the date the landowner provides written notification to the small forest landowner office that the harvest is to begin. Data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091 will be used and adjusted to the applicable date. For easements with an approved forest practices application, the small forest landowner must indicate whether valuation will be calculated using method (a) or (b) of this subsection. Only method (a) of this subsection is available for qualifying timber for which an approved application for timber harvest cannot be obtained because of restrictions under the forest practices rules under WAC 222-21-061. In either method (a) or (b) of this subsection, the time adjustment index will be based on log price changes. The small forest landowner office will determine the specific log species and/or sorts and the log price reporting service to use after consultation with the small forest landowner advisory committee established under RCW 76.13.110(4) and the department of revenue. The small forest landowner office will generate an index that reflects the time adjustments using information and data obtained from a log price reporting service determined by the department in consultation with the small forest landowner committee)) by determining a value for the qualifying timber. The office will use data gathered from or adjusted to the date the office received the complete forestry riparian easement application. The office will use the stumpage value determination method described in (a) of this subsection for qualifying timber that cannot be harvested because of forests and fish rule restrictions. For qualifying timber approved for harvest, the office will use both the stumpage value determination method and the small harvester tax return method to determine the highest compensation amount for the landowner.~~

(a) **Stumpage value determination method.** The small forest landowner office will create and maintain value tables

to determine stumpage value of the qualifying timber. These tables will be created using a method coordinated with the department of revenue. The values will closely approximate the stumpage value for logs ((that would be sold in the ordinary course of business for)) on the date ((of receipt of)) the ((forest practices)) office received a complete forestry riparian easement application. The landowner ((must)) will provide ((the small forest landowner office with)):

(i) The reference for the stumpage value table and any other needed information for use of the table ((see the board manual section 17 for details)); and

(ii) Any information the ((small forest)) landowner would like the ((department)) office to consider in its cruise and valuation of the qualifying timber.

**(b) Small harvester tax return method.**

(i) The landowner must provide comprehensive mill or buyer information ((to the department on the sale breakdown. This includes:

((i) The volume and sealing bureau log grades of each species harvested;

((ii) The amount received for each species; and

((iii) The actual harvesting and marketing costs as defined in the department of revenue small harvester instructions.)) for each harvest unit associated with the forestry riparian easement including:

((A) The delivered value by species;

((B) The total volume by species; and

((C) The actual harvesting and marketing costs as defined in the department of revenue small harvester instructions.

This information must be verifiable as proceeds from the timber harvests from documents such as mill receipts and/or forest excise tax returns. If the small forest landowner office does not receive a comprehensive packet of mill or buyer information or is not satisfied with the source of the documentation, the office will determine the qualifying timber value using the stumpage value determination method.

((ii) The office will use a time adjustment index to determine the qualifying timber value based on the date the office received the complete forestry riparian easement application. The office will generate a time adjustment index for each harvest associated with the easement based on log price changes.

((iii) The ((price received for the timber is)) office will determine the adjusted ((to the applicable date using the time adjustment index and then)) stumpage value by subtracting the average logging and hauling cost per thousand board feet (MBF) ((is subtracted to arrive at the stumpage value)) from the value of the time adjusted mill or buyer information. The office will then determine the value of the qualifying timber ((is determined)) by multiplying the time adjusted stumpage value of each species in the harvest unit by the net volume for each corresponding species in the inventory of qualifying timber. ((A residual value approach is used to determine the value of species in the easement, which are not present in the harvest area. The prices for species not present in the harvest unit are based on the delivered log price report approved by the small forest landowner office that corresponds closest to the date of the forest practices application, minus the average logging and hauling costs.

((3) Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest

practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.))

((iv) The timber species that exist in the easement premises will be valued, not the species in the harvest area. The timber species in the easement premises will be valued by multiplying the determined cruise volume by the appropriate stumpage value of those species shown on the appropriate table used for timber harvest excise tax purposes per RCW 84.33.091.

**(2) Determining the forestry riparian easement compensation.** The small forest landowner office uses a "high impact regulatory threshold" to calculate the compensation offered for a forestry riparian easement. This threshold is determined by multiplying the value of all timber covered under a forest practices application by 19.1 percent for timber in western Washington and 12.2 percent for timber in eastern Washington.

((a) When the percentage of the qualifying timber value to the total value of all timber covered under a forest practices application is equal to or less than the applicable high impact regulatory threshold (19.1 percent or 12.2 percent), the compensation offered for an easement will be fifty percent of the qualifying timber value.

((b) When the percentage of the qualifying timber value to the total value of all timber covered under a forest practices application exceeds the applicable high impact regulatory threshold (19.1 percent or 12.2 percent), the compensation offered for an easement will be more than fifty percent of the qualifying timber value up to the applicable high impact regulatory threshold, plus full compensation (one hundred percent) for the qualifying timber value that exceeds the high impact regulatory threshold. This is mathematically represented as follows:

Where:

Vq = the value of qualifying timber;

Vh = the value of harvested timber; and

t = the high impact of regulatory threshold (19.1 percent for western Washington, 12.2 percent for eastern Washington);

The compensation for easement =  $((Vq/(Vq + Vh)) - t) * (Vq + Vh) + (t * (Vq + Vh)/2)$ .

## NEW SECTION

**WAC 222-21-048 Reimbursement of costs to the small forest landowner.** The state of Washington will reimburse landowners for actual costs incurred toward identifying qualifying timber. Costs can include one or more of the following:

(1) Determining and marking streamside buffers;

(2) Marking the qualifying timber; and

(3) The cost of the portion of a geotechnical report that is applicable to the area determined to contain qualifying timber.

**AMENDATORY SECTION** (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

**WAC 222-21-050 Payment of compensation and reimbursement to the small forest landowner.** (1) ((The compensation offered to the small forest landowner will be 50% of the fair market value of the qualifying timber established under the process described in WAC 222-21-045, plus the compliance and reimbursement costs, subject to the following exceptions:

((a) If the high impact regulatory threshold is exceeded for an area covered by an approved forest practices application, then the compensation offered will be increased to 100% for the value of the qualifying timber where the high impact regulatory threshold is exceeded. Use the following calculation:

Where:

V<sub>q</sub> = value of qualifying timber;

V<sub>h</sub> = value of harvested timber;

t = high impact of regulatory threshold (19.1% for Western Washington, 12.2% for Eastern Washington);

TV = total value of all timber covered under FPA = V<sub>q</sub> + V<sub>h</sub>; and

HIO = high impact override = (V<sub>q</sub>/TV) - t;))

((STRICKEN GRAPHIC)

$$\text{Compensation for easement} = (\text{HIO} * \text{TV}) + \left( \frac{t * TV}{2} \right)$$

((STRICKEN GRAPHIC))

((See Section 17 of board manual for example.

((b))) All compensation and reimbursement to the small forest landowner is subject to available funding.

(2) If funding is not available, the small forest landowner office will maintain a priority list for compensation and reimbursement to the landowner. Priority will be based on ((a))) the date ((of receipt of forest practices application and (b) date of receipt of completed harvest status questionnaire.

((3) Reimbursement costs for easement layout are subject to the work being acceptable to the department. The small forest landowner office shall determine how the reimbursement costs will be calculated. The small forest landowner office will send the small forest landowner a notice of compensation decision within 60 days of completion of the timber cruise.

((4) Compensation for a forestry riparian easement associated with an approved forest practices application will not be paid until:

((a) The department has documented completion of harvest;

((b) The department has verified that there has been compliance with the rules requiring leave trees in the easement area;

((e) Any dispute over the amount of compensation or eligibility or other matter involving the forestry riparian easement has been resolved; and

((d) The forestry riparian easement has been executed and delivered to the department.

((5))) the small forest landowner office received the complete forestry riparian easement application. In instances where two easement applications are received on the same date, priority will be based on the date the department received a complete forest practices application associated with the easement.

((3) The small forest landowner office will offer compensation for the easement in a purchase and sale agreement. The small forest landowner will accept or reject the conditions of the purchase and sale agreement in writing and submit the written acceptance or rejection to the small forest landowner office.

((4) Compensation for ((a))) the forestry riparian easement ((for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules adopted under RCW 76.09.055 or 76.09.370)) and reimbursement of landowner costs will ((not)) be paid ((until)) after:

((a) The department has verified that ((there has been compliance with)) the landowner has no outstanding violations under chapters 76.09 or 76.13 RCW or any associated forest practices rules ((requiring leave trees in the easement area)); ((and)))

((b) Any dispute over the amount of compensation or eligibility or other matter involving the ((forestry riparian)) easement has been resolved; and

((c) The small forest landowner office has sent a forestry riparian easement ((has been executed and)) contract to the landowner, the landowner has signed the contract, and the landowner has delivered it to the department.

((5) Compensation for any qualifying timber located on potentially unstable slopes or landforms will not exceed a total of fifty thousand dollars during any biennial funding period.

## NEW SECTION

**WAC 222-21-055 Reimbursement to the department.** If, within the first ten years after receipt of compensation for a forestry riparian easement, a small forest landowner sells the land on which a forestry riparian easement is located to a landowner that does not meet the criteria for a qualifying small forest landowner, then the selling small forest landowner must reimburse the state for the full compensation received for the easement and the full amount of the costs incurred to identify the qualifying timber.

If the land on which the easement is located consists of multiple land parcels and the selling small forest landowner sells parcels that consist of only a portion of the easement, the small forest landowner office will calculate the reimbursement amount. The calculation will be based on the ratio of qualifying timber volume within the portion of the easement on the land that is sold to the total volume of qualifying timber. The selling small forest landowner must make full payment for this reimbursement within one year of sale of the land the easement occupies. The department will continue to hold, in the name of the state, the forestry riparian easement for the full term of the easement.

**AMENDATORY SECTION** (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

**WAC 222-21-070 Blowdown and salvage.** After execution of a forestry riparian easement, qualifying timber may not be salvaged((, including removal of blowdown,)) without prior written permission from the department. Prior to removal, the small forest landowner office and the ((small forest)) landowner must negotiate the terms of removal and reimbursement to the state, if any. Qualifying timber that blows down off the easement premises that presents a nuisance may be moved back onto the easement premises without permission from the department.

**AMENDATORY SECTION** (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

**WAC 222-21-080 Eminent domain.** If a forestry riparian easement is taken, in whole or in part, by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, the state will receive compensation for its remaining interest in the easement based upon the following formula:

Where:

$C((\rightarrow I_s))$  = the compensation to the department for the state's remaining interest in the easement;

$O((\rightarrow I_s))$  = the original compensation for the easement paid to the small forest landowner by the state;

$P((\rightarrow I_s))$  = the proportion of the forestry riparian easement extinguished or terminated;

$CPIo((\rightarrow I_s))$  = the ((U.S.)) Consumer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics for the month in which the original compensation was determined;

$CPIc((\rightarrow I_s))$  = the ((U.S.)) Consumer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics for the most recent month available at the time the easement is terminated or extinguished;

$I((\rightarrow I_s))$  = the rate of return on 30 year treasury bonds, as reported by the Federal Reserve Statistical Release H15 less the rate of increase in the Consumer Price Index for all Urban Consumers as published by the U.S. Department of Labor Bureau of Labor Statistics for the previous 12 months;

$R((\rightarrow I_s))$  = the number of years remaining on the easement at the time of extinguishment or termination(( $\rightarrow$ ));

$$C = P * (CPIc / CPIo) * (1 - (1 / (1 + I))^{(\rightarrow R)}) / (1 - (1 / (1 + I))^{(50)})$$

**AMENDATORY SECTION** (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

**WAC 222-21-090 Internal department of natural resources review of small forest landowner office ((compensation)) decisions.** ((Within 30 days after the date of the notice of compensation decision, the small forest landowner may submit a written request for review to the supervisor of

the department or his or her designee. The request for review must identify the issue being raised and provide any supporting documentation. The supervisor will issue a written response within 30 days.)) Any person who wishes to appeal written decisions of the small forest landowner office pertaining to application eligibility, easement valuation, and related decisions may submit a request for review within thirty days after the date of the small forest landowner office's written decision. The request for review must identify the issue being raised and provide any supporting documentation. The supervisor of the department or designee will issue a written response within thirty days of receipt of the request for review and this response will constitute the department's final decision.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 222-21-020	Criteria for accepting riparian easement.
WAC 222-21-035	Description of easement.
WAC 222-21-060	Commercially reasonable harvest.
WAC 222-21-061	Criteria when commercially reasonable harvest is not possible.
WAC 222-21-065	Uneconomic to harvest.

#### WSR 12-11-107 PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 22, 2012, 9:14 a.m., effective July 1, 2012]

Effective Date of Rule: July 1, 2012.

Purpose: This rule updates conversion factors provided in WAC 296-20-135 and maximum daily fees provided in WAC 296-23-220 and 296-23-230 for certain professional health care services for injured workers. Rule changes are necessary to maintain current overall fees for health care services, which are published annually in the medical aid rules and fee schedules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 12-07-067 on March 20, 2012.

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

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

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

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

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

Date Adopted: May 22, 2012.

Judy Schurke  
Director

**AMENDATORY SECTION** (Amending WSR 11-12-019, filed 5/24/11, effective 7/1/11)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of \$55.34. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of \$((3.19)) 3.22 per minute, which is equivalent to \$((47.85)) 48.30 per 15 minutes. The base units and payment policies can be found in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 08-09-121, filed 4/22/08, effective 7/1/08)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treat-

ments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$((448.07)) 119.01 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 08-09-121, filed 4/22/08, effective 7/1/08)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order

occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$((118.07)) 119.01 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

**WSR 12-11-108**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed May 22, 2012, 9:15 a.m., effective June 30, 2012]

Effective Date of Rule: June 30, 2012.

**Purpose:** The electrical program's budget and projected revenue indicate a fee increase is necessary to ensure the program has a six month fund balance. The program needs to maintain a fund balance equal to six months of expenditures in order to meet its commitment to ensure the quality and safety of electrical work performed by contractors. Therefore, the electrical program is increasing fees by 4.34 percent, the fiscal growth factor for fiscal year 2012.

**Citation of Existing Rules Affected by this Order:** Amending WAC 296-46B-906, 296-46B-909, and 296-46B-911.

**Statutory Authority for Adoption:** Chapter 19.28 RCW and chapter 50, Laws of 2011 (2ESHB 1087).

**Adopted under notice filed as WSR 12-06-067 on March 6, 2012.**

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

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

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

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

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

Date Adopted: May 22, 2012.

Judy Schurke  
 Director

**AMENDATORY SECTION** (Amending WSR 10-18-025, filed 8/24/10, effective 10/1/10)

**WAC 296-46B-906 Inspection fees.** To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

**(1) Residential.**

**(a) Single- and two-family residential (New Construction).**

**Notes:**

(1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)

(2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.

(3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.

(4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	\$((86.60)) <u>90.30</u>	(ii) Mobile home service and feeder	\$((93.40)) <u>97.40</u>
Each additional 500 sq. ft. or portion of	\$((27.70)) <u>28.90</u>		
(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property	\$((36.10)) <u>37.60</u>		
(iii) Each outbuilding or detached garage - inspected separately	\$((57.10)) <u>59.50</u>		
(iv) Each swimming pool - inspected with the service	\$((57.10)) <u>59.50</u>		
(v) Each swimming pool - inspected separately	\$((86.60)) <u>90.30</u>		
(vi) Each hot tub, spa, or sauna - inspected with the service	\$((36.10)) <u>37.60</u>		
(vii) Each hot tub, spa, or sauna - inspected separately	\$((57.10)) <u>59.50</u>		
(viii) Each septic pumping system - inspected with the service	\$((36.10)) <u>37.60</u>		
(ix) Each septic pumping system - inspected separately	\$((57.10)) <u>59.50</u>		
<b>(b) Multifamily residential and miscellaneous residential structures, services and feeders (New Construction).</b>			

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$((93.40)) <u>97.40</u>	\$((27.70)) <u>28.90</u>
201 to 400	\$((116.10)) <u>121.10</u>	\$((57.10)) <u>59.50</u>
401 to 600	\$((159.50)) <u>166.40</u>	\$((79.40)) <u>82.80</u>
601 to 800	\$((204.70)) <u>213.50</u>	\$((109.00)) <u>113.70</u>
801 and over	\$((291.90)) <u>304.50</u>	\$((218.90)) <u>228.40</u>

**(c) Single or multifamily altered services or feeders including circuits.**

(i) Each altered service and/or altered feeder

Ampacity	Service/Feeder
0 to 200	\$((79.40)) <u>82.80</u>
201 to 600	\$((116.10)) <u>121.10</u>
601 and over	\$((175.10)) <u>182.60</u>

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)

\$((43.00))  
44.80

**(d) Single or multifamily residential circuits only (no service inspection).**

**Note:**

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)

\$((57.10))  
59.50

(ii) Each additional circuit (see note above)

\$((6.20))  
6.40

**(e) Mobile homes, modular homes, mobile home parks, and RV parks.**

(i) Mobile home or modular home service or feeder only

\$((57.10))  
59.50

**(f) Mobile home park sites and RV park sites.**

**Note:**

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder	\$((57.10)) <u>59.50</u>
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(ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder	\$((36.10)) <u>37.60</u>
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**(2) Commercial/industrial.**

**(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).**

**Note:**

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated using this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$((93.40)) <u>97.40</u>	\$((57.10)) <u>59.50</u>
101 to 200	\$((143.70)) <u>118.60</u>	\$((72.70)) <u>75.80</u>
201 to 400	\$((218.90)) <u>228.40</u>	\$((86.60)) <u>90.30</u>
401 to 600	\$((255.20)) <u>266.20</u>	\$((101.90)) <u>106.30</u>
601 to 800	\$((330.00)) <u>344.30</u>	\$((138.80)) <u>144.80</u>
801 to 1000	\$((402.90)) <u>420.30</u>	\$((168.00)) <u>175.20</u>
1001 and over	\$((439.50)) <u>458.50</u>	\$((234.40)) <u>244.50</u>

**(b) Altered services/feeders (no circuits).**

(i) Service/feeder

Ampacity	Service/Feeder
0 to 200	\$((93.40)) <u>97.40</u>
201 to 600	\$((218.90)) <u>228.40</u>
601 to 1000	\$((330.00)) <u>344.30</u>
1001 and over	\$((366.50)) <u>382.40</u>

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)	\$((79.40)) <u>82.80</u>
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**(c) Circuits only.**

**Note:**

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

(i) First 5 circuits per branch circuit panel	\$((72.70)) <u>75.80</u>
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(ii) Each additional circuit per branch circuit panel	\$((6.20)) <u>6.40</u>
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(d) Over 600 volts surcharge per permit.	\$((72.70)) <u>75.80</u>
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**(3) Temporary service(s).**

**Notes:**

(1) See WAC 296-46B-590 for information about temporary installations.  
 (2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

**Temporary services, temporary stage or concert productions.**

Ampacity	Service/Feeder	Additional Feeder
0 to 60	\$((50.00)) <u>52.10</u>	\$((25.60)) <u>26.70</u>
61 to 100	\$((57.10)) <u>59.50</u>	\$((27.70)) <u>28.90</u>
101 to 200	\$((72.70)) <u>75.80</u>	\$((36.10)) <u>37.60</u>
201 to 400	\$((86.60)) <u>90.30</u>	\$((43.10)) <u>44.90</u>
401 to 600	\$((116.10)) <u>121.10</u>	\$((57.10)) <u>59.50</u>
601 and over	\$((131.70)) <u>137.40</u>	\$((65.60)) <u>68.40</u>

**(4) Irrigation machines, pumps, and equipment.****Irrigation machines.**

(a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL	\$((6.20)) 6.40
(b) Towers - when not inspected at the same time as a service and feeder - 1 to 6 towers	\$((86.60)) 90.30
(c) Each additional tower	\$((6.20)) 6.40

**(5) Miscellaneous - commercial/industrial and residential.**

(a) A Class 2 low-voltage thermostat and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.	\$((43.10)) 44.90
(i) First thermostat	\$((43.10)) 44.90
(ii) Each additional thermostat inspected at the same time as the first	\$((13.40)) 13.90
(b) Class 2 or 3 low-voltage systems and telecommunications systems.	
Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-908 for Class B work.	
(i) First 2500 sq. ft. or less	\$((50.00)) 52.10
(ii) Each additional 2500 sq. ft. or portion thereof	\$((13.40)) 13.90

**(c) Signs and outline lighting.**

(i) First sign (no service included)	\$((43.10)) 44.90
(ii) Each additional sign inspected at the same time on the same building or structure	\$((20.40)) 21.20

**(d) Berth at a marina or dock.****Note:**

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL above.

(i) Berth at a marina or dock	\$((57.10)) 59.50
(ii) Each additional berth inspected at the same time	\$((36.10)) 37.60

**(e) Yard pole, pedestal, or other meter loops only.**

(i) Yard pole, pedestal, or other meter loops only	\$((57.10)) 59.50
(ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations	\$((13.40)) 13.90
(f) Emergency inspections requested outside of normal working hours.	

Regular fee plus surcharge of:	\$((109.00)) 113.70
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**(g) Generators.****Note:**

Permanently installed generators: Refer to the appropriate residential or commercial new/altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators	\$((79.40)) 82.80
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**(h) Electrical - annual permit fee.****Note:**

See WAC 296-46B-901(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$((2,098.70)) 2,189.70
4 to 6 plant electricians	24	\$((4,199.60)) 4,381.80
7 to 12 plant electricians	36	\$((6,299.00)) 6,572.30
13 to 25 plant electricians	52	\$((8,399.90)) 8,764.40
More than 25 plant electricians	52	\$((10,500.80)) 10,956.50

**(i) Telecommunications - annual permit fee.****Notes:**

(1) See WAC 296-46B-901(13).

(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum	\$((173.50)) 181.00
Each additional hour, or portion thereof, of portal-to-portal inspection time	\$((86.60)) 90.30

**(j) Permit requiring ditch cover inspection only.**

Each 1/2 hour, or portion thereof	\$((43.10)) 44.90
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(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.	\$((72.70)) 75.80
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**(l) Carnival inspections.****(a) First carnival field inspection each calendar year.**

(i) Each ride and generator truck	\$((20.40)) 21.20
(ii) Each remote distribution equipment, concession, or gaming show	\$((6.20)) 6.40

(iii) If the calculated fee for first carnival field inspection above is less than \$100.50, the minimum inspection fee shall be:	\$((109.00)) <u>113.70</u>	(12) <b>Variance request processing fee.</b> Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	\$((86.60)) <u>90.30</u>
<b>(b) Subsequent carnival inspections.</b>			
(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show	\$((109.00)) <u>113.70</u>	(a) Standard(s) letter review (per hour of review time).	\$((86.60)) <u>90.30</u>
(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show	\$((6.20)) <u>6.40</u>	(b) Equipment marking - charged portal-to-portal per hour:	\$((86.60)) <u>90.30</u>
<b>(c) Concession(s) or ride(s) not part of a carnival.</b>			
(i) First field inspection each year of a single concession or ride, not part of a carnival	\$((86.60)) <u>90.30</u>	(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.	
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	\$((57.10)) <u>59.50</u>		
<b>(7) Trip fees.</b>			
(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	\$((86.60)) <u>90.30</u>	(14) <b>Class B basic electrical work labels.</b>	
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	\$((43.10)) <u>44.90</u>	(a) Block of twenty Class B basic electrical work labels (not refundable).	\$((237.70)) <u>248.00</u>
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	\$((43.10)) <u>44.90</u>	(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	\$((43.10)) <u>44.90</u>
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	\$((43.10)) <u>44.90</u>	(c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	\$((43.10)) <u>44.90</u>
(e) Each trip necessary to remove a noncompliance notice.	\$((43.10)) <u>44.90</u>		
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	\$((43.10)) <u>44.90</u>	<b>(15) Provisional electrical work permit labels.</b>	
(g) Installations that are covered or concealed before inspection.	\$((43.10)) <u>44.90</u>	Block of twenty provisional electrical work permit labels.	\$((237.70)) <u>248.00</u>
<b>(8) Progress inspections.</b>			
<b>Note:</b>			
The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.			
<b>On partial or progress inspections, each 1/2 hour.</b>	\$((43.10)) <u>44.90</u>	<b>AMENDATORY SECTION</b> (Amending WSR 10-18-025, filed 8/24/10, effective 10/1/10)	
<b>(9) Plan review.</b>			
Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46B-906, plus a plan review submission and shipping/handling fee of:	\$((72.70)) <u>75.80</u>	<b>WAC 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, electrician certificate and examination, copy, and miscellaneous fees.</b>	
(a) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$((86.60)) <u>90.30</u>		
(b) Plan review shipping and handling fee.	\$((20.40)) <u>21.20</u>		
<b>(10) Out-of-state inspections.</b>			
(a) Permit fees will be charged according to the fees listed in this section.		<b>Notes:</b> (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status or owes money as a result of an outstanding final judgment(s) to the electrical program.	
(b) Travel expenses:		(2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.	
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.		(3) The amount of the fee due is calculated based on the fee effective at the date payment is made.	
<b>(11) Other inspections.</b>			
Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	\$((86.60)) <u>90.30</u>		

**(b) Examination fees (nonrefundable)****Note:**

Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.

(i) Master electrician or administrator first-time examination fee (when administered by the department)	\$((77.10)) <u>80.40</u>
(ii) Master electrician or administrator retest examination fee (when administered by the department)	\$((90.30)) <u>94.20</u>
(iii) Journeyman or specialty electrician examination fee (first test or retest when administered by the department)	\$((58.00)) <u>60.50</u>
(iv) Certification examination review fee	\$((119.50)) <u>124.60</u>

**(c) Original certificates (nonrefundable after certificate has been issued)**

(i) Electrical administrator original certificate (except <b>09 telecommunication</b> )	\$((115.40)) <u>120.40</u>
(ii) Telecommunications administrator original certificate (for <b>09 telecommunications</b> )	\$((76.80)) <u>80.10</u>
(iii) Master electrician exam application (includes original certificate and application processing fee) <b>(\$((32.00)) 33.30 is nonrefundable after application is submitted)</b>	\$((147.60)) <u>154.00</u>
(iv) Journeyman or specialty electrician application (includes original certificate and application processing fee) <b>(\$((32.00)) 33.30 is nonrefundable after application is submitted)</b>	\$((82.80)) <u>86.30</u>

## (v) Training certificate

(A) Initial application made in person, by mail, or by fax	\$((40.60)) <u>42.30</u>
(B) Initial application fully completed on-line using the on-line web process	\$36.40
(C) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) <b>(\$((49.10)) 51.20 is nonrefundable after application is submitted)</b>	\$((73.80)) <u>77.00</u>
(D) 75% supervision modified training certificate.	\$((49.10)) <u>51.20</u>

(E) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b).

**(d) Certificate renewal (nonrefundable)**

(i) Master electrician or administrator certificate renewal	\$((145.90)) <u>152.20</u>
(A) Renewal made in person, by mail, or by fax	\$132.20

(B) Renewal fully completed using the on-line web process

(ii) Telecommunications ( <b>09</b> ) administrator certificate renewal	\$((97.20)) <u>101.40</u>
(A) Renewal made in person, by mail, or by fax	\$87.50

(B) Renewal fully completed using the on-line web process

(iii) Late renewal of master electrician or administrator certificate	\$((291.80)) <u>304.40</u>
(A) Renewal made in person, by mail, or by fax	\$264.50

(B) Renewal fully completed using the on-line web process

(iv) Late renewal of telecommunications ( <b>09</b> ) administrator certificate	\$((194.50)) <u>202.90</u>
(A) Renewal made in person, by mail, or by fax	

(B) Renewal fully completed using the on-line web process

(v) Journeyman or specialty electrician certificate renewal	\$((76.80)) <u>80.10</u>
(A) Renewal made in person, by mail, or by fax	

(B) Renewal fully completed using the on-line web process

(vi) Late renewal of journeyman or specialty electrician certificate	\$((153.70)) <u>160.30</u>
(A) Renewal made in person, by mail, or by fax	

(B) Renewal fully completed using the on-line web process

(vii) Trainee update of hours outside of renewal period (i.e., submission of affidavit of experience outside of the timeline in WAC 296-46B-965 (7)(d))	\$((49.10)) <u>51.20</u>
(viii) Trainee certificate renewal	

(A) Renewal made in person, by mail, or by fax

(B) Renewal fully completed using the on-line web process when the affidavit of experience is submitted per WAC 296-46B-965 (7)(d)	\$44.70
(ix) Late trainee certificate renewal	

(A) Renewal made in person, by mail, or by fax

(B) Renewal fully completed using the on-line web process	\$62.50
(e) <b>Certificate - reinstatement (nonrefundable)</b>	

(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)

(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$((51.70)) <u>53.90</u>
(ii) Reinstatement of suspended journeyman, or specialty electrician certificate (in addition to normal renewal fee)	\$((24.40)) <u>25.40</u>

(f) **Assignment/unassignment of master electrician/administrator designation (nonrefundable)**

(3) **Certificate/license.**

(a) Replacement for lost or damaged certificate/license. (Nonrefundable.)

(b) Optional display quality General Master Electrician certificate.

(4) **Continuing education courses or instructors. (Nonrefundable.)**

(a) If the course or instructor review is performed by the electrical board or the department

The course or instructor review

\$((49.20))  
51.30

(b) If the course or instructor review is contracted out by the electrical board or the department

(i) Continuing education course or instructor submittal and approval (per course or instructor)

As set in contract

(ii) Applicant's request for review, by the chief electrical inspector, of the contractor's denial

\$((119.80))  
124.90

(5) **Copy fees. (Nonrefundable.)**

(a) **Certified copy of each document (maximum charge per file):**

\$((54.40))  
56.70

(i) First page:

\$((24.40))  
25.40

(ii) Each additional page:

\$2.10

(b) Replacement RCW/WAC printed document:

\$((5.40))  
5.60

(6) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$((565.40)) <u>589.90</u>
(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$((282.70)) <u>294.90</u>
<b>AMENDATORY SECTION</b> (Amending WSR 10-18-025, filed 8/24/10, effective 10/1/10)	
<b>WAC 296-46B-911 Electrical testing laboratory and engineer accreditation fees.</b> The amount of the fee due is calculated based on the fee effective at the date payment is made.	
<b>Electrical testing laboratory</b>	
<b>Initial filing fee: (Nonrefundable)</b>	\$((537.50)) <u>560.80</u>
<b>Initial accreditation fee:</b>	
1 product category	\$((268.70)) <u>280.30</u>
Each additional category for the next 19 categories	\$((107.50)) <u>112.10 each</u>
Maximum for 20 categories or more	\$((2,311.30)) <u>2,411.60</u>
<b>Renewal fee: (Nonrefundable)</b>	50% of initial filing fee
<b>Renewal of existing accreditations</b>	
Each additional category for the next 19 categories	\$((107.50)) <u>112.10 each</u>
Maximum for 20 categories or more	\$((2,311.30)) <u>2,411.60</u>
Engineer for evaluating industrial utilization equipment	
Initial filing fee: (Nonrefundable)	\$((537.50)) <u>560.80</u>
Renewal fee: (Nonrefundable)	50% of initial filing fee

**WSR 12-11-109**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed May 22, 2012, 9:19 a.m., effective July 1, 2012]

Effective Date of Rule: July 1, 2012.

Purpose: This rule making is being adopted to make housekeeping updates to a number of reporting rules and classifications in the workers' compensation program. The adoption will correct text and reference errors, format for better readability, update language to reflect technology changes, and make classification instructions and/or definitions clearer. The amendments do not change any of our current reporting requirements.

**Citation of Existing Rules Affected by this Order:** This rule making is being proposed for housekeeping updates to a number of classifications and reporting rules in the workers' compensation program. The proposal is to correct text and reference errors, update language which has changed as a result of technology, and make classification instructions and/or definitions clearer.

- WAC 296-17-31002 General rule definitions, remove reference to 6302, which no longer exists.
- WAC 296-17-31006 Application process, update all language referring to master application (department of licensing's change to department of revenue).
- WAC 296-17-310171 How to report hours for employees supporting multiple business operations, remove 6302, which no longer exists.
- WAC 296-17-31027(4) Temporary staffing services, correct references in WAC 296-17-757 through 296-17-76213 to 296-17A-7104 through 296-17A-7122.
- WAC 296-17-35203 (9)(b) Special reporting instruction, clarify a taxi recordkeeping requirement.
- WAC 296-17-920 Assessment for supplemental pension fund, correct self insurance WAC reference from WAC 296-15-060 to 296-15-229.
- WAC 296-17A-0107 Utility line construction: Underground, N.O.C., add clarifications for installation of lighting standards in various places.
- WAC 296-17A-0217 Concrete flatwork - construction and/or repair: N.O.C., add language to 0217 that concrete curbing may be reported in 0301 (landscaping).
- WAC 296-17A-0219 Construction specialty services, add clarifications for installation of lighting standards in various places.
- WAC 296-17A-0301 Landscape construction operations, N.O.C., add language to 0301 that concrete curbing may be reported in 0301 (landscaping).
- WAC 296-17A-0302 Brick, block, rock and slate work, N.O.C., add clarifications in language of tile, floor covering, marble, etc.
- WAC 296-17A-0307 Heating, air conditioning, and ventilation, clarified exclusion for showrooms.
- WAC 296-17A-0502 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal, add clarifications in language of tile, floor covering, marble, etc.
- WAC 296-17A-0504 Waterproofing, N.O.C.: Buildings or structures, add manual and mechanized language clarification.
- WAC 296-17A-0510 Wood frame building: Construction or alterations, N.O.C., correct guideline to refer to 0516-02, rather than 0510-02.
- WAC 296-17A-0513 Interior finish carpentry, add clarifications in language of tile, floor covering, marble, etc.
- WAC 296-17A-0601 Electrical wiring in buildings; electrical wiring, N.O.C.; Permanent flood lighting: Installation, add clarifications for extension line hook-ups.
- WAC 296-17A-1005 Shake and/or shingle mills, correct reference from WAC 296-17-534 to 296-17A-1002.

- WAC 296-17A-1103 Top soil, humus, peat and beauty bark dealers - yard operations, clarify language regarding excluded activities.
- WAC 296-17A-1501 Community action organizations - all other employees N.O.C., add language "excludes businesses that provide only one type of service which is to be reported in the applicable classification."
- WAC 296-17A-2102 Recycle, collection and receiving stations; rags, bottles, paper and metal container dealers, N.O.C., add "computer recycle" to language.
- WAC 296-17A-2907 Wood cabinet, countertop, and fixture: Manufacturing, modifying or assembly, add clarifications in language of tile, floor covering, marble, etc.
- WAC 296-17A-3104 Soapstone or soapstone products: Manufacturing; marble cutting and polishing; slate milling; stone cutting or polishing, N.O.C., add clarifications in language of tile, floor covering, marble, etc.
- WAC 296-17A-3406 Automobile or truck - detailing by contractor; glass tinting; windshield repair, add "or installation" to list of exclusions.
- WAC 296-17A-3411 Automobile: Service centers, repair shops or garages, add tire chain installation/roadside assistance.
- WAC 296-17A-3509 Statuary and ornament: Manufacturing, clarify for pouring concrete countertops at construction sites.
- WAC 296-17A-3602 Dental laboratories, add "Kiosks in mall that makes custom dental molds" to subclassification 05.
- WAC 296-17A-3905 Restaurants, N.O.C., add language to include on-site microbrewery operations when the beer is consumed in the restaurant.
- WAC 296-17A-4107 Business machine: Service, adjustment, repair, and installation, N.O.C., add "computer recycle."
- WAC 296-17A-4904 Clerical office: Insurance companies, agents or brokers, remove Title 48 [RCW] references which are no longer correct.
- WAC 296-17A-4905 Hotels or motels, clarify language regarding food service.
- WAC 296-17A-5301 Management consultant services, N.O.C., add exception excluding businesses that do only computer consulting for others, which is to be reported in 5302.
- WAC 296-17A-5308 Community action organizations - professional services and administrative employees, add language, "excludes businesses that provide only one type of service which is to be reported in the applicable classification."
- WAC 296-17A-6103 Day nurseries or child day care centers; officials for amateur athletic or cultural events, N.O.C., update language in day care subclassification 06 to better distinguish activities between 6103 and 6104. Remove from 6103-12 teachers and clerical office.
- WAC 296-17A-6104 Day nurseries or child day care centers - all other employment, N.O.C., update language in day care subclassification 06 to better distinguish activities between 6103 and 6104.
- WAC 296-17A-6303 Outside sales personnel, N.O.C.; messengers, add activities performed in a showroom as this is noted in the list of standard exception classes.
- WAC 296-17A-6303 Insurance sales personnel and claims adjusters, remove Title 48 [RCW] references which are no longer correct.
- WAC 296-17A-6406 Retail stores, N.O.C., remove "quick print" from classification.
- WAC 296-17A-6512 Home care services/home care quality authority (HCQA), correct HCQA to home care referral registry.
- WAC 296-17A-6708 Professional motor vehicle or watercraft race drivers, add cross reference to the race driver reporting requirements.
- WAC 296-17A-7107 Temporary staffing services: Bakery, restaurant, or food sundry preparation; musicians or entertainers, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7109 Temporary staffing services: Electronic, precision, and scientific equipment assembly; nonfield technician services, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7112 Temporary staffing services: Agricultural operations, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7113 Temporary staffing services: Janitorial, plant or facility supplemental maintenance and grounds keeping services, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7115 Temporary staffing services: Cannery, bottling or food processing operations, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7117 Temporary staffing services: Manufacturing operations, N.O.C.; specialty trades, correct and clarify some language concerning which classifications to use for certain activities.
- WAC 296-17A-7202 Real estate agencies, update real estate title references due to industry broker/name changes.

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, and 51.16.100.

Adopted under notice filed as WSR 12-07-068 on March 20, 2012.

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 46, 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 0, Amended 46, Repealed 0.

Date Adopted: May 22, 2012.

Judy Schurke  
Director

**AMENDATORY SECTION** (Amending WSR 11-24-022, filed 11/30/11, effective 1/1/12)

**WAC 296-17-31002 General rule definitions.** In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) ((and can be found in Appendix A of this manual)). Some words, however, are not defined by law. To reduce the misunderstanding which can result by our use of certain words or phrases not defined in law (*Title 51 RCW*), we have developed definitions which will govern what these words and phrases mean for purposes of these chapters (*chapters 296-17 and 296-17A of the Washington Administrative Code(WAC)*)).

**The following words or phrases mean:**

**Account:** A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

**Account manager:** An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

**Actual hours worked:** A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

**Example:** *A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of whether the employee is paid by the hour or by the number of yards of carpet installed.*

**All:** When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classifica-

tion. This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

**And:** When this word is contained in any rule it is to be considered the same as the phrase "and/or."

**Basic classification:** A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupations that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifications 4806, 4900, 4904, 5206, 6301, ((6302,)) 6303, 7100, 7101, and temporary help classifications 7104 through 7122. Classification descriptions contained in WAC 296-17A-0101 through 296-17A-7400 establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

**((Bona)) Bona fide officer:** Any person empowered in good faith by stockholders or directors, in accordance with articles of incorporation or bylaws, to discharge the duties of such officer.

**But not limited to:** When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

**Excludes or excluding:** When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers' hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

**Exposure:** Worker hours, worker days, flat rate, licenses, material, payroll or other measurement which we use to determine the extent to which an employer's workers have been exposed to the hazards found within a particular business or industry classification.

**Free from direction or control:** The contracted individual has the responsibility to deliver a finished product or service without the contracting firm or individual either exercising direct supervision over the work hours or the methods and details of performance or having the right to exercise that authority under the contract.

**Includes or including:** When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

**Industrial insurance:** Refer to the definition of "workers' compensation insurance."

**N.O.C.:** This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the variations. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

**Example:** You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, and tropical fish and birds((, and quick print shops)). We would assign classification 6406 "Retail stores, N.O.C." to your business.

**Or:** Refer to the definition of the word "and."

**Premium:** The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

**Principal place of business:** The physical location of the business from which the contract of service is directed and controlled.

**Rate:** The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

**Related by blood within the third degree:** The degree of kinship as computed according to the rules of civil law.

**Related by marriage:** The union subject to legal recognition under the domestic relations laws of this state.

**Risk:** All insured operations of one employer within the state of Washington.

**Temporary help:** The term "temporary help" means the same as temporary service contractors defined in (*Title 19 RCW*) and applies to any person, firm, association or corpo-

ration conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

**Underwriter:** Refer to the definition of an "account manager."

**Within a reasonable period:** Establishing an account with state agencies shall be the time prior to the first date on which the individual begins performance of service toward the contract or the date upon which the individual is required to establish an account with a state agency, as otherwise required by law, whichever event ((shall last)) occurs later.

**Work day:** Any consecutive twenty-four hour period.

**Work hour:** Refer to the definition of "actual hours worked."

**Workers' compensation insurance:** The obligation imposed on an employer by the industrial insurance laws (*Title 51 RCW*) of the state of Washington to insure the payment of benefits prescribed by such laws.

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

**WAC 296-17-31006 Application process.** (1) **Where can I buy workers' compensation insurance?** Washington law requires that you:

- Purchase your workers' compensation insurance through labor and industries. You will need to complete a business license application to obtain workers' compensation insurance from us; or

- Be certified as a self-insured employer by the self insurance section of the department of labor and industries. For more information on self-insurance you can call 360-902-6867 and one of our self-insurance representatives will assist you.

Employers engaged exclusively in interstate or foreign commerce are permitted to purchase workers' compensation insurance from a private carrier in another state if they do business in that state. The workers' compensation laws of the other state must allow the Washington drivers to be covered in that state. ((You will need to complete a master application to obtain workers' compensation insurance from us. For more information on self insurance you can call (360) 902-6867 and one of our self insurance representatives will assist you.))

(2) **Where can I get a ((master)) business license application?**

You can ((get)) file and print a ((master)) business license application on-line at www.business.wa.gov/BLS. You can pick up a paper business license application from:

- Any office of the department of labor and industries(( ));

- Employment security(( ));

- Department of revenue business licensing service office(( , the department of licensing master license service, or));

- The corporations division of the office of the secretary of state(( ));

- For your convenience you can call us at (( ))360(( ))-902-4817 and we will mail you one.

**(3) Where do I send my completed ((master)) business license application?**

You can mail your completed ((master)) business license application to the department of ((licensing)) revenue address shown on the form, or you can return it to your local department of labor and industries office, ((department of revenue,)) or department of employment security district tax office. Be sure to include the appropriate fees indicated on the form.

**AMENDATORY SECTION** (Amending WSR 10-10-108, filed 5/4/10, effective 7/1/10)

**WAC 296-17-310171 How to report hours for employees supporting multiple business operations. I have more than one basic classification assigned to my business and I have workers who work in more than one of these classifications. Can I divide their hours between these basic classifications on my quarterly report?** Yes, you may divide a worker's hours between basic classifications when:

- The classification descriptions allow a division of hours; and
- You maintain records from which the department can determine the hours the worker worked in each classification.

If the classification descriptions do not allow a division of hours, or if you fail to maintain adequate records, you must report the workers' hours in the highest rated risk classification applicable to your business, unless you can establish that the worker did not work in that classification.

**Example:** An employer has the risk classifications and rates shown below:

Risk Class	Description	Rate
0507 05	Roofing work	5.1370
((05010-00)) 0510 00	Wood frame building construction	2.9554
0513 00	Interior finish carpentry	1.3821

If the employer did not maintain records showing in which classes a worker worked, all of the worker's hours must be reported in class 0507.

If the employer had records that showed the worker only worked in classifications 0510 and 0513, but no further detail, all of the worker's hours must be reported in classification 0510.

If the employer had records that showed the hours the worker worked in classification 0510 and the hours the worker worked in 0513, the employer may report the worker's hours in both classes.

**I have employees with duties that support more than one basic classification, but I am unable to distinguish their hours between classifications. In what classification(s) do I report these workers' hours?** Sometimes employers are unable to divide a worker's hours between two or more classifications because the same work is incidental to more than one classification. You must report these hours in your governing classification. See "**What is my governing classification?**"

**What is incidental work?** Incidental work is any work, unless specifically excluded, that supports the operations described in your classification description(s), but takes place away from where the product or service is produced.

**For example:**

There is no incidental work:

- At the construction site if the employer is the builder;
- At the assembly facility if the employer is the manufacturer;

- In the emergency room if the employer is the hospital;
- In the kitchen, if the employer is in the restaurant.

Incidental work may include:

- Laundry workers employed by but not working at a hotel;
- Warehouse workers employed by but not working at a retail store;
- A technical support team working for but not at a wholesale distributor;
- Pick-up or delivery work;
- Travel time.

**What is my governing classification?** Your governing classification is the risk classification that describes what we consider your principal business. It is the basic classification assigned to your business with the largest number of worker hours/units reported in the experience rating period as defined by WAC 296-17-850(2). If you're not sure which classification is your governing classification, you should contact your account manager or refer to the expected loss summary in your current experience rating calculation.

If you're a new business and/or a business not experience rated, a provisional governing classification may be approved by your account manager.

*The following exception classifications cannot be considered ((a)) governing classifications:*

- 4900((,))
- 4904((,))
- 4911((,))
- 5206((,))
- 6301((,-6302,))
- 6303((,))
- 7100((, and))
- 7101((,))

**Example 1:** You operate both a motel with classification 4905, and a restaurant with classification 3905. You have an off-site laundry facility that cleans the linens for both the restaurant and for the motel.

In the sample 2009 expected loss summary shown below, the governing classification is the restaurant classification 3905 with a total of 108,199 units.

You must report all the laundry worker hours in your governing classification.

## Expected Loss Summary

Class	Fiscal Year	Employee Units	Expected Loss Rate	Expected Losses	Primary Ratio	Expected Primary Losses
4905	2005	10,571	.4288	4,532.84	.5790	2,624.51
4905	2006	12,437	.3982	4,952.41	.5790	2,867.45
4905	2007	14,676	.3516	5,160.08	.5790	2,987.69
Class Total		37,684		14,645.33		8,479.65
3905	2005	24,701	.1539	3,801.48	.5980	2,273.29
3905	2006	35,825	.1445	5,176.71	.5980	3,095.67
3905	2007	47,673	.1290	6,149.82	.5980	3,677.59
Class Total		108,199		15,128.01		9,046.55

**Example 2:** You are a cabinet manufacturer who also offers installation services to your customers. Your manufacturing operations are under classification 2907 and your employees performing the installation service are under classification 0513. Your expected loss summary confirms you report more hours for manufacturing work in classification 2907 than for installation work in classification 0513. You must report all the delivery work in ((class)) classification 2907.

**Example 3:** You have a floor covering store and also offer installation services to your customers. Your store operations are under classification 6309 and your employees performing the installation service are under classification 0502. Your expected loss summary confirms you report more hours for installation work in classification 0502 than for store operations in classification 6309. You must report all the delivery work in class 0502.

**AMENDATORY SECTION** (Amending WSR 03-20-081, filed 9/30/03, effective 1/1/04)

**WAC 296-17-31027 Temporary staffing services. (1)**

**To whom does this rule apply?** This rule applies to any temporary staffing business providing temporary employees to a client customer.

**(2) Who pays the workers' compensation insurance premium for temporary staffing employees?** RCW 51.16.-060 requires the temporary staffing service provider to pay the required premiums for temporary employees assigned to a client customer.

**Note:** If the temporary staffing service provider fails to pay the required premium to labor and industries, the client customer is responsible for the unpaid premium.

**(3) How are classifications determined for a temporary staffing business?** We will assign the classification or classifications to your business based on the nature of your business.

**Note:** This process is identical to how classifications are assigned to a nontemporary staffing business.

**(4) Are there special classifications that apply to temporary staffing businesses?** Yes, we have created a series of special classifications that only temporary staffing businesses

use. They are found in WAC ((296-17-757)) 296-17A-7104 through ((296-17-76213)) 296-17A-7122.

Example: A temporary staffing business that specializes in providing nurses to medical facilities would be assigned the temporary staffing classification for health care facilities.

Example: A temporary staffing business that provides temporary employees to a variety of client customers would be assigned multiple temporary staffing classifications.

**(5) Do other businesses have special classifications?** All businesses have special classifications.

Example: A nontemporary service employer engaged exclusively in plumbing work would have a plumbing classification assigned to their business.

Example: A nontemporary service employer engaged in framing houses, land clearing and roofing would have a classification for framing, one for land clearing and a separate classification for the roof work. This is done because construction work is done by contract and each contract will be different.

**(6) Why doesn't labor and industries just use nontemporary staffing classifications for temporary staffing businesses?** Temporary staffing companies requested labor and industries to create special classifications for their industry. The alternative to special industry classifications would result in temporary staffing business ((to use)) using the non-temporary staffing classification that their client customer uses. Labor and industries has over three hundred main classifications and twelve hundred subclassifications that employers report in. Requiring temporary staffing companies to use all of these classifications would result in an administrative burden for the temporary staffing businesses. Classifications unique to temporary staffing provide temporary staffing businesses the incentives to improve safety for their employees and control the cost of workers' compensation insurance.

**AMENDATORY SECTION** (Amending WSR 11-24-022, filed 11/30/11, effective 1/1/12)

**WAC 296-17-35203 Special reporting instruction. (1)**  
**Professional and semiprofessional athletic teams.** Athletes assigned and under contract to a Washington-domiciled sports team are mandatorily covered by Washington indus-

trial insurance. Athletes assigned to a Washington-domiciled sports team but under contract with a parent team domiciled outside of the state are mandatorily covered by Washington industrial insurance unless the player is eligible for coverage in another state, and there is a valid coverage agreement as described below.

A player is eligible for coverage in another state only when both the player and the employer agree in writing that the employment is principally localized in that state.

**Example((g)): If** the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they cannot agree to be under California coverage since California doesn't qualify as a state in which the player competes in regularly scheduled games.

(a) Upon request, the department will provide forms to the owners of professional and semiprofessional sports teams for entering into agreements for both the sport player and the sport team. These agreements are referred to as "coverage agreements." Unless coverage is refused in the alternative state, the coverage agreement will determine the worker's home state for workers' compensation coverage.

(b) When a sport team and a player agree to workers' compensation coverage in another state, the following rules apply:

Sport player coverage agreement:

(i) A sport player coverage agreement must be signed by the team (employer) and each individual player (worker) covered out-of-state. Workers' compensation premiums for any work performed by the player before the agreement was signed must be paid to the department. To be valid, an agreement must be:

- Signed by both parties, dated, and show the name of the state where coverage is provided.
- Agree that the player's employment is principally located in that state.
- Kept as part of the employer's records for at least three years after the player is released from the team.

(ii) The employer must provide the department a copy of a sport player coverage agreement when requested. Employers who do not provide the department copies of a sport player coverage agreement when requested are considered not to have secured payment of compensation as required and all premiums and penalties allowed for in Title 51 RCW will apply.

(iii) If the employers' out-of-state workers' compensation insurer rejects an injury claim because the player is a Washington worker, the employer is considered not to have secured payment of compensation as required and all premium and penalties allowed for in Title 51 RCW apply.

Sport team coverage agreement:

(c) A sport team coverage agreement must be signed by the employer (team) and the qualifying out-of-state workers' compensation insurer. Workers' compensation premiums for work performed before the agreement was signed must be paid to the department. To be valid, an agreement must:

- Be signed by both parties, dated, and show the name of the state where coverage is provided.

- Specify that the team's players are principally localized in that state.

- Specify the insurer agreeing to provide coverage for a team based in Washington.

(d) The sport team coverage agreement must be signed annually. Copies of the agreement along with a current copy of the team's out-of-state insurance policy must be submitted to the department of labor and industries every year the out-of-state coverage is provided.

Premium payments are required for any work performed by Washington players prior to the date the department receives copies of any year's current sports teams' coverage agreement and proof of out-of-state coverage.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried((-)), part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried((-)), part time, percentage of profits or piece basis, the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original

time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and

- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

**(4) Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums ((~~taxes~~)) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums ((~~taxes~~)) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

(i) The name of each worker;

(ii) The Social Security number of each worker;

(iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;

(iv) The basis upon which wages are paid to each worker;

(v) The number of units earned or produced for each worker paid on a piece-work basis;

(vi) The risk classification(s) applicable to each worker;

(vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention.

Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and canceled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - Estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of

(e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(A) The employers' unified business identification account number (UBI).

(B) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(C) The total contract award.

(D) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(E) Physical location/site where the work will be performed including legal description.

(F) Number of acres covered by the contract.

(G) Dates during which the work will be performed.

(H) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall ((submit)),<sup>2</sup> in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and submit payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each sub-

contractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - Verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an ((employers')) employer's work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' accounts on-line at the department's web site ([www.lni.wa.gov](http://www.lni.wa.gov)) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - Work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (i) The name of the contractor who has been engaged to perform the work;
- (ii) The contractor's UBI number;
- (iii) The contractor's farm labor contractor number;
- (iv) The total contract award;
- (v) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (vi) Location where the work is to be performed;
- (vii) A contact name and phone number of the person, firm, or corporation who let the contract;
- (viii) The total estimated wages to be paid by the contractor and any subcontractors;
- (ix) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;
- (x) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;
- (j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries  
Reforestation Team 8  
P.O. Box 44168  
((Tumwater)) Olympia, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) **Logging and/or tree thinning—Mechanized operations—Industry rule.** The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - Mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

#### (6) **Special drywall industry rule.**

(a) **What is the unit of exposure for drywall reporting?** Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) **I do some of the work myself. Can I deduct material I as an owner install or finish?** Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You

must file this report at the same time you file your quarterly report:

$$\text{Total owner}((\$)) \text{ hours} \div (\text{owner}((\$)) \text{ hours} + \text{worker}((\$)) \text{ hours}) = \% \text{ of owner discount.}$$

% of owner discount x (total footage of job – subcontracted footage, if any) = Total owner deduction of footage.

**(c) Can I deduct material installed or finished by subcontractors?** You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

**(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them?** To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

**Note:** If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

**(e) Can I be disqualified from using the discounted rates?** Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

**(f) If I discover I have made an error in reporting or paying premium, what should I do?** If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department ((who)) that find errors in their reporting and paying premiums, and ((who)) that voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

**(7) Safe patient handling rule.** The following subsection will apply to all hospital industry employers as applicable.

(a) Definitions. For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this rule does not include:

- Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; ((nor does it include))

- Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; ((nor does it include))

- Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; ((nor does it include))

- Birthing centers, which come within the scope of chapter 18.46 RCW; ((nor does it include))

• Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; ((nor))

• Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(iii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box 44140, Olympia, Washington, 98504.

**(8) Rules concerning work by Washington employers outside the state of Washington (extraterritorial coverage).**

(a) **General definitions.** For purposes of this section, the following terms mean:

(i) "Actual hours worked" means the total hours of each Washington worker's composite work period during which work was performed by the worker beginning with the time the worker's work day commenced, and ending with the quitting time each day excluding any nonpaid lunch period.

(ii) "Work day" means any consecutive twenty-four-hour period.

(iii) "Temporary and incidental" means work performed by Washington employers on jobs or at job sites in another state for thirty or fewer consecutive or nonconsecutive full or partial work days within a calendar year. Temporary and incidental work days are calculated on a per state basis. The thirty-day temporary and incidental period begins on January 1 of each year.

(iv) "Proof of out-of-state coverage" means a copy of a valid certificate of liability insurance for workers' compensation issued by:

(A) An insurer licensed to write workers' compensation insurance coverage in that state; or

(B) A state workers' compensation fund in the state in which the employer will be working.

**Note:** Most certificates are written for a one-year period. The employer must provide the department with a current certificate of liability insurance for workers' compensation covering all periods the employer works in another state. If the policy is canceled, the employer must provide the department with a current in-force policy.

(v) "Worker" means every person in this state who is engaged in the employment of an employer under Title 51 RCW whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer whether by way of manual labor or otherwise.

(vi) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of Title 51 RCW, by way of trade or business, or who contracts with one or more workers,

the essence of which is the personal labor of such worker or workers.

**(b) Does a Washington employer have to pay premiums in both states while Washington workers are temporarily working in another state?** A Washington employer must continue to pay Washington premiums for Washington workers performing temporary and incidental work in another state. If the Washington employer has Washington workers who work for more than thirty days in another state, ((it)) that employer will not need to pay premiums in Washington for work in the other state during the calendar year, as long as ((it)) that employer fulfills the following requirements:

(i) Provides the department with proof of out-of-state coverage for the Washington workers working out-of-state.

(ii) Keeps the policy continuously in force from the date the Washington employer's work exceeds the temporary and incidental period until the date the Washington employer no longer has Washington workers working in the other state. Failure to maintain a policy at the required level of workers' compensation coverage for the number of Washington workers working out-of-state may subject the Washington employer to payment of all premiums, penalties, and interest dues in the state of Washington.

(iii) For the first quarterly reporting period and all subsequent quarters during the same calendar year following the date the Washington employer's work exceeds the temporary and incidental period in the other state, the Washington employer must file a supplemental report of out-of-state work with their workers' compensation employer's quarterly report with the department. This supplemental report is available at: <http://www.LNI.wa.gov/ClaimsIns/Insurance/File/ExtraTerritorial/Default.asp>

(iv) Subitems (b)(i), (ii), and (iii) of this subsection must be met in each state in which the Washington employer has Washington workers working in excess of the temporary and incidental period.

**Note:** Workers' compensation coverage requirements vary widely among states. Washington employers should contact the regulatory agency in other states to determine the appropriate premium and coverage obligations in those states.

**(c) What if a Washington employer knows the Washington workers' work in another state will exceed the temporary and incidental period?** If the Washington employer knows their Washington workers will be working in another state in excess of the temporary and incidental period, ((it)) the employer must immediately provide the department with proof of out-of-state coverage in order to avoid Washington premium liability for hours worked during the temporary and incidental period.

Reminder: The temporary and incidental period applies separately to each state in which the Washington employer worked.

**(d) What if a Washington employer anticipates its out-of-state work will exceed the temporary and incidental period, but ((it)) that does not occur?** If a Washington employer did not pay workers' compensation premium to Washington during the temporary and incidental period, and at the end of the calendar year Washington workers of the Washington employer had worked fewer than thirty consecu-

tive or nonconsecutive days in another state, by the filing of the fourth quarter report, the Washington employer must file amended reports for the calendar year. The employer may be required to pay Washington premiums, penalties, and interest. The fourth quarter report is due by January 31 of the following year.

**(e) What records must the employer keep while employing Washington workers in another state?** In addition to filing the supplemental report of out-of-state work, the Washington employer is required to keep the same records that are kept for Washington workers working in Washington. The records are listed in WAC 296-17-35201 and must be provided at the time of audit to any authorized representative of the department who has requested them.

**(f) What reports does a Washington employer file to avoid paying Washington workers' compensation premiums when employing Washington workers in another state for work that exceeds temporary and incidental?** A Washington employer must submit the workers' compensation employer's quarterly report and a supplemental report of out-of-state work to the department for each state in which ((it)) that employer has Washington workers performing work. The supplemental report must include the following information:

(i) The Washington employer's unified business identification number (UBI).

(ii) The Washington employer's department account identification number.

(iii) The Social Security numbers for those Washington worker(s) performing work out-of-state.

(iv) The last name, first name, and middle initial of those Washington worker(s) performing work out-of-state.

(v) The gross payroll paid during the quarter for those Washington worker(s) performing work out-of-state.

(vi) The Washington workers' compensation risk classification(s) that would have applied for each Washington worker performing work out-of-state.

(vii) The total number of hours that each Washington worker performed work out-of-state during the quarter.

(viii) In addition to completing the supplemental report of out-of-state work, the Washington employer must keep a record of all contracts awarded and worked under each state. Copies of pertinent records must be made available to auditors in the event of an audit.

**(g) Where do Washington workers file their workers' compensation claims if injured in the course of employment outside of Washington state?** Washington workers may file their claim in the state where they were injured or in Washington state.

Washington employers must inform their Washington workers of their right to file for workers' compensation benefits in Washington or the state of injury.

The cost of these claims, if accepted by the department and assigned to the Washington employer's account, will be used in the calculations that determine the employer's experience factor and the appropriate risk classification base rate.

**(h) If the Washington employer's work in another state exceeds the temporary and incidental period, may the Washington employer obtain a credit or refund for the temporary and incidental period that workers' com-**

**pensation premiums were paid to Washington?** Yes, but only if the Washington employer:

- (i) Obtained workers' compensation insurance for all hours worked in the other state during the calendar year;
- (ii) Provides proof of out-of-state coverage;
- (iii) Filed the appropriate quarterly reports with the department when due; and
- (iv) Otherwise complied with all statutory and regulatory requirements of Washington state.

(9) **Special for-hire taxi/industry rules.** All for-hire vehicles must be covered for workers' compensation insurance. The owner of the vehicle is responsible for the workers' compensation insurance premiums. Those businesses that provide only cabulance or limousine services must report actual hours worked.

(a) **What is the unit of exposure for taxis?** Flat rate by driver - The rate is based on four hundred eighty hours per driver each quarter.

Flat rate by vehicle - The rate is based on nine hundred sixty hours per vehicle each quarter.

Actual hours - The rate is based on actual hours worked.

(b) **Can I use a flat rate for reporting some vehicles and actual hours for reporting other vehicles?** No, you must choose to report using only one of the three methods: Flat rate per driver, flat rate per vehicle, or actual hours worked. Owners who choose to report by driver or by actual hours worked must maintain verifiable records, such as lease agreements or payroll records. (~~For vehicles~~) Where verifiable records are not available or not maintained, the owner must pay premiums on the flat rate of nine hundred sixty hours per vehicle each quarter.

(c) **What happens if premiums are not paid?** If the for-hire/taxi vehicle owner does not pay premiums, the department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

#### AMENDATORY SECTION (Amending WSR 11-24-057, filed 12/5/11, effective 1/5/12)

**WAC 296-17-920 Assessment for supplemental pension fund.** The amount of 46.6 mils (\$0.0466) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC ((296-15-060)) 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

#### AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-0107 Classification 0107.**

#### **0107-00 Utility line construction: Underground, N.O.C.**

Applies to contractors engaged in underground utility line or cable construction that is not covered by another classification (N.O.C.). Work contemplated by this classification includes the installation and maintenance of underground television cable, power, and telephone line including main, extension, and outside service connection lines by utility contractors. Installation of these types of utilities usually occurs at a depth of ((3')) three feet or less. This classification includes digging narrow trenches, laying pipe or conduit, laying line or cable, and filling or backfilling trenches. In some instances automatic equipment is used which in one operation opens the trench, lays the line and backfills. Equipment used by contractors subject to this classification includes backhoes, mechanical or manual trench diggers, automatic equipment and dump trucks.

This classification excludes land or road clearing and excavation which is to be reported separately in classification 0101; overhead television, power, or telephone lines including poles or towers which are to be reported separately in classification 0509 or the applicable utility company classification; asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212; concrete construction which is to be reported separately in the applicable concrete construction classification(s); ((and)) construction specialty services including the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219; and the installation and the hookup of electrical wiring from where the utility company's lines end to the structure's power meter by the contractor wiring a building.

#### **0107-01 Pipelaying, N.O.C.**

Applies to contractors engaged in underground pipelaying or pipeline construction not covered by another classification (N.O.C.). Work contemplated by this classification includes the installation and maintenance of underground gas, oil or water main construction, and other pipelines such as those extending cross country. Installation of these types of pipes usually occurs at a depth of approximately ((3')) three feet. This classification includes digging narrow trenches, laying pipe, making connections, and filling or backfilling trenches. This classification includes machinery and equipment such as backhoes, mechanical or manual trench diggers, and dump trucks.

This classification excludes land or road clearing and excavation which is to be reported separately in classification 0101; construction of sewer lines ((and)), drainage systems, canals, ditches, or underground tanks generally occurring at a depth greater than ((3')) three feet which ((are)) is to be reported separately in classification 0108; asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212 as applicable; concrete construction which is to be reported separately in the applicable concrete construction classification(s); and construction specialty services such as the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-0217 Classification 0217.**

##### **0217-00 Concrete flatwork - Construction and/or repair: N.O.C.**

Applies to contractors engaged in the construction and/or repair of concrete flatwork not covered by another classification (N.O.C.) such as, but not limited to, walkways, pathways, fences, and curbing. Work in this classification includes the set-up and tear down of forms, placement of reinforcing steel and wire mesh, and the pouring and finishing of concrete.

This classification excludes land clearing and excavation which is to be reported separately in classification 0101; concrete work performed on or in connection with highway, street, or roadway projects including sidewalks, curbs, gutters, median or retaining walls, sawing, drilling, or cutting operations which is to be reported separately in classification 0214; and concrete work contained within a concrete, masonry, iron or steel frame building or structure such as the foundation, floor slabs, precast or poured in place bearing floors or wall panels, columns, pillars, metal erection or any other portion of the building or structure itself which is to be reported separately in classification 0518.

##### **0217-01 Concrete foundation and flatwork construction and repair: Wood structural buildings**

Applies to contractors engaged in the construction and/or repair of concrete foundation and flatwork for wood structural buildings not to exceed three stories in height. This classification includes the set-up and tear down of forms, placement of reinforcing steel and wire mesh, pouring, and finishing of concrete footings, stem walls, floor pads, cellar or basement floors, garage floors, swimming pools and ponds. This includes incidental concrete work such as walkways or driveways when performed by a foundation contractor.

This classification excludes land clearing and excavation which is to be reported separately in classification 0101; concrete work performed on or in connection with highway, street, or roadway projects including sidewalks, curbs, gutters, median or retaining walls, sawing, drilling, or cutting operations as part of the roadway which is to be reported separately in classification 0214; ((and)) concrete landscape curbing which is included in classification 0301-08; and concrete work contained within a concrete, masonry, iron or steel frame building or structure such as the foundation, floor slabs, precast or poured in place bearing floors or wall panels, columns, pillars, metal erection or any other portion of the building or structure itself which is to be reported separately in classification 0518.

##### **0217-02 Concrete sawing, drilling and cutting, N.O.C.**

Applies to contractors engaged in concrete sawing, drilling and cutting not covered by another classification (N.O.C.), including repairs. Work contemplated by this classification includes concrete sawing, drilling and cutting operations in connection with wood frame and nonwood frame buildings or structures, including flatwork, which may or may not be part of the building structure, such as, but not lim-

ited to, foundations, walkways, driveways, patios and swimming pools which may or may not be part of the building or structure. Activities include, but are not limited to, the sawing, cutting and drilling for ventilation boxes in the footings or stem walls, ((cut)) cutting out(s)) for windows or door ways, ((preparation)) preparing to mount brackets for stairways or interior bearing walls, cutting interior walls as part of a building renovation project, ((cut)) cutting out(s)) for electrical and switch boxes, and repairing defective areas.

This classification excludes concrete sawing, drilling, and cutting operations performed on or in connection with highway, street, or roadway projects including sidewalks, curbs, gutters, median or retaining walls as part of roadways which are to be reported separately in classification 0214; bridge construction which is to be reported separately in classification 0201; and new dam construction which is to be reported separately in classification 0701.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-0219 Classification 0219.**

##### **0219-00 Construction specialty services, N.O.C.**

Applies to contractors engaged in the installation or removal of lighting for highways, streets, ((or)) roadways ((lighting)), parking lots, and light standards. It also applies to the installation, repair, or removal of signs, guardrails, roadside reflectors, lane buttons or turtles, or lane markers not covered by another classification (N.O.C.). Usually, these activities occur as finishing touches after new or existing roadways are paved or surfaced. Roadway lighting includes traffic signal lights, and halogen or mercury vapor lights mounted to metal standards erected alongside the roadway. Signs (such as speed limit, road condition, city and town mile destination) are mounted on overpasses or on wood or metal poles erected alongside the roadway. Guardrails include metal barriers mounted on wood or metal poles driven into the roadside shoulder. Lane markers, lane buttons or turtles consist of small reflectors, or chips of plastic or concrete attached to the road with an adhesive bonding material. This classification includes the related hook-up of power to the light standard.

This classification excludes the installation of power lines that feed into power poles which is to be reported separately in the applicable construction classification for the work being performed.

**Special note:** This classification excludes exterior sign erection, repair, or removal not in connection with displaying highway, street, or roadway information or conditions even though such signs may be erected or placed alongside roadways (such as advertisement bill boards, business, or personal property signs) which is to be reported separately in classification 0403.

##### **0219-01 Construction specialty services**

Applies to contractors engaged in specialty services such as the painting or striping of highways, streets, roadways, or parking lots not covered by another classification (N.O.C.). This classification includes painting, striping, numbering, or lettering of highways, streets, roadways, parking lots, parking

garages, airport runways, taxi ways, curbs, roadway dividers ((or)), median strips, and special traffic areas such as fire, bus, handicap, and no parking zones. The paint or other material used for these markings is usually applied to the surface using a mechanical device, either self-propelled or towed by a truck or other motor vehicle. In some instances, the paint will be applied manually with brush or roller which is included in this classification. This classification includes the application of asphalt sealants to roadways or parking lots. This classification also includes concrete barrier installation, in connection with road construction, by a concrete barrier rental business or by a flagging contractor who also supplies the concrete barriers. This includes the flaggers who are necessary during the installation of the barriers as well as any flaggers the company supplies to the road construction project itself.

This classification excludes the interior painting of buildings which is to be reported separately in classification 0521, the exterior painting of buildings or structures which is to be reported separately in classification 0504; application of asphalt sealant to driveways which is to be reported separately in classification 0504-06; the rental of the concrete barriers and other flagging equipment which is to be reported separately in classification 6409; and flaggers who are not employed by a concrete barrier rental business or by a flagging contractor who also supplies the concrete barriers which are to be reported separately in classification 7116 or 7118 as appropriate.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-0301 Classification 0301.**

##### **0301-04 Lawn type sprinkler systems: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of lawn type sprinkler systems. This type of activity is performed by landscaping contractors, plumbing contractors, and irrigation specialist contractors. Generally, lawn type sprinkler systems are installed at private residences or commercial businesses. The process involves identifying the area of land to be covered to determine the size and amount of pipe and sprinkler heads needed for the job. The installation involves cutting a trench in the ground (((+2" to +8" )) twelve to eighteen inches deep and wide enough to accommodate the pipe) with a vibrating plow or pipe pulling machine. Next, pipe is laid in the trench, glued, or otherwise joined, heads and canisters are installed, and the timer is hooked up. The system is checked for leaks, needed adjustments are made, and the pipe and heads are buried.

This classification excludes open canal type irrigation systems which are to be reported separately in classification 0108; the installation, service or repair of above or below ground agricultural/irrigation systems which is to be reported separately in classification 0301-06; and maintenance and cleaning of lawn sprinkler system pipes and heads done in connection with a landscape maintenance contract which is to be reported separately in classification 0308.

##### **0301-06 Agricultural sprinkler/irrigation systems, N.O.C.: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of above or below ground agricultural sprinkler and irrigation systems not covered by another classification (N.O.C.). The more common types of systems include below ground, fixed or movable, and wheel or impulse. Generally, these types differ from lawn sprinkler systems in that the size of pipes and pumps installed are much larger to produce the water pressure needed to irrigate large areas of land. Installation of below ground systems involves the use of trenching equipment to dig trenches, which are usually more than two feet deep to lay pipe. The above ground systems are laid out and assembled based on the need of the land area.

This classification excludes open canal type irrigation systems which are to be reported separately in classification 0108, and the installation, service or repair of lawn type sprinkler systems which is to be reported separately in classification 0301-04.

##### **0301-08 Landscape construction operations, N.O.C.**

Applies to landscape contractors engaged in new landscape construction or renovation projects not covered by another classification (N.O.C.). This classification also applies to specialist contractors engaged in the installation of invisible fences which are usually used to confine animals within a given area. Landscape construction work contemplated by this classification includes producing a preliminary drawing of the landscape or renovation project, preparing the ground (which may include tilling and spreading top soils or custom mix soils), installing sprinkler systems, planting trees, plants or shrubs, planting or replanting grass from seed or sod, installing ground cover material or plastic to retard weeds, ((placement of)) placing concrete borders, ((and)) the incidental construction of rockery, extruded concrete curbing, fences, ponds, paths, walkways, arbors, trellis and gazebos when performed by employees of a landscape contractor as part of a landscape contract. ((Such)) If these activities are conducted separately from a landscape contract and not part of the landscape project ((are to)), they must be reported separately in the classification applicable to the work being performed. Equipment used by contractors subject to this classification includes, but is not limited to, tractors with till attachments, small front end loaders, trenchers, mowers, fertilizer spreaders, wheelbarrows, and electric power tools.

Invisible fence construction work contemplated by this classification includes identifying the land area to be fenced, sketching a preliminary drawing, burying the wire in a narrow trench (about ((4" )) one inch wide by ((2" )) two to ((6" )) six inches deep) that has been dug along the field perimeter (or just securing the wire onto the ground around the perimeter), and connecting ((end of wire to a)) the low voltage transmitter box (usually about the size of a hand-held calculator) that plugs into a 110 volt electrical outlet. This classification includes training sessions for the animal and related maintenance and repair at the customer's location. Equipment used to install invisible fences includes, but is not limited to, rakes or other hand tools, and small trench diggers.

This classification excludes all grading, clearing, or contouring of land which is to be reported separately in classification 0101; bulkheads not adjacent to water, or similar struc-

tures built of rock, which are to be reported separately in classification 0302; and lawn care maintenance or chemical spraying or fumigating which is to be reported separately in classification 0308.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-0601 Classification 0601.**

**0601-00 Electrical wiring in buildings; electrical wiring, N.O.C.; Permanent flood lighting: Installation**

Applies to contractors engaged in the electrical wiring of buildings, or in electrical wiring not covered by another classification (N.O.C.). Work contemplated by this classification is characterized as general electrical work, including installation, service or repair at residential and commercial settings. This classification includes ((electrical work which generally begins at)) the installation, service or repair of extension lines and the hookup of electrical wiring from where the utility company's lines end to the structure's power meter and extends to the inside or outside of the building or its exterior setting, including, but not limited to, the installation of the breaker panel, fuses, plugs and snap switches, rough-in electrical work to include the stringing of insulated or encased wiring and mounting of plug-in or switch housing boxes, installation of plug-in, dimmer and switch units; installation of light fixtures, recessed canister and fluorescent lighting, track lighting, and other interior and exterior lighting fixtures, installation of ceiling fans, and the installation of residential and commercial appliances such as built-in microwaves, dishwashers, electric ovens and oven hoods. This classification also includes the installation of permanent flood lighting at stadiums and parks. Generally, flood lighting fixtures are mounted onto poles, buildings, or other structures; the erection or construction of those structures is not included in this classification.

This classification excludes the installation of overhead or underground power lines and poles by an electric utility company which is to be reported separately in classification 1301; the installation of overhead power lines by a nonelectric utility contractor which is to be reported separately in classification 0509; and the installation of underground power lines by a nonelectric utility contractor which is to be reported separately in classification 0107.

**0601-07 Electrical machinery and auxiliary apparatus: Installation and repair**

Applies to contractors engaged in the installation and repair of electrical machinery and auxiliary apparatus such as, but not limited to, heavy motors, generators, converters, transformers, compressors and power switchboard equipment. Generally, this type of work occurs at industrial or commercial plants, power plants, or sites where large machinery is to be installed. Work contemplated by this classification includes extending insulator or encased wiring or cable from the power meter, breaker or control panel to the physical location where the machinery is to be installed, and incidental wiring of the machinery or auxiliary apparatus.

**0601-08 Temporary floodlights or search lights: Erection**

Applies to contractors engaged in the erection or set up of temporary floodlights away from the contractor's premises. Usually, these lights are mounted on a truck or trailer, and then transported to the customer site or location where they are operated with use of a generator. Uses of temporary floodlights and searchlights include, but are not limited to, advertising grand openings or special sales at shopping malls, auto dealers, grocery and outlet stores, marking the location of special events such as carnivals or concerts, or at construction project sites.

This classification excludes the erection of permanent floodlight fixtures to poles, buildings or structures which is to be reported separately in classification 0601-00.

**0601-15 Television cable: Installation service or repair in buildings by contractor**

Applies to contractors engaged in the installation, service or repair of television cable in buildings. This classification includes the installation of television cable lines in residential and commercial buildings and includes the dropping of lines from the pole to the house, mounting of cable control panel boxes to the exterior of buildings, extending cable, mounting multiple line adapter units and relay switches, and affixing the cable end for hook-up to televisions and other stereo components.

This classification excludes the installation of underground or overhead television cable lines when performed by a television cable company which is to be reported separately in classification 1305; installation of underground television cable lines when performed by a nontelevision cable company contractor which is to be reported separately in classification 0107; and installation of overhead television cable lines from pole to pole by a nontelevision cable company contractor which is to be reported separately in classification 0509.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-3411 Classification 3411.**

**3411-00 Automobile: Dealers, rental or leasing agencies, including service repair garages; Recreational vehicle: Dealers, rental/leasing agencies, or service/repair garages**

Applies to establishments engaged in selling, renting, or leasing automobiles, including service/repair centers operated by dealers. This classification also applies to establishments engaged in selling, renting, leasing or servicing/repairing recreational vehicles. For purposes of this classification, the term "automobile" includes standard sized passenger cars, ((pick-up)) pickup trucks, and sport utility vehicles. The term "recreational vehicle" includes motor homes, travel trailers, campers, and also includes sport and utility trailers. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service and repair work, washing, vacuuming, and waxing vehicles, and detailing such as striping, window tinting, vinyl repair, installing molding and electronic accessories when performed by employees of an employer subject to this classifi-

cation. This classification includes service managers, parts department employees who have shop exposure, towing service for in-shop repairs, lot personnel, and customer courtesy van or car drivers.

This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409; recreational vehicle dealers who also sell factory built housing units such as modular and mobile homes who are to be reported separately in classification 3415; parts department employees who are not exposed to any hazards of the service/repair shop who may be reported separately in classification 6309; auto body shop employees or auto body specialty shops who are to be reported separately in classification 3412; dealers who sell truck canopies and related accessories, but do not sell the other vehicles/trailers included in this classification who are to be reported separately in classification 1106; establishments engaged in welding or cutting repairs and/or hydraulic installation which are to be reported separately in classification 3402; and sales employees who may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met.

**Special notes:** Used automobile dealers will not normally have service/repair garages or parts departments but will have lot personnel and detailers. Automobile rental and leasing agencies will normally have all the operations described above with the exception of parts department employees. New automobile dealers will routinely have all of the operations described above.

Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

#### **3411-01 Automobile: Service centers, repair shops or garages**

Applies to establishments engaged in servicing and repairing automobiles for others. For purposes of this classification, the term "automobile" includes standard sized passenger cars, ((~~pick-up~~)) pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service when performed by employees of an employer subject to this classification, such as engine overhauls and rebuilding, resurfacing heads, valve grinding, transmission overhauls or rebuilding, electrical repairs, brake service, engine tune ups, fuel injection service, carburetor repair, and engine diagnostic service ((when performed by employees of an employer subject to this classification)). This classification includes service managers, parts department employees who have shop exposure, incidental sales of reconditioned cars, towing service for in-shop repairs, ((and)) customer courtesy van or car drivers, roadside assistance, and tire chain installation. Parts department employees who are not exposed to any hazards of the repair shop may be reported separately in classification 6309.

This classification excludes auto body shop employees who are to be reported separately in classification 3412.

**Special note:** While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line auto parts stores. Care needs to be taken when considering assignment of classification 6309 for auto part sales. Only those businesses that have a full line auto parts store which is physically separated from the repair shop and whose sales of auto parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309. *This classification does not apply to auto repair shops that also sell and install tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

#### **3411-02 Automobile: Service specialty shops**

Applies to establishments engaged in providing specialized automobile repair services such as air conditioning systems, muffler repair, cruise controls and electrical systems. For purposes of this classification, the term "automobile" includes standard sized passenger cars, ((~~pick-up~~)) pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, inspection of vehicle components for wear, diagnostic analysis, and repair of various components such as brakes and cooling systems, after-market installation of components such as cruise control, air conditioning systems, and sun roofs; and specialized repair services such as mufflers and transmissions. This classification includes service managers, part sales, towing service for in-shop repairs, and customer courtesy van or car drivers.

**Special note:** Businesses assigned to this classification will generally have an inventory of supplies and parts which they use in the service and repair of customer vehicles although some sales of parts and components may occur. *This classification does not apply to any shop that sells and installs tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishment engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

#### **AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)**

#### **WAC 296-17A-3602 Classification 3602.**

#### **3602-01 Electrical, telegraph or radio component, telephone set: Manufacture, assembly, or repair**

Applies to establishments engaged in the manufacture, assembly, or repair of components related to the telegraph, electrical, radio or telephone industry. Component parts may be for items such as, but not limited to, radio or television sets, hearing aids, transformers, coils, condensers, switches, antennae, phones, speaker units, dials, rheostats, plugs, arrestors, resistors, and electrical control relays, circuit breakers,

or other parts necessary to accomplish radio, electrical, telegraph or telephone communication. Materials include, but are not limited to, metal, plastic, and wood used for the outside casings, and component parts. Some establishments in this classification manufacture the casings and the internal components. Other establishments in this classification assemble the ready-made parts with air and hand tools such as, but not limited to, drill presses, solder guns, or saws. Internal parts are usually assembled simply by clamping circuit boards in place, then soldering small pieces together. This classification includes engineers, research and laboratory personnel employed by establishments having operations subject to this classification. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-02 Instrument - Scientific, medical, or professional: Manufacturing; magnetic tape: Manufacturing**

Applies to establishments engaged in the manufacture of instruments used in medical, scientific, or professional applications. This classification also applies to establishments engaged in the manufacture of magnetic tapes. Instruments in this classification range widely in shape and size; they include, but are not limited to, dental or surgical instruments, microscopes or other scientific testing or research instruments, surveyors' instruments, and electrical testing instruments. Materials include, but are not limited to, metal, glass, plastic, or wood for casings, and component parts. Processes vary depending upon the product being produced, and could involve some stamping, machining, and heat-treating. However, component parts are usually manufactured by others, and establishments in this classification perform a substantial amount of hand assembling, inspecting, testing, and packaging operations. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-03 Sound recording equipment: Manufacturing**

Applies to establishments engaged in the manufacture of sound recording equipment. Establishments in this classification may manufacture all or some equipment such as instruments for measuring sounds, and generators (for producing sounds), filters or modulators (for processing sounds), magnetic or tape recorders (for storing sounds), and speakers (for reproducing sounds). Materials include, but are not limited to, metal, glass, plastic, or wood for casings, clamps, glue or epoxy, and component parts. Components may be produced by the manufacturer or purchased from others and assembled. The assembly may be partially or wholly automated.

Machinery includes, but is not limited to, shears, drill presses, grinders, soldering guns, welding equipment, and air or hand tools. There may be inspection areas and sound testing rooms. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-04 Thermometer and steam gauge: Manufacturing**

Applies to establishments engaged in the manufacture of thermometers and/or steam gauges. The most common type of thermometer is a mercury thermometer which consists of a capillary tube that is sealed at its upper end and is enlarged into a spherical or cylindrical bulb at its lower end. This bulb is filled with mercury and mounted on a thin metal or plastic sheet. The manufacturers of steam gauges may simply assemble component parts with hand tools, test, and package them. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-05 Dental laboratories**

Applies to establishments engaged in the manufacture of dentures, artificial teeth, braces, and retainers. These types of establishments are generally referred to as dental laboratories. The manufacture of these items involves precision work with castings, plastic or vinyl molding, and light wire forming. In the state of Washington dental laboratories can fit patients for dentures, in addition to making the denture which is included when performed by employees of employers subject to this classification. This is a shop only classification. Repair work when specified is limited to work performed at the shop. Shops may include kiosks in malls that make custom dental molds used in tooth whitening treatments.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-06 Jewelry: Manufacturing or engraving; trophy assembly or engraving**

Applies to establishments engaged in the manufacture or engraving of jewelry, such as, but not limited to, rings, bracelets, necklaces, earrings, watchbands, pins, ((~~broaches~~)) brooches, and cigarette lighters. Jewelry manufacturing or engraving involves working with precious metal and/or stones. Operations usually include polishing, buffing, drilling, and assembly, mixing and melting alloys and metals, then pouring the mixture into small casts. This classification also applies to establishments engaged in assembling or

engraving trophies on a production basis. For purposes of this classification, assembly means making trophies from pre-manufactured components purchased from others. The engraving may be done by "etching" or by computer. In the etching method, patterns or lettering ((is)) are cut into a metal strip that is coated with a solution resistant to etching acids. The metal strip is treated with etching acids that "melt away" the uncoated portion of metal, leaving an impression of the design. Computerized engraving is done by keying the designs or letters into the computer; the designs are transmitted to an "arm" on the computer which "draws" (engraves) them onto the metal plate. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used; and establishments engaged in the manufacture of watches which are to be reported separately in classification 3602-09.

**Special note:** This classification is for manufacturers engaged in the mass production of jewelry items and is distinguishable from jewelry stores reported in classification 6308 ((who)) that produce custom, one-of-a-kind pieces on a special order basis. Trophy stores in classification 6308 may assemble components to make custom trophies, or engrave plaques for the trophies they sell. Assembly and engraving that is incidental to their retail sales operation is included in their store classification.

#### **3602-07 Electronic parts: Assembly**

Applies to establishments engaged in the assembly of electronic parts which are usually sold to other manufacturers. They may have automated/robotics assembly lines for all or part of the processes. In manual operations, small parts are soldered, chipped, riveted, or screwed into place with hand tools such as, but not limited to, soldering guns, riveters, drills, screw drivers, or water jets. This classification also applies to establishments engaged in the manufacture or assembly of computers and the manufacture of dry cell (flashlight type) batteries. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-08 Electrical/electronic ignition assembly, cord set, or radio set: Assembly**

Applies to establishments engaged in the assembly of electrical/electronic ignition assemblies, cord sets, and radio set components. An ignition assembly is a switching component that allows an electrical circuit to be completed in order to start a piece of machinery or equipment. Electrical cord sets are the portion of wiring found on appliances and tools that plug into electrical power sources. A radio set is com-

prised of an input circuit for tuning in to the frequencies of the various transmitters to be received, the demodulation circuit for separating the audio-frequency from the high-frequency carrier, a low-frequency amplifier stage, and the loudspeaker. The amplifier elements are transistors supplied with the necessary operating voltages. Establishments in this classification usually assemble radio component parts and circuit boards that are manufactured by others. The assembly is accomplished by soldering, clipping, riveting, and welding the parts into place. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-09 Watch: Manufacturing**

Applies to establishments engaged in the manufacture of watches. The component parts are usually mass produced on an assembly line. Watch cases are usually made from sheet metal or plastic; watch faces are made from plastic or glass. The internal works are very small gears or springs and/or computer chips. The face may have hands and a dial, or may consist of a light emitting diode (LED). This classification includes the manufacture of internal works of clocks. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes establishments engaged in the manufacture of jewelry which are to be reported separately in classification 3602-06; establishments engaged in the manufacture of wooden housings or casings for clocks such as grandfather and mantle types which are to be reported separately in classification 2905; all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-10 Camera, video camcorder, motion picture projectors: Manufacturing, assembly, or repair**

Applies to establishments engaged in the manufacture, assembly, or repair of cameras, video camcorders, and motion picture projectors. Materials include, but are not limited to, metals, plastics, glass and internal components. Machinery includes, but is not limited to, punch presses, drill presses, and soldering guns. Establishments in this classification often assemble products from internal components manufactured by others. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

***Special note:*** When an establishment subject to this classification has a retail store, if all the conditions of the general reporting rules covering the operation of a secondary business have been met, then both classifications 6406 and 3602-10 may be assigned (provided all the conditions of the general reporting covering the operation of a secondary business have been met). Otherwise, all operations are to be reported in the highest rated classification of the two.

#### **3602-11 Fishing tackle: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of fishing tackle. For purposes of this classification, the term fishing tackle is limited to lures, spinners, spoons, flies, plugs, sinkers, artificial bait and similar items. Work contemplated by this classification includes the receipt of supplies such as wire, hooks, spoons, swivels, beads and feathers, and other components from unrelated manufacturers and distributors, hand assembly of components into finished fishing tackle, painting spoons and plug bodies, packaging and shipping. This classification also contemplates testing of products and research and development of new products. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes the manufacture of items such as, but not limited to, reels, poles, nets, tackle boxes, knives, melting pots, plastic beads, wooden or plastic plug bodies, hand tools (pliers, bench vise), molds, specialty clothing or protective gear which are to be reported separately in the classification applicable to the material and process used to produce the product; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

***Special note:*** Care should be taken when assigning this classification to verify that the product being manufactured is compatible with the manufacturing and assembly processes contemplated within this classification. Most fishing tackle subject to this classification is hand assembled from small component parts.

#### **3602-12 Incandescent lamp or electric tube: Manufacturing**

Applies to establishments engaged in the manufacture of electrical or gas-filled bulbs or tubes such as, but not limited to, incandescent lamps, photoflash lamps, flood lamps, fluorescent tubes, X-ray tubes, cathode-ray tubes, neon tubes or artistic style neon tube signs that are not attached to metal backings. The processes and equipment will vary somewhat depending on the type of electrical bulb, tube, or lamp being made, but the basic operation is the same. Component parts such as, but not limited to, glass bulbs, globes, or tubes, tungsten wire, metal bases, shellac, and nitrogen and argon gas are purchased from outside sources. Using flange machines, the bottom of the glass tubing is fused to the flange to produce the base that is used within the bulb or globe. Metal bases may be milled, and then coated with a sealing compound such as shellac. Mounts are assembled and inserted into the flange on stem machines. The assemblies are seared together, and then the tungsten filaments are fixed between support wires forming the stem. The bulbs or globes are flushed with nitrogen to expel any moisture before the stems

are inserted into them. These units are inserted into the metal bases and cemented. Air is evacuated and argon gas is pumped into the bases, after which they are heat sealed and trimmed. Neon tube signs or displays are made by heating a thin tube of glass over a ribbon flame until the tube becomes flexible, blowing air into the tube to keep the glass from collapsing, then, while it is still hot, bending it to shape. Because the glass cools rapidly, the heating and bending is repeated until the desired shape is achieved, then the tube is filled with neon or argon gas and the ends sealed.

This classification excludes establishments engaged in the manufacture of metal fixtures equipped with electrical or gas lighting which are to be reported separately in classification 3402; all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-14 Musical instrument - Metal: Repair**

Applies to establishments engaged in the repair of metal musical instruments which include, but are not limited to, trumpets, trombones, French horns, and tubas. The operations involve primarily hand work such as, but not limited to, brazing and soldering, as well as fitting, testing, and polishing the instruments. Tools include, but are not limited to, solder or brazing guns, lathes, drill presses, and various types of saws. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; the repair of wood musical instruments which is to be reported separately in classification 2906; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

#### **3602-23 Electronics products - Resistors, capacitors, chips and relays, transistors: Manufacturing**

Applies to establishments engaged in the manufacture of resistors, capacitors, chips, relays, and transistors which are usually tiny and delicate. Products manufactured in this classification are usually mass produced with little human intervention during the production process, which is often done in a vacuum or a nitrogen filled room. Materials include, but are not limited to, silicon, wires, and plastics. In addition to the automated equipment, hand-held tools include, but are limited to, pliers, wrenches, and soldering guns. Finished products are inspected, usually through powerful microscopes, then packaged and shipped. This is a shop or plant only classification. Repair work, when specified, is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

**3602-24 Stamped metal goods: Manufacturing**

Applies to establishments engaged in the manufacture of small, stamped, metal goods such as, but not limited to, metal tags, buttons, zippers, bottle caps, fasteners, snaps, clasps, buckles, and curtain fasteners. Materials, which come in coils or strips, are run through presses. Most of the stamping is done on automatic stamping presses. Products are cut, stamped, formed, trimmed, and cleaned, then usually finished by plating or lacquering. This is a shop or plant only classification. Repair work, when specified, is limited to work performed at the shop or plant.

This classification excludes the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

**3602-27 Electronic circuit board, N.O.C: Assembly**

Applies to establishments engaged in the assembly of electronic circuit boards not covered by another classification (N.O.C.) which are used in a wide variety of electronic and automotive products. The process usually begins by cutting boards to size with power saws, then drilling or punching holes in them with automated drills or punches. Depending upon the original materials used, the boards used for the base may be coated or dipped. Then the chips, transistors, resistors, and/or condensers are installed, usually as part of an assembly line process. Next, the circuit boards are dipped and coated with a thin metal. Finished products are inspected, tested, packaged and shipped. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

**3602-28 Stereo components: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of stereo components such as, but not limited to, record changers, disc or video players, receivers and amplifiers. Materials include, but are not limited to, circuit boards, resistors, drivers, baffle plates, chambers, trim/rings, and grills. Equipment includes, but is not limited to, hot glue guns, electric drills, electric screw drivers, and automated assembly or manufacturing equipment. Finished products are inspected, tested, packaged and shipped. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-3905 Classification 3905.****3905-00 Restaurants, N.O.C.**

Applies to establishments engaged in restaurant operations not covered by another classification (N.O.C.). These establishments are "traditional, family or full service" restaurants that provide sit-down services, or cafeteria or buffet style meals. This classification includes the preparation and service of food and beverages. Establishments in this classification may serve beer and wine including on premises consumption of beer from microbrewery operations in connection with the restaurant; however, they are prohibited from selling spirits or hard liquor. Typical occupations include, but are not limited to, hostesses, ((waiters, waitresses)) wait staff and assistants, cooks, ((busboys,)) dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in conjunction with the restaurant.

This classification excludes establishments engaged in operating restaurants or lounges that sell spirits or hard liquor which are to be reported separately in classification 3905-07, and catering services that are not part of the restaurant operation which are to be reported separately in classification 3909.

**Special note:** Traditional, family or full service restaurants are establishments where wait persons bring customers a menu, take orders, and deliver prepared meals to the customer's table or where customers choose from a variety of food items from a buffet or cafeteria style service. Such establishments will generally use nondisposable eating utensils and plates to serve food as opposed to throw away paper plates and plastic eating utensils. Includes establishments where orders are placed at the counter, and the food or drink is delivered to your table. Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a restaurant are to be reported separately in classification 6605.

**3905-01 Food, drink, and candy vendors or concessionaires**

Applies to street vendors and businesses engaged in operating food, drink or candy concessions at places such as, but not limited to, ball parks, race tracks, theaters and exhibitions. This classification is applicable only to concession operations which are operated ((independent)) independently from the facility or event at which the concession service is being provided. These independent vendors selling food items are not employees of the facility or site where the event or exhibition is taking place. Vendors subject to this classification sell a variety of food, snack and beverage items from booths, mobile push carts, mobile stands, carrying boxes, or trays.

This classification excludes food and beverage operations (concession stands) operated in connection with an event or facility by employees of the event sponsor or facility operator which are to be reported separately in the classification applicable to the event or exhibition; vendors and route food services, operating in a truck or van moving from place to place throughout the day, which are to be reported separately in classification 1101; vendors of nonfood items which are to be reported separately in the applicable classification; and vending machine service companies that replenish food, snack and beverage products which are to be reported separately in classification 0606.

#### **3905-03 Commissaries and restaurants with construction, erection, logging or mine operations**

Applies to commissary or restaurant operations conducted *exclusively* in connection with a construction, erection, logging or mining camp operation. This classification is limited to food preparation services provided at a camp site or at a mess hall used to feed employees of the construction, logging, erection, or mining company. The foods prepared and served are not intended for, or offered to, the general public.

**Special note:** The purpose of this classification is to provide employees engaged in the food preparation activity with a classification representative of the work being performed, even though such activities may be occurring at or adjacent to the construction, logging, erection or mining site as provided for in the general reporting rule covering general inclusions.

#### **3905-04 Eating establishments, N.O.C. such as public lunch counters in stores**

Applies to establishments not covered by another classification (N.O.C.) engaged in operating lunch counters and restaurants within a retail store location. Use of this classification is limited to employees of an employer who also operates the retail store where the food service is located.

#### **3905-06 Taverns**

Applies to establishments engaged in the operation of a tavern. A tavern is primarily engaged in the sale of beer, wine, and alcoholic beverages for on-premises consumption, and may also provide a variety of foods ranging from peanuts and pretzels to hot food dishes. Typical occupations include, but are not limited to, bartenders, ((~~waiters, waitresses~~) wait staff and assistants, cooks, ((~~busboys,~~) dishwashers, and managerial staff. Beer may also be sold by the keg with the rental of necessary taps and pumps. This classification includes the operation of a "beer garden" at special events such as, but not limited to, fairs or race meets, and the operation of a card room in connection with the tavern.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a tavern ((~~are to~~) must be reported separately in classification 6605.

#### **3905-07 Restaurants serving spirits or hard liquor**

Applies to establishments engaged in the operation of a restaurant having a license to sell spirits or hard liquor, beer and wine in connection with their food preparation and ser-

vice. This classification includes the preparation and service of food and beverages at sit down restaurants and lounges including on premises consumption of beer from microbrewery operations in connection with the restaurant. Such establishments have extensive cooking facilities and equipment to prepare full meals. Typical occupations covered by this classification include, but are not limited to, bartenders, hostesses, ((~~waiters, waitresses~~) wait staff and assistants, valet parking attendants, cooks, busboys, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in connection with the restaurant.

This classification excludes establishments engaged as a restaurant without a license to sell spirits or hard liquor which are to be reported separately in classification 3905-00; taverns which are to be reported separately in classification 3905-06; catering services which are not part of a restaurant operation which are to be reported separately in classification 3909; musicians who are to be reported separately in classification 6605; and entertainers such as dancers who are to be reported separately in classification 6620.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as ((~~an~~) independent contractors. Musicians or entertainers who are considered to be employees of a restaurant ((~~are to~~) must be reported separately in classification 6605.

#### **3905-08 Pizza parlors**

Applies to establishments engaged in operating a pizza parlor or restaurant. Establishments subject to this classification specialize in the preparation and sales of pizza (but may also provide other foods) and beverages such as wine, beer, alcoholic beverages, or soft drinks for on-premises consumption. Typical occupations include, but are not limited to, hostesses, ((~~waiters, waitresses~~) wait staff and assistants, cooks, ((~~busboys,~~) dishwashers, cashiers, and managerial staff. This classification also includes establishments that deliver pizza to customers, or where customers can pick up already prepared pizza at the shop, but where no customer seating is provided.

This classification excludes U-bake pizza operations which are to be reported separately in classification 6403.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as ((~~an~~) independent contractors. Musicians or entertainers who are considered to be employees of a pizza parlor ((~~are to~~) must be reported separately in classification 6605.

#### **3905-09 Fast food drive-ins, N.O.C.**

Applies to establishments engaged in the operation of fast food drive-ins or restaurants. These establishments serve easily prepared foods quickly and nonalcoholic beverages which can be eaten on the premises or picked up by customers at a counter or a drive through window. Fast food establishments offer a variety of menu items such as, but not lim-

ited to, hamburgers, french fries, tacos, sandwiches, fried chicken, hot dogs, fish and chips. Such establishments will generally use disposable eating utensils and throw away plates.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101 and full service restaurants which are to be reported separately in classification 3905-00.

### **3905-11 Soft drink lounges**

Applies to establishments engaged in operating soft drink lounges. These types of establishments may provide entertainment such as dancing for an adult audience or a place where youth((s)) under ((the)) age ((of)) 21 can dance or listen to music. These lounges do not sell alcoholic beverages. This classification includes the preparation and service of light snacks and hors d'oeuvres, such as chips, peanuts, pretzels or finger sandwiches.

This classification excludes entertainers such as exotic dancers who are to be reported separately in classification 6620; and musicians who are to be reported separately in classification 6605.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as ((an)) independent contractors. Musicians or entertainers who are considered to be employees of a lounge ((are to)) must be reported separately in classification 6605 or 6620 as applicable.

### **3905-12 Ice cream parlors**

Applies to establishments engaged in the operation of an ice cream parlor or frozen yogurt shop. These specialty shops offer a limited menu, usually confined to ice cream and frozen yogurt offered in individual servings, various size containers, and specialty items. Special occasion ice cream cakes may be ordered and picked up at a later date by the customer. These establishments usually provide customer seating.

This classification excludes vendors and/or route food services, operating in a truck or van moving from place to place throughout the day, which are to be reported separately in classification 1101((,)); and vendors selling ice cream from a booth, push cart, mobile stand or tray which are to be reported separately in classification 3905-01.

### **3905-13 Candy, nut, and popcorn retail stores with on-premises manufacturing**

Applies to establishments engaged in operating candy, nut or popcorn stores where some or all the products sold are manufactured on the premises. Establishments in this classification may sell a variety of candies, nuts, or popcorn, or may specialize in one or two products. They may also sell their products in gift wrapped packages.

This classification excludes establishments engaged in selling candy, nuts, or popcorn, *that do not manufacture* any product on the premises, which are to be reported separately in classification 6406((,)); and establishments primarily engaged in the wholesale manufacturing of candy which is to be reported separately in classification 3906.

### **3905-14 Espresso/coffee stands and carts**

Applies to vendors operating espresso or coffee stands or carts. Products sold include, but are not limited to, coffee, espresso, lattes, Italian sodas, soft drinks, pastries and pre-packaged items. These types of vendors *do not prepare food*. This classification is distinguishable from retail coffee, tea or spice stores in that coffee stands or carts in classification 3905 sell only ready-to-serve products; they do not sell packaged coffee, tea or spice items.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-0302 Classification 0302.**

#### **0302-01 Brick, block, ((rock)) and ((slate)) stone masonry work, N.O.C.**

Applies to contractors engaged in interior or exterior work in brick, block, ((rock and slate work)) stone, brick or stone veneer, granite, marble, slate, or quartz, not covered by another classification (N.O.C.). ((Included)) Applications in this classification ((are projects related to sidewalks, walkways, driveways, patios, steps, pads for wood stoves, flower or planting boxes, fences, inlay for fireplaces, countertops, buffets, full or partial interior or exterior walls, and includes the construction of entire buildings or structures with brick, block or rock products.)) also include, but are not limited to, concrete block, glass block, pavers, and slab or engineered stone products. Projects in this classification include, but are not limited to:

- Decorative additions to buildings and landscapes;
- Hardscape installations such as, but not limited to:
  - Driveways;
  - Fences;
  - Patios;
  - Steps;
  - Walkways;
  - Walls;
- Installation of slab stone or concrete countertops;
- Construction of entire buildings or structures with brick, block or stone products;
- Setting tombstones.

Work contemplated by this classification includes, but is not limited to((,));

- Cutting;
- Laying ((and cutting and)) or installing;
- Polishing ((brick, block, rock, slate, marble, granite, and));
- Dry setting or adhering with mortar ((or));
- Tuck pointing (filling and/or finishing brickwork or stonework joints with cement or mortar).

This classification excludes:

- Tile setting and countertop installations as described in classification 0502;
- Plastering, stuccoing or lathing work which is to be reported separately in classification 0303; ((tile setting which is to be reported separately in classification 0502; and))

- Incidental construction of rockery, paths, and walkways when performed by employees of a landscape contractor as part of a landscape project, which is to be reported in classification 0301;

- Mechanically placed block or prefab panels next to a roadway for noise barrier, median or retaining walls, which is to be reported in classification 0219;

- Concrete flat work which is to be reported separately in the classification applicable to the work being performed; and

- Masonry work as described in classification 0302-02.

**Special notes:** Contractors who operate a shop to cut, mill and polish stone products are to be assigned classification 3104-53 for the shop work; contractors operating a shop to make finished concrete products are to be assigned classification 3509 for the shop work. When a business is assigned classification 3104 or 3509 for the shop operation, then classification 5206 "Permanent yard or shop" may no longer be applicable to the business.

Contractors often have a showroom to display examples of their work and products which they install. If all the conditions of the general reporting rules covering standard exception employees have been met, then employees engaged exclusively in showing the display area or showrooms to customers are to be assigned classification 6303.

#### **0302-02 Masonry((N.O.C.))**

Applies to contractors engaged in interior or exterior masonry work ((not covered by another classification (N.O.C.), including chimney and fireplace construction. This classification includes)) including, but not limited to, the construction, lining or relining of:

- Fireplaces ((walls or boxes,));
- Chimneys(( ));
- Blast furnaces(( ));
- Fire pits;
- Ovens((, firepits, and setting tombstones)).

Work contemplated by this classification includes((, but is not limited to, laying and cutting brick or stone, and)):

- Cutting and laying brick, block or stone;

- Tuck pointing (filling and/or finishing brickwork or stonework joints with cement or mortar).

This classification excludes:

- Plastering, stuccoing or lathing work which is to be reported separately in classification 0303;

- Tile setting ((which is to be reported separately)) as described in classification 0502; ((and))

- Concrete work which is to be reported separately in the classification applicable to the work being performed; and

- All other masonry work which is to be reported in classification 0302-01.

**AMENDATORY SECTION (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)**

#### **WAC 296-17A-0502 Classification 0502.**

**0502-04 ((Carpet, vinyl, tile and other)) Floor coverings or ((counter top covering)) countertops:** Installation or removal

Applies to contractors engaged in the installation or removal of floor coverings or ((counter top coverings such as,)) countertops.

- Floor coverings include, but are not limited to, ((wall to wall)) carpet, vinyl, laminate, tile, ((or artificial turf in residential or commercial settings,)) terrazzo, or parquet;

- Countertops include, but are not limited to, laminate, tile, and solid surface (synthetic).

Tile is various sizes and shapes, usually from 1" x 1" up to 24" x 24" and packaged in a box. Tile installation in this classification includes, but is not limited to:

- Ceramic, glass, or clay tiles;

- Stone in tile-size dimensions, often used for interior installations in floors, showers, countertops, and backsplashes such as:

- Granite;
- Marble;
- Slate.

Work contemplated by this classification includes((, but is not limited to,)) the installation and/or removal of ((foam or rubber));

- Countertops;

- Flooring;

- Padding((, floor coverings such as rugs or carpet,));

- Tack ((strips,)) or door strips(());

- Subflooring (((particle board or plywood), linoleum, vinyl,));

- Base boards ((or door strips, and hauling existing floor covering debris away. This classification also includes the installation of clay or ceramic tiles on counter tops and backsplashes));

- Artificial turf when used for areas such as patios, and laid similarly to carpet.

This classification excludes contractors engaged in:

- The installation of stone countertops as described in classification 0302;

- The installation of ((counter tops as part of an interior finish carpentry or cabinetry contract)) hardwood countertops or flooring which is to be reported separately in classification 0513; ((the installation of hardwood floors which is to be reported separately in classification 0513,))

- The installation of countertops as described in this classification when the installation is part of an interior finish carpentry or cabinetry contract, which is to be reported in classification 0513;

- The installation of brick((, slate, marble or granite which is to be reported separately in classification 0302)), block and slab stone as described in classification 0302;

- The installation of roofing tiles which is to be reported separately in classification 0507;

- The installation of artificial field turf in landscaping projects or athletic fields which is to be reported in classification 0301; and

- Floor covering stores which are to be reported separately in the applicable classification.

**Special note:** Contractors often have a showroom to display examples of their work and products which they install. If all the conditions of the general reporting rules covering standard exception employees have been met, employees

engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303.

**0502-99 ((Carpet, vinyl, tile and other)) Floor coverings or ((counter top covering)) countertops:** Installation or removal

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-0513 Classification 0513.**

#### **0513-00 Interior finish carpentry**

Applies to contractors engaged in interior finish carpentry work for all types of buildings. Generally, the interior finish carpentry work begins after the drywall, taping, texturing, and painting ((and/)) or wallpapering is complete. This classification includes a variety of interior finish or trim carpentry work ((to include)) including, but not ((be)) limited to, ((the)) installation of ((wood paneling and wainscoting, wood fireplace mantels, stair railings, posts and banisters, interior doors and door frames, wood molding on windows, baseboards, interior fixtures such as towel bars and tissue holders, closet organizers, installation and/or finishing of hardwood flooring, and cabinets such as kitchen, medicine, laundry and storage. Contractors who operate a wood cabinet manufacturing or assembly shop away from the construction site, are to be assigned classification 2907 for the shop manufacturing work. When a contractor's business is assigned classification 2907 for the shop operation, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair of equipment.)):

- Cabinets such as kitchen, medicine, laundry and storage;
- Closet organizers;
- Filing systems;
- Hardwood counters and flooring;
- Interior doors and door frames;
- Interior fixtures such as towel bars and tissue holders;
- Stair railings, posts and banisters;
- Wood fireplace mantels;
- Wood paneling, wainscoting, and molding.

Included in this classification ((includes)) is the installation of ((counter tops)) countertops as described in classification 0502, when part of a contract which includes the installation of cabinets or other interior finish or carpentry work. ((Contractors engaged exclusively in the installation of counter tops or as part of a floor covering contract are to be reported separately in classification 0502.)) Also included is the finishing and/or refinishing of hardwood floors.

Excluded from this classification ((excludes all)) are the following types of work which are to be reported in the applicable classification:

- Countertop installation as described in classification 0502 and not as part of a cabinet installation contract;
- Countertop installation as described in classification 0302;

• Carpentry work on the exterior of a building((, or interior work such as framing interior walls, installing wallboard, taping and texturing walls,));

- Concrete;
- Electrical;
- Framing interior walls;
- Garage or exterior door installation;
- Glazing;
- Insulation;
- Masonry;
- Painting;
- Plastering((, painting, masonry, glazing, insulation, installing overhead garage or exterior doors, concrete, electrical and plumbing work which is to be reported separately in the applicable classification.

**Special note:** This classification includes the installation of cabinet display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor.))

- Plumbing;
- Taping and texturing;
- Wallboard.

**Special notes:** Generally, displays or showrooms are ((installed)) maintained where the contractors store their materials. It is common for contractors subject to this classification to sell some interior finish-related products, but the intent of these areas is not to sell products to walk-in customers. This classification includes the installation of cabinet display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Sale of these products by an interior finish contractor is included in classification 0513. Classifications 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. If all the conditions of the general reporting rule covering standard exception employees have been met, employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 ((provided all the conditions of the general reporting rule covering standard exception employees have been met)).

Contractors who operate a wood cabinet manufacturing or assembly shop away from the construction site are to be assigned classification 2907 for the shop manufacturing work. When a contractor's business is assigned classification 2907 for the shop operation, then classification 5206, "Permanent yard or shop" may no longer be applicable to the contractor's business.

**AMENDATORY SECTION** (Amending WSR 08-15-132, filed 7/22/08, effective 10/1/08)

### **WAC 296-17A-2102 Classification 2102.**

#### **2102-00 Warehouses - General merchandise**

Applies to establishments operating as warehouses for general merchandise. This merchandise belongs to a customer and is usually stored for long periods of time. Products typically involved are bulk, nonperishable materials which might include, but not be limited to((~~, rice, coffee,~~));

- Coffee:
- Dry cement:
- Potatoes((, or dry cement)):
- Rice.

Work contemplated by this classification includes, but is not limited to((~~unloading deliveries, moving merchandise within the facility, recordkeeping, security, and maintaining the facility~~));

- Maintaining the facility:
- Moving merchandise within the facility:
- Recordkeeping:
- Routine maintenance:
- Security.

Equipment and machinery used includes;

- Cleaning and recordkeeping supplies:
- Forklifts:
- Pallet jacks((, forklifts, routine maintenance, cleaning and recordkeeping supplies, and)):
- Shop vehicles.

This classification excludes;

• Delivery drivers who are to be reported separately in classification 1102;

• Wholesale dealers who operate a warehouse for storage of their own product which is to be reported separately in the classification applicable to the product being sold;

• Warehousing of household furnishings by a moving and storage company which is to be reported separately in classification 6907;

• Cold storage plants which are to be reported separately in classification 4401;

• Ministorage warehousing which is to be reported separately in classification 4910;

• Field bonded warehouses which are to be reported separately in classification 2008; ((and the))

• Warehousing of a manufacturer's own product which is to be reported separately in the manufacturing classification applicable to the work being performed.

**Special note:** Even though this type of operation may handle some "grocery" products, it differs from 2102-11 in that the products being handled in 2102-00 are in bulk packaging (not cases of consumer-size packages), do not belong to the business that is warehousing them, and are not intended for sale to a wholesaler/retailer.

#### **2102-04 Recycle, collection and receiving stations; rags, bottles, paper and metal container dealers, N.O.C.**

Applies to establishments engaged in the collection of used paper, aluminum, tin, glass, and plastic for the purpose of selling the material to another business that will recycle/remanufacture it into new products. These facilities normally acquire material by placing collection bins at various remote locations, operating a drop-off center (this phase of the business is known in the trade as a "buy back center"). This classification includes dealers of rags, bottles, paper and metal containers not covered by another classification

(N.O.C.) Work contemplated by this classification includes, but is not limited to((~~;~~));

- Sorting material((,)):
- Operating various pieces of equipment used to crush, reduce, wash, and bale material((,)):
- Weighing containers((,)):
- Paying customers for receipt of items that have a redemption value by the pound or piece ("buying back"))((, and)):
- Operating shop or yard vehicles.

Machinery and equipment includes, but is not limited to((~~shredders,)~~));

- Balers((,)):
- Can crushers((, weigh scales, forklifts, collection bins, shop or yard vehicles, and)):

- Collection bins:

- Forklifts:

- Shredders:

- Rolloff trucks to handle the collection bins:

- Shop or yard vehicles:

• Weigh scales. ((This classification includes dealers of rags, bottles, paper and metal containers not covered by another classification (N.O.C.)))

This classification excludes;

• All trucking outside of the yard which is to be reported separately in classification 1102 ((and));

• Establishments engaged in collecting, sorting and reducing scrap metal such as junk dealers, scrap metal dealers or processors, which also receive((~~s~~)) glass, paper, plastic, etc., which are to be reported separately in classification 0604; and

• Establishments engaged in collecting used computer equipment for recycling which may be reported in classification 4107.

**Special note:** Classification 2102-04 should not be assigned to an employer who also operates a business subject to classification 4305-18 (Garbage, refuse or ashes collecting) without careful review and an on-site survey. Most garbage collecting businesses have some type of "recycle" program as part of their normal operations in an effort to sort and reduce the amount of waste that goes to landfills and this is considered an inclusion.

#### **2102-11 Grocery, fruit or produce distributors - Wholesale or combined wholesale and retail**

Applies to establishments engaged in the wholesale, or wholesale/retail, distribution of a variety of grocery items, fruit and produce. A business in this classification buys products from the manufacturer and sells to retail grocery stores, restaurants, and similar businesses. Grocery items may include, but not be limited to((~~, packaged foods,~~));

- Beverages:
- Dairy products:
- Frozen foods((,)):
- Household cleaning supplies((,)):
- Packaged foods:
- Paper products((,)):
- Personal care items((, beer, soda, and dairy products)).

Work contemplated by this classification includes, but is not limited to((~~, unloading deliveries,~~));

- Breakdown of merchandise into smaller lots;
- Incidental repackaging;
- Maintaining the facility;
- Moving merchandise within the facility((, incidental repackaging, breakdown of merchandise into smaller lots,));
- Recordkeeping((,));
- Security((, and maintaining the facility));
- Unloading deliveries.

Equipment and machinery includes, but is not limited to((,));:

- Forklifts;
- Pallet jacks((, forklifts,));
- Strapping and shrink wrapping equipment((, and));
- Vehicles.

This classification excludes:

• Delivery drivers who are to be reported separately in classification 1101;

• Any general merchandise warehouse operations in which the operator of the warehouse does not own the merchandise being handled and it is in bulk quantities, which is to be reported separately in classification 2102-00;

• Cold storage plants handling food products which are to be reported separately in classification 4401;

• Operations specializing in vegetable/fruit packing for wholesale distribution which are to be reported separately in classification 2104;

• Operations specializing in wholesale distribution of beer, wine, ale or soft drinks which ((is)) are to be reported separately in classification 2105;

• Field bonded warehouses which are to be reported separately in classification 2008; and

• The warehousing of a manufacturer's own product which is to be reported separately in the manufacturing classification applicable to the work being performed.

## **2102-28 Wool or cotton merchants**

Applies to establishments operating as wool or cotton merchants. Merchants subject to this classification buy raw wool or cotton from others, do incidental sorting, grading and repackaging, and sell the product to another business for use as a raw material to make products such as yarn, thread or fabric. Work contemplated by this classification includes, but is not limited to((, unloading deliveries,));:

- Hand sorting the product by grade (quality);
- Maintaining the facility;
- Moving merchandise within the facility((, hand sorting the product by grade (quality,));)
- Repackaging((,));
- Recordkeeping((,));
- Security((, and maintaining the facility));
- Unloading deliveries.

Equipment and machinery includes, but is not limited to((,));:

- Forklifts;
- Pallet jacks((, forklifts,));
- Repackaging equipment ((and));
- Vehicles.

This classification excludes:

• Drivers who are to be reported separately in classification 1102;

• Wholesale dealers of a finished wool or cotton product which are to be reported separately in the classification applicable to the product; and

• The warehousing of a manufacturer's own product which is to be reported separately in the manufacturing classification applicable to the work being performed.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

## **WAC 296-17A-2907 Classification 2907.**

### **2907-00 Wood cabinet, countertop, and fixture: Manufacturing, modifying or assembly**

Applies to establishments engaged in the manufacture, modification, or assembly of wood cabinets, countertops, and fixtures. Cabinetry work contemplated by this classification includes, but is not limited to((,));:

- Manufacturing custom or modular cabinets((,));
- Assembling prefabricated modular cabinet components((,));
- Refacing existing cabinets and replacing hardware((, and));
- Modifying the dimension or design of modular cabinets. ((Manufacturing countertops includes)) This classification includes these duties when performed in the shop by employees of employers subject to this classification:
  - Fabricating the core or sub top ((in addition to));
  - Laying the plastic laminate, polyester overlay or tile ((when performed in the shop by employees of employers subject to this classification. Finishing that is subcontracted out to a prefinishing contractor or performed by the general or specialty construction contractor at the job site is to be reported in the classification applicable to the work being performed. Finish work, including staining, lamination, and the attachment of hardware, is included in classification 2907-00 when performed by employees of an employer subject to this classification));
  - Finish work, including staining, lamination, and the attachment of hardware.

Fixture manufacturing includes built-in items in stores, offices, restaurants, banks and ((residential fixtures)) residences such as, but not limited to((, showcases,));:

- Bookshelves;
- Cashier cubicles;
- Check-out counters;
- China hutches;
- Closet organizers;
- Credenzas;
- Curio cabinets;
- Display cases((,)) and pedestals;
- End aisles((, display pedestals, shelving,));
- Entertainment centers;
- Partitions((, racks, closet organizers, bookshelves, work stations, credenzas,));
- Podiums((,));
- Shelving;
- Showcases;
- Wall units((, china hutches, entertainment centers, cashier cubicles, check out counters, and curio cabinets));
- Work stations.

The wiring of fixtures for electrical fittings, and the cutting and fitting of plastic laminates, glass, mirrors, or metal trim, when performed in the shop, is included as an integral function of the manufacturing process encompassed within this classification. Raw materials include, but are not limited to((,));

- Carpet;
- Dimensional lumber((, plywood, veneer, particleboard, plastic laminates,));
- Electrical hardware;
- Glue;
- Hardware;
- Lacquer;
- Metal trim;
- Mirrors;
- Paint;
- Particle board;
- Plastic laminate;
- Plywood;
- Polyester overlays((,));
- Sheet rock((,));
- Slot wall dowels((, hardware, mirrors, metal trim, electrical hardware, carpet, upholstery fabric, stain, paint, lacquer or glue));
- Stain;
- Upholstery fabric;
- Veneer.

Machinery includes, but is not limited to((, table, panel, radial arm, cut-off, chop, rip, band, and miter saws, wide belt sanders, edge sanders, hand finish jointers, mortises, tenoners,));

- Air compressors;
- Boring machines;
- Dowel machines;
- Drill presses((,));
- Dust collectors;
- Edge banders;
- Face framing machines;
- Forklifts;
- Glue spreaders;
- Hand drills((, boring machines, edge banders, dowel machines, glue spreaders, face framing machines,));
- Hand finish jointers;
- Mortises;
- Pallet jacks;
- Pneumatic nail, screw and staple guns((, air compressors,));
- Sanders that are wide belt or edge;
- Saws that are table, panel, radial arm, cut-off, chop, rip, band, or miter:
- Spray guns((, forklifts, pallet jacks, and dust collectors));
- Tenoners.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Lumber yards, building material dealers, or general construction contractors that maintain a separate woodworking shop for manufacturing, assembling cabinets, and fixtures are subject to this classification for the woodworking operations, in

addition to any other basic classification applicable to their business.

This classification excludes:

- Finishing that is subcontracted out to a prefinishing contractor or performed by the general or specialty construction contractor at the job site, which is to be reported in the classification applicable to the work being performed;
- The installation of ((countertops only which is to be reported separately in classification 0502, the installation of cabinets, countertops, and fixtures which is to be reported separately in classification 0513)) the items manufactured in this classification which are to be reported separately in the classification applicable to the work being performed;
- The manufacture of wood furniture and caskets which is to be reported separately in classification 2905;
- The manufacture of metal cabinets which is to be reported separately in classification 3402;
- Lumber remanufacturing which is to be reported separately in classification 2903;
- Veneer manufacturing which is to be reported separately in classification 2904; and
- Sawmill operations which are to be reported separately in classification 1002.

**Special note:** Establishments primarily engaged in the manufacture of cabinets, countertops, and fixtures((,)) may make other wood products such as doors, windows, moldings, and/or furniture as an incidental activity to the main business. The manufacture of these incidental products is included within the scope of classification 2907-00. Furniture is generally moveable and unsecured. Fixtures are usually secured, stationary, permanently built-in objects. Even though some fixtures may be secured to a wall or floor, they are not intended to be relocated, unlike furniture which is frequently and more easily arranged.

#### AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-3104 Classification 3104.**

##### **3104-08 Plaster, whiting, talc, emery powder: Manufacturing**

Applies to establishments engaged in the manufacture of plaster, whiting, talc or emery powder. Plaster is a mixture of lime, sand, water, and may include hair or other fibers, that hardens to a smooth solid and is used for coating walls and ceilings. Plaster can also be manufactured in dry form and sold in bags. Whiting is a pure white grade of chalk that has been ground and washed for use in paints, ink, and as an extender in pigments, putty or whitewash. Talc is a fine-grained white, greenish, or gray mineral with a soft soapy texture, which is used in the manufacture of talcum and face powder, as a paper coating, and as a filler for paint and plastics. Emery is a fine-grained mineral used for grinding and polishing. This classification is for the production of the powders only. Machinery includes, but is not limited to((,));

- Conveyors;
- Forklifts;
- Machinery for crushing, mixing, grinding, milling ((and)), washing ((and)), or cooking ((machinery, conveyors and forklifts)).

This classification excludes:

- Establishments engaged in the manufacture of plaster statuary or ornaments which are to be reported separately in classification 3509;
- Establishments engaged in the manufacture of plasterboard or plaster block which are to be reported separately in classification 3104-55;
- Interior and exterior plastering and stucco work which is to be reported separately in classification 0303; and
- Quarrying operations which are to be reported separately in classification 1704.

#### **3104-52 Asbestos products or mica goods: Manufacturing**

Applies to establishments engaged in the manufacture of asbestos products and mica goods. Asbestos products include, but are not limited to, ~~((fireproofing, electrical insulation, building materials,))~~:

- Brake linings(( ));
- Building materials;
- Chemical filters;
- Clutch facings(( ));
- Dryer felt;
- Electrical insulation;
- Fireproofing;
- Valve packings((, dryer felt, and chemical filters)).

Asbestos is a fibrous mineral form combined with impure magnesium silicate. Flake asbestos can be mixed, spun and woven into cloth(( )), or the flakes can be used as an ingredient in the processing or treatment of paper. To make molded asbestos products, asbestos is mixed with other ingredients, molded, baked, cut to size, and ground. Mica is also a mineral form; it is split to desired thickness using hand knives or knives mounted on tables. The split mica is sent to punch presses which stamp out the various products usually used by the electrical trades. Mica that is too small to be processed on punch presses may be placed in burling machines, mixed with liquids, and then pressed into sheets. Removal of imperfections is usually done by hand; the sheets are dried, baked in ovens and run through sanders prior to crating and shipping.

This classification excludes:

- Establishments engaged in the manufacture of plasterboard or plaster block which are to be reported separately in classification 3104-55;
- Contractors engaged in the installation or removal of asbestos or mica products at the customer's site ((which)) who are to be reported separately in the classification applicable to the phase of construction being performed; and
- Quarrying operations which are to be reported separately in classification 1704.

#### **3104-53 ((Soapstone or soapstone)) Stone products: Manufacturing; ((marble cutting and polishing, slate milling, stone cutting) fabrication, or polishing, N.O.C.)**

Applies to establishments engaged in the manufacture of soapstone products, and the cutting, milling, and polishing of stone not covered by another classification (N.O.C.), such as:

- Granite;
- Grindstone;
- Limestone;

• Lithographic stone (usually sheet zinc) marble(( ));

• Millstone:

• Slate((, or stone such as grindstone, limestone, millstone and lithographic stone (usually sheet zinc), not covered by another classification (N.O.C.))).

Soapstone (also called steatite) is a massive white-to-green talc found in extensive mine beds and is used in products such as, but not limited to(( )):

- Ceramics;
- Decorative accessories;
- Insulation(( ));
- Ornamental objects;
- Paints((, ceramics, decorative accessories, and ornamental objects)).

The manufacturing process for stone products requires turning, shaping, carving and polishing ((of the soapstone)) with a variety of milling equipment. Finished stone products of granite, marble, or slate ((or stone)) include, but are not limited to(( )):

- Countertops;
- Decorative accessories(( ));
- Floor tiles;
- Tops for furniture((, countertops, floor tiles and));
- Other building materials.

Machinery and materials include, but are not limited to(( saws, milling machines,)):

- Abrasives;
- Grinders ((and abrasives));
- Milling machines;
- Saws.

This classification excludes:

• Installation of ((tile, marble or slate)) stone building materials ((which is to be reported separately in the classification applicable to the phase of construction being performed)) as described in classification 0302;

- Tile setting as described in classification 0502; and
- Quarry operations which are to be reported separately in classification 1704.

#### **3104-55 Plasterboard or plaster block: Manufacturing**

Applies to establishments engaged in the manufacture of plasterboard (wallboard) or plaster block which are used as building materials. Raw materials include, but are not limited to(( )):

- Fiberboard;
- Plaster((, fiberboard, and));
- Rolls of paper.

Plasterboard is made by bonding plaster to a thin rigid board or to layers of fiberboard or paper to form a flat board or a block. Product is dried in ovens, cut to size with slitters or other cutting machinery, and packed for shipment. This classification includes the mixing of the plaster when done by employees of employers subject to this classification.

This classification excludes:

- Establishments operating as plaster mills which are to be reported separately in classification 3104-08;
- Interior and exterior plastering and stucco work which is to be reported separately in classification 0303; and
- Quarrying operations which are to be reported separately in classification 1704.

**3104-57 Coating of building materials, N.O.C.**

Applies to establishments engaged in the coating of building materials, not covered by another classification (N.O.C.), with preservatives to keep them from decaying when placed into the ground. These materials include, but are not limited to(( ));

- Deck materials:
- Dimensional lumber((~~, deck materials,~~));
- Fence posts(( ));
- Landscaping beams((~~, and~~));
- Lattice work.

The coating process may include immersing the lumber in vats of preservative, or cutting or drilling small holes into the lumber and applying preservatives that soak in. Machinery and materials include, but are not limited to(( ));

- Brushes:
- Drills:
- Immersion vats((~~, drills, brushes, or~~));
- Machines to drill holes and apply preservatives.

This classification excludes installation of these products which is to be reported separately in the classification applicable to the work being performed.

**3104-58 Monument dealers**

Applies to establishments engaged in selling monuments, statues, cornerstones, and grave markers to others. This classification includes the finish cutting, grinding, polishing, engraving, and sandblasting of the stone when done by employees of employers subject to this classification. Wholesale monument dealers generally receive split, rough cut stone from the mine or quarry. Materials such as granite and marble are cut to block size, and precast bronze markers may be attached to the stone. Some blocks are sold without further processing while others are finished with stone polishers and abrasives, then cut into monuments prior to shipment to retail monument dealers. Retail monument dealers may provide engraving, artwork, lettering, and dates, according to customer specifications, that ((is)) are usually done with a sandblasting technique. This classification includes installation of monuments when performed by employees of the monument dealer.

This classification excludes:

• Installation of monuments by employees of cemeteries which is to be reported separately in classification 6202;

• Contractors engaged in the installation of monuments which are to be reported separately in the classification applicable to the work being performed; and

• Establishments engaged in providing specialized services, such as, but not limited to, sandblasting which are to be reported separately in the classification applicable to the work being performed.

**AMENDATORY SECTION** (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

**WAC 296-17A-3406 Classification 3406.****3406-00 Automotive or truck gas service stations, N.O.C.: Lube and oil change specialists, and mobile lube and oil services**

Applies to establishments operating full service gasoline or diesel service stations not covered by another classification (N.O.C.). This classification includes cashiers. Full service includes, but is not limited to(( ));

- Pumping gas for customers(( ));
- Replacing wiper blades(( ));
- Checking and/or filling the fluid levels (oil, transmission, wiper wash and antifreeze)((~~, and~~));

• Adding air to the tires.

The repairs included in this classification are:

- Oil and filter changes(( ));
- Tune-ups(( ));
- Replacement of brakes(( ));
- Front end alignments ((~~and~~));
- The repair or replacement of tires. ((This classification includes cashiers.))

This also applies to establishments engaged exclusively in preventive automotive maintenance, such as, but not limited to(( ));

- Adding air to tires;
- Changing oil and ((~~oil~~)) filters(( ));
- Checking and/or filling fluid levels;
- Checking and/or replacing belts, hoses;
- Lubing chassis((~~, checking and/or filling fluid levels,~~));
- Replacing wiper blades((~~, adding air to tires, and checking and/or replacing belts, hoses, and filters~~)).

This classification excludes:

- Portable automobile or truck car washes which are to be reported separately in classification 6602;
- Establishments engaged in automobile or truck repair services and tune up specialists which are to be reported separately in classification 3411;

• Establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409;

• Self-service gas stations which are to be reported separately in classification 3409; and

• Convenience grocery stores or mini-markets with self-service gasoline operations which are to be reported separately in classification 3410.

**3406-01 Automobile or truck storage garages**

Applies to establishments operating automobile or truck storage garages. Generally, these types of storage garages consist of an enclosed structure and usually with more than one level of parking. Storage garages may provide additional incidental services such as, but not limited to(( ));

- Gasoline(( ));
- Tune-ups(( ));
- Washing and waxing services((~~, as well as~~));
- Cashiers ((~~and~~));
- Full-time attendants or security personnel.

This classification excludes:

• Portable automobile or truck car washes which are to be reported separately in classification 6602;

• Establishments providing parking lot services which are to be reported separately in classification 6704;

• Automobile or truck repair services which are to be reported separately in classification 3411;

- Establishments engaged in the service or repair of machinery or equipment N.O.C. which are to be reported separately in classification 6409;
- Self-service gas stations which are to be reported separately in classification 3409; and
- Full service gas station services which are to be reported separately in classification 3406-00.

**Special note:** Storage garages applicable to this classification are distinguishable from parking lots in classification 6704 in that parking lots usually are not an enclosed structure, and they do not provide service to automobiles.

#### **3406-04 Automobile or truck - Detailing by contractor; glass tinting; windshield repair**

Applies to establishments engaged in providing automobile or truck detailing services, and to establishments engaged solely in tinting glass in automobiles, or repairing cracks, chips or ((bullseyes)) bull's-eyes in windshields. This classification includes cashiers. Detailing services involve complete, in-depth cleaning of exteriors and interiors such as, but not limited to(( ));

- Washing(( ));
- Waxing(( ));
- Polishing(( ));
- Buffing(( ));
- May also involve tinting glass;
- Vacuuming or otherwise cleaning the ((auto bodies,)) autos';

- Chrome work(( ));
- Tires(( ));
- Hub caps(( ));
- Windows(( ));
- Mirrors(( ));
- Carpets ((and));

– Seats ((and may also involve tinting glass. This classification includes cashiers)).

This classification excludes:

• Portable automobile or truck car washes which are to be reported separately in classification 6602;

• Tinting or installation of automobile or truck window glass performed by a glass dealer which is to be reported separately in classification 1108;

• Glass tinting or the application of tinted plastic film to glass windows and doors in buildings which are to be reported separately in classification 0511;

• Detailing performed in connection with automobile or truck dealers, service centers or repair garages which are to be reported separately in classification 3411;

• Detailing performed in connection with automobile or truck body and fender repair shops which ((are)) is to be reported separately in classification 3412;

• Detailing performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which is to be reported separately in classification 6409; and

• Detailing performed in connection with full service gas stations which ((are)) is to be reported separately in classification 3406-00.

#### **3406-05 Automobile or truck car washes**

Applies to establishments providing automobile or truck washing services. This classification includes the exterior washing, waxing, polishing or buffering, cleaning of chrome and tires, and the interior cleaning of windows, carpets, dash and seats. These services may be performed at a coin operated self-service unit, or at a full service automatic unit where the vehicle is conveyed through the line assisted by attendants. This classification includes cashiers and the sale of accessory items such as, but not limited to((, bottled car care products,));

- Air fresheners((, floor mats,));
- Beverages ((and snack foods));
- Bottled car care products;
- Floor mats;
- Snack foods.

This classification excludes:

• Portable automobile or truck car washes which are to be reported separately in classification 6602;

• Washing services performed in connection with automobile or truck dealers, services centers or repair garages which are to be reported separately in classification 3411;

• Washing services performed in connection with automobile or truck body and fender repair shops which are to be reported separately in classification 3412;

• Washing services performed in connection with establishments engaged in the service or repair of machinery or equipment, N.O.C. which are to be reported separately in classification 6409;

• Washing services performed in connection with full service gas stations which are to be reported separately in classification 3406;

• Washing services performed in connection with self-service gasoline operations which are to be reported separately in classification 3409; and

• Washing services performed in connection with convenience stores that have self-service gasoline operations which are to be reported separately in classification 3410.

#### AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-3509 Classification 3509.**

##### **3509-01 Statuary and ornament: Manufacturing**

Applies to establishments engaged in the manufacture of decorative statuary, and other ornamental items including, but not limited to((,));

- Cornices;
- Countertops;
- Grills;
- Lawn and garden furniture;
- Patio and blocks and stepping stones;
- Planters and fountains((, lawn and garden furniture, patio blocks and stepping stones, grills, and cornices)).

Materials ((such as, but not limited to, plaster, concrete, hair, wood fiber, powdered lime, sand, gravel, cinders, aggregates, mesh wire and reinforcing rods, and certain plastics are received from outside sources)) used to make the items may include:

- Aggregate;

- Cinders:
- Concrete:
- Gravel:
- Hair:
- Mesh wire and reinforcing rods:
- Plaster:
- Powdered lime:
- Sand:
- Wood fiber.

Depending on the item being made, various ingredients are mixed together and cast in metal or rubber molds or in forming machines. After being removed from the molds or forms, they are dried and stored until cured. After curing, items may be sanded and smoothed with grinders, ((or)) carved by hand; some may be painted with designs or coated with a clear finish((, or designs hand painted on)). Such finishing work is included within the scope of the classification when performed by employees of employers subject to this classification.

This classification excludes:

- The mining, digging, quarrying, or manufacturing of raw materials which are to be reported separately in the applicable classification;
- The manufacture of decorative tile which is to be reported separately in classification 3503; ((and))
- The manufacture of concrete blocks, bricks, poles, piles, tile, beams, sewer and irrigation pipe, and septic tanks which is to be reported separately in classification 3105; and
- The pouring and finishing of concrete countertops on a construction site which is to be reported in classification 0217.

**Special note:** This classification differs from classification 3105 "concrete blocks, sewer pipes" in that products manufactured in classification 3509 are for decorative purposes, are usually lighter weight, and have smoother or more perfect finishes than the concrete products manufactured in classification 3105 which are rough, do not require perfect finishes, and are generally for construction use.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### WAC 296-17A-4107 Classification 4107.

##### 4107-04 Business machines: Service, ((adjustment,)) repair, ((or)) installation, and recycle, N.O.C.

Applies to establishments engaged in the ((adjustment,)) service, ((or)) repair, installation, or recycling of business machines not covered by another classification (N.O.C.)(-Types of business machines include, but are not limited to, typewriters, copy, postage meters, keypunch, fax machines, computer components, X-ray and other medical related electronic equipment. Work contemplated by this classification includes low voltage prewiring to the point of connecting to the live circuit.) This classification includes all work performed on the customer's premises as well as in the employer's shop. ((This classification also includes service or repair of depth finders, radar, computerized or noncomputerized embroidery machines and the replacement or refilling of nontoxic toner in printer cartridges which is sometimes referred to as remanufacturing. The plate is removed from

used cartridges, residuals of old toner is removed with hand held vacuums, and the cartridge is wiped clean. After pouring new toner into the cartridge, the plate is replaced and the cartridge is considered new. Used toner is wrapped in plastic and discarded.))

Installation work contemplated by this classification includes low voltage prewiring to the point of connecting to the live circuit. Types of machines or equipment include, but are not limited to:

- Computer components:

- Copiers:
- Depth finders:
- Fax machines:
- Postage meters:
- Radar equipment:
- X-ray or other medical-related electronic equipment.

Recycling in this classification includes printer cartridge recycling or remanufacturing, and the breakdown of computer equipment to remove useable parts to sell or use for rebuilding and resale. The unusable materials are picked up by recyclable materials processors or garbage collectors.

This classification excludes:

- The retail sale of computers and accessories which may be separately reported in classification 6406;
- Recyclable materials processors described in classification 2102;
- Electrical work with a live power source which is to be reported separately in classification 0601; and
- Low voltage wiring which is to be reported in classification 0608.

#### 4107-20 Piano tuning

Applies to establishments engaged in tuning services for pianos, organs, and other keyboard musical instruments. Establishments in this classification will tune, clean, replace the felt, and provide minor repair service such as, but not limited to((, the removal));

- Removing and ((replacement of)) replacing bad cords((,));
- Regluing broken keys((, or));
- Replacing faulty foot pedals. This classification includes all work performed on the customer's premises as well as in the shop.

This classification excludes:

- Establishments engaged in the sale of pianos and organs which are to be reported separately in classification 6306;
- Establishments engaged in the sale of other types of musical instruments such as string, wind and percussion instruments, which are to be reported separately in classification 6406; and
- Establishments engaged in the reconditioning of pianos and organs (and the related sales of reconditioned pianos and organs) which are to be reported separately in classification 2906.

**AMENDATORY SECTION** (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

#### WAC 296-17A-0307 Classification 0307.

### **0307-01 Furnaces and heating systems: Installation, service or repair**

Applies to contractors engaged in the installation, service, or repair of furnaces and heating systems, including duct work, in all types of residential and commercial settings. These services are generally performed by furnace contractors, heating and ventilation contractors, or sheet metal contractors. Work contemplated by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to((;)):

- Air purification systems;
- Concrete pads;
- Fireplace inserts or units;
- Fittings;
- Flat sheets of metal;
- Galvanized pipe;
- Gas logs;
- Gas or electric furnace units((;));
- Heat pumps;
- Heater units((, heat pumps, air purification systems, fireplace inserts or units,);)
- Hot water tanks((;));
- Insulation wrap;
- Preformed or bent venting duct and pipe;
- Thermostats((, flat sheets of metal,);)
- Vent collars and reels;
- Vents((, preformed or bent venting duct and pipe, vent collars and reels, fittings, galvanized pipe, insulation wrap, concrete pads and gas logs)).

Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification 3404 for the shop fabrication work. When a contractor's business is assigned classification 3404 for shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes:

- Sheet metal fabrication shops which are to be reported separately in classification 3404;
- Duct cleaning work which is to be reported separately in classification 1105;
- Installation or repair of ventilation, air conditioning and refrigeration systems which is to be reported separately in classification 0307-04; ((or)) and
- The installation of wood stoves which is to be reported separately in classification 0307-05.

**Special note:** This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell furnace and heating system materials and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a furnace and heating systems contractor are included in classification 0307. Classifications 2009, 6309, or similar store classifications((;)) are not to be assigned to a contracting

business. If the conditions of the standard exception general reporting rules have been met, employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 ((provided the conditions of the standard exception general reporting rule have been met)).

### **0307-04 Ventilating, air conditioning and refrigeration systems: Installation, service or repair, N.O.C.**

Applies to contractors engaged in the installation, service, or repair of ventilating, air conditioning and refrigeration systems not covered by another classification (N.O.C.), including duct work at the job site in all types of residential and commercial settings. These services are generally performed by heating and ventilation contractors, refrigeration contractors, or sheet metal contractors. Work contemplated by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to((;)):

- Air conditioning units((;));
- Air purification systems;
- Concrete pads;
- Fittings;
- Flat sheets of metal;
- Galvanized pipe;
- Hoods and protective metal covers;
- Hot water tanks;
- Preformed or bent duct portions;
- Refrigeration systems((, air purification systems, hoods and protective metal covers, hot water tanks, flat sheets of metal, vents, preformed or bent duct portions, vent collars and reels, thermostats, fittings, galvanized pipe, insulation wrap, and concrete pads));
- Thermostats;
- Vent collars and reels.

This classification includes the installation or repair of built-in vacuum systems and air (pneumatic) tube systems, such as those at drive-up teller windows. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification 3404 for the shop fabrication work. When a contractor's business is assigned classification 3404 for shop operations, then classification 5206 "Permanent yard or shop" is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes:

- Sheet metal fabrication shops which are to be reported separately in classification ((3402)) 3404;
- Installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01; ((and))
- The installation of wood stoves which is to be reported separately in classification 0307-05.

**Special note:** This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell ventilating and air conditioning equipment and materials, but the intent of these areas is not to

sell products to walk-in customers. Sales of these products by a ventilating and air conditioning contractor are included in classification 0307. Classification 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. If the conditions of the standard exception general reporting rule have been met, employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 ((provided the conditions of the standard exception general reporting rule have been met)).

### **0307-05 Wood, pellet, or gas stove: Installation, service or repair**

Applies to contractors engaged in the installation, service or repair of wood, pellet or gas stoves in all types of residential and commercial settings. Work contemplated by this classification includes the fabrication, installation and duct work performed at the job site. Materials include, but are not limited to((, wood, gas or pellet stoves,));

- Gas fireplace logs;
- Heater units;
- Inserts((, heater units,));
- Preformed or bent venting duct and pipe;
- Protective metal covers or hoods((, gas fireplace logs, preformed or bent venting duct and pipe, or));
- Vents ((and));
- Vent collars;
- Wood, gas or pellet stoves.

Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the installation site are to be assigned classification 3402 for the shop fabrication work. When a contractor's business is assigned classification 3402 for the shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes wood stove and accessory stores which are to be reported separately in classification 6309; stove manufacturing which is to be reported separately in classification 3402; sheet metal fabrication shops which are to be reported separately in classification 3404; brick or masonry work which is to be reported separately in classification 0302; and the installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01.

***Special note:*** This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell wood stove installation materials and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a wood stove installation contractor are included in classification 0307. Classifications 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

**AMENDATORY SECTION** (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

### **WAC 296-17A-0510 Classification 0510.**

#### **0510-00 Wood frame building: Construction or alterations, N.O.C.**

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including ((the));

- Placement of roof trusses((,));
- Sheathing roofs((,));
- Installation of exterior building siding((, and the));
- Installation of exterior doors and door frames((, This classification also includes the));

• Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building((, This classification also includes the));

- Erection of log home shells at customer's location.

The manufacturing of log homes in a permanent yard which includes peeling the logs, notching the logs with chain-saws, and assembly is to be reported in classification 1003-06.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to((,));

- Site preparation and excavation (0101);
- Overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification;

- New landscape work (0301);
- Brick work (0302);
- Stucco work (0303);
- Plumbing work (0306);
- HVAC work (0307);
- Carpet and tile work (0502);
- Exterior painting (0504);
- Roof work (0507);
- Insulation work (0512);
- Interior finish carpentry - Interior doors, cabinets, fixtures or molding (0513);
- Installation of garage doors (0514);
- Installation of sheet metal siding, gutters, and nonstructural sheet metal patio covers/carparks (0519);
- Interior painting (0521);
- Electrical work (0601) ((or)); and
- Wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

***Special note:*** Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports

and main bearing beams is required. This is distinguishable from classification 0516 - Building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant to assignment of classification which should recognize what the project actually involves.

**Guidelines:**

- Altering all or part of an existing wood frame building by adding on new additions - 0510

• Constructing a new wood frame building that never existed - 0510

((Altering all or part of an existing wood frame building by adding on new additions - 0510))

• Remodeling all or part of an existing wood frame building without adding on new additions - 0516

• Altering all or part of an existing wood garage by adding on new additions - 0510

• Altering the existing interior of a wood frame building by adding exterior additions - 0510

• Constructing a new wood garage that never existed - 0510

• Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516

• Constructing a new wood carport or wood shed that never existed - 0510

• Constructing or replacing a wood deck for any type of nonwood building - 0516

• Constructing or replacing a wood deck on an existing wood house - 0516

• Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

• Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510

• Installation of wood or vinyl siding on a new or existing wood frame building - 0510

• Installation of wood or vinyl siding on a new addition by the remodeling contractor - ((0510-02)) 0516-02

• Installation of wood or vinyl siding on an existing structure by a remodeling contractor - 0516-00

((Constructing a new wood garage that never existed - 0510)

Altering all or part of an existing wood garage by adding on new additions - 0510)

• Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

• Remodeling all or part of an existing wood garage without adding on new additions - 0516

((Constructing a new wood carport or wood shed that never existed - 0510)

Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

~~Constructing or replacing a wood deck on an existing wood house - 0516~~

~~Constructing or replacing a wood deck for any type of nonwood building - 0516~~

~~Altering the existing interior of a wood frame building by adding exterior additions - 0510~~

~~Remodeling the existing interior of a wood frame building without adding exterior additions - 0516~~

~~Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516~~

~~Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510.) • Remodeling the existing interior of a wood frame building without adding exterior additions - 0516.~~

**0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)**

Applies to framing contractors((g)) who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-1005 Classification 1005.**

**1005-02 Shake and/or shingle mills**

Applies to establishments engaged in the operation and maintenance of a shake and/or shingle mill. Work contemplated by this classification includes receiving raw logs which they cut and split into shakes, shingles and ridge caps. A shake is a roofing or siding material having at least one surface with a natural grain textured split surface. A shingle is a roofing or siding material having sawn faces and backs and ((are)) of a standard thickness at the butt end and tapered finish at the other end. A ridge cap is produced from two pieces nailed together to form a "v" shape placed on the center line of a roof. Raw logs are temporarily stored in the yard. This classification may include operations such as, but not limited to((g)):

- Loading raw logs onto a conveyor or log slip((g))
- Cutting the log into rounds((g))
- Splitting the rounds into blocks((g))
- Feeding the blocks through a shake or shingle saw((g))
- Grading ((and)) sorting, bundling, and stacking ((and storing of)) finished shakes, shingles and/or ridge caps.

Machinery and equipment includes, but is not limited to, log loaders, conveyors, log slips, overhead splitters, cut-off saws, shake saws, shingle saws, taper saws, head saws, pallet presses, and forklifts.

This classification excludes:

- Establishments engaged exclusively in the manufacturing of ridge caps or shims which are to be reported separately in classification 2903;

- All operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, which are to be reported separately in the applicable logging classification:

- Automated shake and shingle mills which are to be reported separately in classification 1002 provided the entire process to produce shakes and shingles uses automated processes at the mill site, and meets the requirements defined in WAC ((296-17-534; and all operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, which are to be reported separately in the applicable logging classification)) 296-17A-1002.

**AMENDATORY SECTION** (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

#### **WAC 296-17A-1501 Classification 1501.**

##### **1501-00 Counties and taxing districts, N.O.C. - All other employees**

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who:

- Operate machinery or equipment, including transit bus drivers;

- Perform manual labor((, or who));

- Supervise a work crew performing manual labor such as custodial or maintenance((, and machinery or equipment operators including transit bus drivers)).

This classification includes administrative personnel such as:

- Engineers, safety inspectors, and biologists who have field exposure((, and));

- Internal inventory and supply clerks.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;

- Electric light and power public utility districts which are to be reported separately in classification 1301;

- Firefighters who are to be reported separately in classification 6904;

- Hospital districts which are to be reported separately in classification 6105;

- Irrigation system public utility districts which are to be reported separately in classification 1507;

- Law enforcement officers who are to be reported separately in classifications 6905 and 6906, as appropriate;

- Port districts which are to be reported separately in classification 4201;

- Privately owned and operated bus or transit systems which are to be reported separately in classification 1407;

- School districts, library districts or museum districts which are to be reported separately in classification 6103 or 6104;

- Water distribution or purification system public utility districts which are to be reported separately in classification

1507; ((irrigation system public utility districts which are to be reported separately in classification 1507; port districts which are to be reported separately in classification 4201; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905 and 6906, as appropriate; clerical office and administrative employees who are to be reported separately in classification 5306, and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.))

- Volunteers who are to be reported separately in classification 6901 or 6906, as appropriate.

##### **1501-01 Housing authorities, N.O.C. - All other employees**

Applies to employees of housing authorities, not covered by another classification, who:

- Perform manual labor((, or who));

- Supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators.

This classification includes all functional operations of a housing authority such as:

- Building and grounds maintenance;

- Inspection, maintenance and repairs, including minor structural repairs((,));

- Janitorial service((, and building and grounds maintenace)).

Also included in this classification are:

- Administrative personnel such as engineers and safety inspectors who have field exposure;

- Internal inventory and supply clerks;

- Meter readers((,));

- Security personnel, other than those with law enforcement powers((, administrative personnel such as engineers and safety inspectors who have field exposure, and internal inventory and supply clerks)).

For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve developmentally or otherwise disabled persons or juveniles released from correctional facilities. A housing authority has the power to:

- Prepare, carry out, lease and operate housing facilities; ((to))

- Provide for the construction, reconstruction, improvement, alteration or repair of any housing project; ((to))

- Sell or rent dwellings forming part of the project to or for persons of low income; ((to))

- Acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project; ((to))

- Arrange or contract for the furnishing of the units; ((and to))

• Investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;

• New construction or major alteration activities which are to be reported separately in the appropriate construction classifications; ((~~clerical office and administrative employees who are to be reported separately in classification 5306;~~))

• Security personnel with law enforcement powers who are to be reported separately in classification 6905; ((and))

• Volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

#### **1501-08 Native American tribal councils - All other employees**

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes:

• Administrative personnel such as engineers, safety inspectors, and biologists who have field exposure((, and));

• Internal inventory and supply clerks of the tribal council.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;

• Electric light and power public utility districts which are to be reported separately in classification 1301; ((~~water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507;~~))

• Firefighters who are to be reported separately in classification 6904;

• Hospital districts which are to be reported separately in classification 6105;

• Irrigation system public utility districts which are to be reported separately in classification 1507;

• Law enforcement officers who are to be reported separately in classifications 6905 and 6906;

• New construction or reconstruction activities which are to be reported separately in the appropriate construction classification;

• School districts, library districts or museum districts which are to be reported separately in classification((s)) 6103 or 6104; ((~~hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classifications 6905 and 6906; new construction or reconstruction activities which are to be reported separately in the appropriate construction classification; clerical office and administrative employees who are to be reported separately in classification 5306.~~))

• Water distribution or purification system public utility districts which are to be reported separately in classification 1507.

**Special notes:** Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. ((The following)) Some activities((, such as)) are considered to be normal operations to be included in this classification. These include, but are not limited to((, visiting nurses and home health care, grounds keepers, building maintenance, park maintenance, road maintenance, and));

• Building maintenance;

• Garbage and sewer works((, are considered to be normal operations to be included in this classification));

• Grounds keepers;

• Park maintenance;

• Road maintenance;

• Visiting nurses and home health care.

All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed.

((The following)) Some operations((, such as)) are outside the scope of classification 1501 and are to be reported separately in the applicable classifications. These include, but are not limited to((,));

• Bingo parlors;

• Casinos;

• Fish/shellfish hatcheries;

• Food banks;

• Gift shops;

• Grocery stores;

• Head Start programs;

• Liquor stores;

• Logging;

• Meals on wheels((, bingo parlors, casinos, liquor stores,));

• Motels/hotels;

• Restaurants;

• Tobacco stores((, grocery stores, food banks, gift shops, restaurants, motels/hotels, Head Start programs, fish/shellfish hatcheries, logging, and));

• Tree planting/reforestation ((are outside the scope of classification 1501 and are to be reported separately in the applicable classifications)).

#### **1501-09 Military base maintenance, N.O.C.**

Applies to establishments((s)) not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to((,));

• Data processing((,));

• Photography((,));

• Mail delivery (on post and to other military facilities)((,));

• Hotel/motel services((,));

• Mess halls((,));

- Recreational facilities(( ));
- Grounds and building maintenance(( ));
- Vehicle maintenance((, and may also include the));
- Maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes:

- New construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed;
- Contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed;

- Firefighters who are to be reported separately in classification 6904;
- Law enforcement officers who are to be reported separately in classification 6905; ((and))
- Clerical office and administrative employees who are to be reported separately in classification 5306.

**Special note:** Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

#### 1501-20 Community action organizations - All other employees N.O.C.

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations may include, but are not limited to:

- Child care; after school care;
- Alternative schools; in home chore services;
- Employment or independence training(( ));
- Counseling and assistance;
- Drug and alcohol recovery programs;
- Decent, safe and sanitary living accommodations for low-income or needy citizens;
- Transitional or emergency housing; weatherization;
- Food and clothing banks;
- Meals; ((or))
- Medical services.

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual-type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to:

- Cooks(( ));
- Food banks(( ));
- Drivers(( ));
- Janitorial or maintenance and repair work((, or)) weatherization services.

**Note:** Businesses providing only one service described in this class may be assigned the classification applicable to the service provided. If all conditions of the general reporting rules have been met, standard exception classifications may apply.

Excluded from this risk classification ((is)) are:

- New construction or major alteration activities which are to be reported separately in the appropriate construction classifications;

- Office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20;

- Professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20;

- Chore workers/home service workers who are to be reported in classification 6511-20;

- Housing authorities which are to be reported in 1501-01 and 5306-26;

- Welfare special works programs which are to be reported in 6505;

- Work activity centers which are to be reported in 7309; ((and))

- Volunteers who are to be reported in classification 6901.

See classifications 5308-20 and 4904-20 for other community action operations.

**AMENDATORY SECTION** (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

#### WAC 296-17A-4904 Classification 4904.

##### 4904-00 Clerical office, N.O.C.

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering clerical office standard exception employees who are not covered by another classification (N.O.C.) assigned to their employer's account. Duties of clerical office personnel contemplated by this classification are limited to:

- Answering telephones(( ));
- Creating or maintaining computer software, technical drafting;
- Creating or maintaining financial, employment, personnel or payroll records;
- Handling correspondence((, creating or maintaining financial, employment, personnel or payroll records,));
- Composing informational material on a computer((, creating or maintaining computer software, and technical drafting)).

**Special note:** When considering this classification, care must be taken to look beyond titles of employees. Employees may or may not qualify for this classification with occupational titles such as, but not limited to(());

- Cashiers(( ));
- Clerks((, or));
- Ticket sellers((, may or may not qualify for this classification)).

This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

##### 4904-13 Clerical office: Insurance companies, agents or brokers

Applies to clerical office employees of insurance companies, including insurance agents or brokers who perform

duties exclusively of clerical nature and without an interchange of labor between clerical and nonclerical duties. This classification is limited to duties defined as:

- Assisting walk-in customers;
- Handling correspondence such as the preparation of insurance policies and billing;
- Maintaining personnel and payroll records;
- Performing the necessary computer work;
- Responding to telephone inquiries((, assisting walk-in customers, handling correspondence such as the preparation of insurance policies and billing,));
- Receiving and processing payments and invoices((, maintaining personnel and payroll records, and performing the necessary computer work)).

**Special note:** Individuals performing duties as an agent, broker, or solicitor (and ((held)) holding a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.-010((, 48.17.020, and 48.17.030)). To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. In addition, care should be exercised to determine if the insurance company employs individuals such as receptionists, bookkeepers, or claims clerks who perform clerical duties which may include the incidental taking of insurance applications and receiving premiums in the office of an agent or broker. Such individuals may or may not hold a license as issued by the office of the insurance commissioner, and are not deemed to be a solicitor, agent or broker when compensation is not related to the volume of such applications, insurance, or premiums. In these instances, the clerical individuals fall under mandatory workers' compensation coverage, and do not meet the requirements to be exempt from coverage as specified in RCW 51.12.020(11).

#### 4904-17 Clerical office: Employee leasing companies

Applies to clerical office employees of employee leasing companies. This classification requires that clerical office employees perform duties exclusively of a clerical nature, without an interchange of labor between clerical and nonclerical duties, and that these duties be performed in an area or areas separated from the operative hazards of the business. This classification is limited to duties defined as:

- Handling correspondence such as preparing and processing billing statements and forms;
- Maintaining personnel and payroll records;
- Receptionist and administrative duties;
- Responding to telephone inquiries((, receptionist and administrative duties, handling correspondence such as preparing and processing billing statements and forms, maintaining personnel and payroll records, and));
- Performing the necessary computer entry work.

**Special note:** This is a standard exception classification and is not to be assigned unless all the conditions of the general reporting rule covering clerical office standard exception employees have been met.

#### 4904-20 Community action organizations - Clerical office employees

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include:

- After school care;
- Alternative schools;
- Child care; ((after school care; alternative schools; in-home chore services;))
- Counseling and assistance;
- Decent, safe and sanitary living accommodations for low-income or needy citizens;
- Drug and alcohol recovery programs;
- Employment or independence training((, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens));
- Food and clothing banks;
- In-home chore services;
- Meals;
- Medical services;
- Transitional or emergency housing;
- Weatherization((, food and clothing banks; meals; medical services)).

This classification includes employees whose work duties include administrative office work such as:

- Answering phones((,));
- Completing correspondence and forms((,));
- Reception work((,));
- Computer work((,));
- Maintaining financial, personnel and payroll records((,));
- Conducting meetings((,));
- Providing counseling services within the offices of the organization.

All work is performed exclusively in an office environment where no other types of work are conducted, and the office is separated from any other work activity by walls, partitions, or other physical barriers. Work performed outside of the office is limited to banking or post office type duties performed by workers who qualify for this classification. A worker's reported hours may not be divided between this classification and any other risk classifications.

Excluded from this risk classification are all other employees including:

- Administrative employees whose duties are not performed exclusively in an administrative office, who are to be reported in risk classification 5308-20;
- Chore workers/home service workers who are to be reported in classification 6511-20;
- Employees who perform labor such as food bank operations, driving, weatherization, janitorial, property management, maintenance and repair work which are to be reported in risk classification 1501-20;
- Medical, dental or nursing professionals((, and administrative employees whose duties are not performed exclusively in an administrative office, who are to be reported in risk classification 5308-20; chore workers/home service workers who are to be reported in 6511-20; employees who perform labor such as food bank operations, driving, weath-

~~erization, janitorial, property management, maintenance and repair work which are to be reported in risk classification 1501-20);~~

- ~~Housing authorities which are to be reported in 1501-01 and 5306-26;~~

- ~~Volunteers who are to be reported separately in classification 6901;~~

- Welfare special works programs which are to be reported in 6505;

- Work activity centers which are to be reported in 7309((~~; and volunteers who are to be reported separately in classification 6901~~));

See classifications 1501-20 and 5308-20 for other community action operations.

**AMENDATORY SECTION** (Amending WSR 09-20-039, filed 9/30/09, effective 1/1/10)

### WAC 296-17A-5301 Classification 5301.

#### 5301-10 Accounting or bookkeeping services

Applies to establishments engaged in providing general accounting or bookkeeping services to others. Types of services contemplated by establishments subject to this classification include, but are not limited to((~~, auditing, tax preparation, medical or dental claims processing and billing, and/or advisory services. This classification includes all employments such as, but not limited to, clerical office, outside sales, and personnel who travel from one office to another~~));

- Auditing:
- Tax preparation:
- Medical or dental claims processing and billing:
- Advisory services.

This classification includes:

- Clerical office:
- Outside sales, and personnel who travel from one office to another.

This classification excludes establishments engaged primarily in management consultant services that are not otherwise classified, which are to be reported separately in classification 5301-12.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

#### 5301-11 Law firms

Applies to establishments engaged in providing legal services to others. Law firms may specialize in one or more areas of law. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

**Special note:** This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or

operated business undertakings unless coincidentally the other operations are also subject to this classification.

#### 5301-12 Management consultant services, N.O.C.

Applies to establishments engaged in providing management consulting services not covered by another classification (N.O.C.). Management consultants typically will observe and analyze ((~~organizational structures, work processes or work flows, mail distribution, computer or communication systems, and planning or development of related business needs~~));

- Computer or communication systems:
- Mail distribution:
- Organizational structures:
- Planning or development of related business needs:
- Work processes or work flows.

After a thorough analysis, consultants usually prepare a written report for the customer which identifies problem areas and/or recommends improvements to processes or equipment. Consultants may remain to oversee the implementation of the recommended improvements. Consultants subject to this classification do not sell any product they have recommended although they may act as an agent for their client in purchasing the product. Consulting projects vary from client to client depending upon the contract. Included within this classification are businesses that provide similar consultative services such as, but not limited to((~~, advertising agencies, employer representative organizations, public relations companies, mortgage brokers and financial advisers who do not make purchases on behalf of their clients~~));

- Advertising agencies:
- Employer representative organizations:
- Mortgage brokers and financial advisers who do not make purchases on behalf of their clients:
- Public relations companies.

This classification includes clerical office staff, outside sales personnel and other staff who travel from one office to another.

This classification excludes businesses that perform computer consulting for others, which is to be reported in classification 5302.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

#### 5301-13 Credit bureaus; collection agencies

Applies to establishments that are licensed to provide collection and/or credit investigation services to others. Services include, but are not limited to((~~, the collection of NSF checks or delinquent debts owed to clients of the collection agency and checking the credit backgrounds of their client's potential customers~~));

- Checking the credit backgrounds of their client's potential customers:
- Collection of NSF checks or delinquent debts owed to clients of the collection agency.

If debts are not collected, the service agency may initiate legal proceedings against the debtor. This classification includes clerical office and outside sales personnel, and other staff who travel from one office to another.

This classification excludes establishments engaged in providing process and legal messenger services which are to be reported separately in classification 6601.

#### **5301-14 Employment agencies**

Applies to establishments that are licensed to provide employment services for others. Clients of employment agencies may be persons seeking employment or companies looking for employees. Employment agencies usually conduct preliminary interviews with candidates for positions prior to referring them to their client companies for interviews. Generally, establishments subject to this classification place people in permanent positions. This classification includes clerical office and outside sales personnel, and staff who travel from one office to another.

This classification excludes:

- Employees of a temporary help agency who are assigned to work in the administrative or branch offices of the agency who are to be reported separately in classification 7104 ((and));

- Employees of a temporary help agency who are assigned on a temporary basis to its customers who are to be reported separately in the appropriate temporary help classification.

#### **5301-15 Court reporting services**

Applies to establishments engaged in providing court reporting services to others. Court reporters record verbatim testimony presented in court proceedings, depositions, public hearings or meetings. The most frequently used method to record testimony is by stenotype machine, although it may be recorded by voice recording on audio tape, or by manual shorthand. Transcription of the recorded material may be performed by the court reporter or by "note readers" or typists. The majority of court reporters today use computer-aided transcription systems. Court reporters may also offer notary public services for their clients. This classification includes clerical office and staff who travel from one office to another.

#### **5301-16 Service and professional organizations**

Applies to establishments engaged in protecting or furthering the interest of their members and/or the general public. Many of these operate as nonprofit organizations. Service and professional organizations may perform one or many of the following activities: ((Maintain a membership directory; collect membership dues; publish a newsletter; sponsor educational training programs; administer certification tests; provide job placement assistance; award scholarships; offer insurance programs; research and interpret local, state, and federal regulations and apprise members of the results; manage promotional marketing programs; organize fund raising campaigns; perform charitable community services; sponsor athletic leagues and tournaments; host conventions; disburse funds; perform collective bargaining; arbitrate disputes; provide counseling, adoption, and advocacy services; lobby the legislature; compile, review, and disseminate informational data; operate a tourist information center; issue

~~vehicle license registrations, plates, decals, and certificates of title.))~~

- Administer certification tests;
- Arbitrate disputes;
- Award scholarships;
- Collect membership dues;
- Compile, review, and disseminate informational data;
- Disburse funds;
- Host conventions;
- Issue vehicle license registrations, plates, decals, and certificates of title;
- Lobby the legislature;
- Manage promotional marketing programs;
- Maintain a membership directory;
- Offer insurance programs;
- Operate a tourist information center;
- Organize fund-raising campaigns;
- Perform charitable community services;
- Perform collective bargaining;
- Provide counseling, adoption, and advocacy services;
- Provide job placement assistance;
- Publish a newsletter;
- Research and interpret local, state, and federal regulations and apprise members of the results;
- Sponsor athletic leagues and tournaments;
- Sponsor educational training programs.

Also included in this classification are Economic Development Councils, Boards, or Associations. These nonprofit organizations provide economic consulting services and related statistics to government and industry in the promotion of economic stability, and recruit businesses ((who)) that will create jobs and provide loans from the grant funds they manage. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

This classification excludes ((labor unions and employee representative associations which are to be reported separately in classification 6503, and the collection of donated items by truck which is to be reported separately in classification 1101));

- Collection of donated items by truck which is to be reported separately in classification 1101;
- Labor unions and employee representative associations which are to be reported separately in classification 6503.

**Special note:** If a charitable organization subject to classification 5301 operates a retail store for the sale of donated items, the collection of those items by truck, and all store operations, are to be reported separately in classification 6504.

#### **5301-18 Telephone answering services**

Applies to establishments engaged in providing telephone answering services for others. Customers include, but are not limited to((, medical professionals, attorneys, private businesses, and individuals));

- Attorneys;
- Medical professionals;
- Private businesses;
- Individuals.

Most answering services today use computerized communications systems to identify company names when

answering calls for various companies, obtain correct information about the company to respond to questions, record and relay accurate messages in a timely manner. Related services often offered by telephone answering service companies include, but are not limited to((, voice mail or paging, rental of office space, telemarketing, dispatching, monitoring alarm systems, placing reminder calls, and scheduling appointments for customers)).

- Dispatching:
- Monitoring alarm systems:
- Placing reminder calls:
- Rental of office space:
- Scheduling appointments for customers:
- Telemarketing:
- Voice mail or paging.

This classification includes clerical office personnel and staff who travel from one office to another.

#### **5301-19 Travel agencies**

Applies to establishments engaged in providing travel arrangement services for others. Travel agencies coordinate all types of travel arrangements for their clients through ((air, cruise, train, or bus lines, hotels, motels, or resorts, car rental agencies, travel insurance companies, and related travel providers)).

- Air:
- Bus lines:
- Car rental agencies:
- Cruise:
- Hotels:
- Motels:
- Related travel providers:
- Resorts:
- Train:
- Travel insurance companies.

Services vary and could include ((delivery of tickets and itineraries to clients, booking reservations and selling tickets for tours, excursions, or other entertainment events, or arrangement of special needs for disabled or elderly travelers)).

- Arrangement of special needs for disabled or elderly travelers:
- Booking reservations:
- Delivery of tickets and itineraries to clients:
- Selling tickets for tours, excursions, or other entertainment events.

This classification includes clerical office and sales staff who travel from one office to another.

#### **5301-21 Word processing or secretarial services**

Applies to establishments engaged in providing word processing or secretarial services to others. Services include, but are not limited to((, desktop publishing, dictation and transcription services, typing/compiling reports, proposals, resumes, or correspondence, sending faxes, and making copies of documents)).

- Desktop publishing:
- Dictation and transcription services:
- Making copies of documents:
- Typing/compiling reports, proposals, resumes, or correspondence:

#### • Sending faxes.

A pickup and delivery service may be offered. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

**Special note:** This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

**AMENDATORY SECTION** (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

#### **WAC 296-17A-5308 Classification 5308.**

#### **5308-20 Community action organizations - Professional services and administrative employees**

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include: ((Child care; after school care; alternative schools; in-home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; medical services-))

- After school care:
- Alternative schools:
- Child care:
- Decent, safe and sanitary living accommodations for low-income or needy citizens:
- Drug and alcohol recovery programs:
- Employment or independence training, counseling and assistance:
- Food and clothing banks:
- In-home chore services:
- Meals:
- Medical services:
- Transitional or emergency housing:
- Weatherization.

This classification applies to professional services and administrative employees. Work duties in this classification are not performed exclusively in an administrative office environment. Travel may be necessary to perform work at an alternate work site for appointments with clients, patients, meetings, presentations, agency promotions, or other required out-of-office administrative type work. Work performed in this classification may include, but is not limited to((, counselors or educators for various programs, medical, dental and nursing services; child care professionals or teachers, program coordinators and directors. Also included are estimators and project managers who do not supervise a work crew or perform any type of labor)).

- Child care professionals or teachers:
- Counselors or educators for various programs:
- Estimators and project managers who do not supervise a work crew or perform any type of labor:

- Medical, dental and nursing services;
- Program coordinators and directors.

Excluded from this risk classification is any manual labor or supervision of a work crew that performs manual labor, construction or maintenance work, work in a food bank, delivery, or other similar work which is to be reported in risk classification 1501-20; chore workers/home service workers who are to be reported in 6511-20; office employees who work exclusively in an administrative office environment who are to be reported in risk classification 4904-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in risk classification 6901.

See classifications 1501-20 and 4904-20 for other community action operations.

Note: Businesses providing one of the services described in this class are to be assigned the classification applicable to the service provided. If all conditions of the general reporting rules have been met, standard exception classifications may apply.

**AMENDATORY SECTION** (Amending WSR 09-16-107, filed 8/4/09, effective 1/1/10)

#### **WAC 296-17A-6103 Classification 6103.**

##### **6103-01 Schools: Academic, K-12 - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, school nurses, payroll and bookkeeping personnel, and teachers or teachers' aides of establishments engaged in operating public or private academic school facilities, K-12 (kindergarten level through grade 12) and the state schools for the blind and deaf.

This classification excludes all other types of employees in connection with the school facilities such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers' aides who are exposed to machinery hazards such as a wood shop, metal shop, print shop, auto shop, and driver training instructors who are to be reported separately in classification 6104.

##### **6103-02 Schools: Trade or vocational - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and professors or instructors of establishments engaged in operating trade or vocational school facilities. These types of schools provide specialized training and instruction to prepare students for occupations in the chosen fields. Often these facilities will coordinate on-the-job training with employers as well as assist students in finding employment.

This classification excludes all other types of employees in connection with the school facilities such as, but not lim-

ited to, cooks, drivers, custodians, maintenance personnel and grounds keepers, and professors or instructors who are exposed to machinery hazards such as a wood shop, metal shop, print shop and auto shop who are to be reported separately in classification 6104.

##### **6103-03 Libraries, N.O.C. - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating library facilities not covered by another classification (N.O.C.). These types of facilities maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, drivers, and storage room workers who are to be reported separately in classification 6104.

##### **6103-04 Churches - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

###### **Bell ringers**

Applies to clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors of establishments engaged in operating church facilities for members of a religious congregation to meet and worship on a daily or weekly basis. Other services provided include, but are not limited to, sermons, rites, counseling, baptisms, weddings, funerals, bible school, and child care during church services and events. When a church is also operating a school facility, the church classifications are to be assigned for both operations. This classification also applies to bell ringers for charitable organizations.

This classification excludes all other types of employees in connection with the church facilities such as, but not limited to, custodians, maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

##### **6103-05 Museums, N.O.C. - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel and administrative employees such as directors, assistant directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). Museums maintain a wide variety of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers (including exhibit set-up), drivers, packers, and warehousemen who are to be reported separately in classification 6104.

**6103-06 Day nurseries or child day care centers - Clerical office, sales personnel, teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel, and administrative employees such as teachers, teachers' aides and nurses of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, or in providing baby-sitting services. Employees will instruct children in activities designed to promote social, physical, and intellectual growth in preparation for primary school. Most day care centers provide breakfast and lunch.

This classification excludes all other types of employees such as, but not limited to, custodians, cooks (see special note below), maintenance personnel and grounds keepers, and drivers who are to be reported separately in classification 6104.

**Special note:** This classification allows preparation, service, and clean up associated with a snack menu in facilities with a refrigerator and/or microwave oven. Snacks, such as crackers, fruits, and prepackaged foods may be prepared and served. Preparation, service, and clean up associated with a full menu using ovens are to be reported in classification 6104-06. If required records are maintained, employees who have duties that fall into classifications 6103 and 6104 may split hours between the classifications. If these records have not been maintained, all hours must be reported in classification 6104.

**6103-10 Flight instructions - Clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees**

Applies to clerical office, sales personnel, classroom instructors, and administrative employees of establishments engaged in providing classroom instruction to student pilots in flight procedures and techniques. Flight instructors explain various aircraft components and instruments for controlling aircraft during maneuvers, and, using flight simulators, demonstrate procedures such as, but not limited to, take-offs and landings.

This classification excludes all other types of employees such as, but not limited to, custodians, maintenance personnel and grounds keepers and drivers who are to be reported separately in classification 6104 and in-air flight instructors outside the classroom who are to be reported separately in the classification 6803.

**Special note:** Reporting rules are outlined in the division of worker hours provision in the general rules.

**6103-11 Schools: N.O.C. - Clerical office, sales personnel, classroom teachers, N.O.C. and administrative employees**

Applies to classroom instructors, clerical office, sales personnel and administrative employees such as directors and assistant directors, coordinators, instructors, receptionists, secretaries, counselors, payroll and bookkeeping personnel of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.). Schools include, but are not limited to, dance, modeling, music, driving, cooking, first aid, and schools for coaches. Modeling and dance schools emphasize poise, balance, facial gestures, self-confidence, and counseling in wardrobe and make-up. Music schools

emphasize the disciplines of playing various instruments. Driving schools concentrate on the rules, principles, and coordination needed to drive safely, using textbooks, audio-visuals, and driving simulators.

This classification excludes all other types of employees in connection with the specialized school facilities such as, but not limited to, custodians, maintenance personnel, grounds keepers, and ballet dancers and instructors who perform activities not as part of a classroom environment who are to be reported separately in classification 6104 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

**6103-12 Officials for amateur athletic or cultural events, N.O.C. ((~~clerical office, teachers, N.O.C.~~)) and administrative employees**

Applies to ((~~clerical office employees,~~)) administrative employees((;)) and event officials of establishments engaged in providing officials such as, but not limited to, umpires or referees for amateur athletic or cultural events sponsored by schools or communities. Events include, but are not limited to, sports, spelling bees, debates, and musical competitions.

**6103-13 Longshore and stevedore trainees, N.O.C**

Applied to clerical office employees, administrative employees, and stevedore trainees of an establishment engaged in training longshore and stevedore trainees in a classroom environment.

**Special note:** Any longshore or stevedore activities conducted outside of the classroom on a dock, or ship, or adjacent to navigable waters will almost always be covered by the Longshore Harbor Workers' Compensation Act (LHWCA) and will not be covered by the state fund.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)**WAC 296-17A-6104 Classification 6104.****6104-01 Schools: Academic, K-12 - All other employees, N.O.C.**

Applies to all other employees of public or private academic schools K-12 (kindergarten level through grade 12) and the state schools for the blind and deaf. All other in this classification is defined as employees such as, but not limited to, cooks, bus drivers, custodians, maintenance personnel and grounds keepers, and teachers or teachers' aides who are exposed to machinery hazards such as wood shop, metal shop, print shop, auto shop, and driver instructors.

This classification excludes clerical office, sales personnel and administrative employees such as principals, assistant principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

**6104-02 Schools: Trade or vocational - All other employees, N.O.C.**

Applies to all other employees of trade or vocational schools. All other in this classification is defined as employees such as, but not limited to, cooks, drivers, driving instructors, custodians, maintenance personnel and grounds keepers,

and teachers and teachers' aides who are exposed to machinery hazards such as, but not limited to, those in wood shop, metal shop, automotive shops, and plumbing or electrical work. Vocational or trade schools provide specialized training and instruction to prepare students for occupations in their chosen field. Often these facilities will coordinate on-the-job training and assist students in finding employment.

This classification excludes clerical office, sales personnel and administrative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeeping personnel and teachers or teachers' aides who have no exposure to machinery hazards who are to be reported separately in classification 6103.

#### **6104-03 Libraries, N.O.C. - All other employments, N.O.C.**

Applies to all other employees of library facilities which are not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, drivers, and storage room workers. Libraries maintain a wide selection of reading materials such as books, journals, articles, magazines, publications, newspapers, and audio-visual or micrographic materials.

This classification excludes clerical office, sales personnel and administrative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

#### **6104-04 Churches - All other employments, N.O.C.**

Applies to all other employees of churches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel, grounds keepers, and drivers. Services offered by a church include, but are not limited to, providing a place for members of a religious congregation to meet and worship on a daily or weekly basis, sermons, rites, counseling, baptisms, weddings, funerals, bible school, child care during church services and events.

This classification excludes clerical office, sales personnel and administrative employees such as pastors, priests, reverends, clergymen, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors who are to be reported separately in classification 6103.

#### **6104-05 Museums, N.O.C - All other employments, N.O.C.**

Applies to all other employees of establishments engaged in operating museum facilities not covered by another classification (N.O.C.). All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers (including exhibit set-up), drivers, packagers, and warehousemen. Museums maintain a wide selection of artifacts, art, statues, sculptures, and other exhibit works.

This classification excludes clerical office, sales personnel and administrative employees such as museum directors, assistant museum directors, buyers, coordinators, tour guides, receptionists, secretaries, and payroll and bookkeeping personnel who are to be reported separately in classification 6103.

#### **6104-06 Day nurseries or child day care centers - All other employments, N.O.C.**

Applies to all other employees of establishments engaged in operating day nurseries or day care centers for infants, toddlers, and children, which provide activities to promote social, physical, and intellectual growth in preparation for primary school. All other in this classification is defined as employees such as, but not limited to, custodians, cooks, maintenance personnel and grounds keepers, and drivers.

This classification excludes clerical office, sales personnel and administrative employees such as principals, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and teachers or teachers' aides who are to be reported separately in classification 6103.

***Special note:*** This classification allows preparation, service, and clean up associated with a full menu using ovens. Preparation, service, and clean up associated with a snack menu (such as crackers, fruits, and prepackaged foods) using a refrigerator and/or microwave oven, may be reported in classifications 6103-06. If required records are maintained, employees who have duties that fall into classifications 6103 and 6104 may split hours between the classifications. If these records have not been maintained, all hours must be reported in classification 6104.

#### **6104-11 Schools: N.O.C - All other employments, N.O.C.**

Applies to all other employees of establishments engaged in providing specialized classroom instruction to students in schools which are not covered by another classification (N.O.C.) such as, but not limited to, dance, modeling, music, cooking, first aid, and schools for coaches. All other in this classification is defined as employees such as, but not limited to, custodians, maintenance personnel and grounds keepers, and instructors or teachers or dancers including ballet dancers who perform activities not as part of a classroom environment or who are exposed to machinery hazards.

This classification excludes administrative employees such as directors and assistant directors, coordinators, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and classroom instructors, who are to be reported separately in classification 6103 and driving instructors outside of the classroom who are to be reported separately in classification 6301.

**AMENDATORY SECTION** (Amending WSR 10-18-024, filed 8/24/10, effective 10/1/10)

#### **WAC 296-17A-6303 Classification 6303.**

##### **6303-00 Outside sales personnel, N.O.C.; messengers**

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services in a showroom or other location, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and

estimating. Duties of messengers are limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business.

This classification excludes the delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable; the demonstration or delivery of machinery or equipment which are to be reported separately as applicable, establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301; sales personnel engaged in home or door-to-door sales which are to be reported in classification 6309; establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903; establishments engaged in process and legal messenger services which are to be reported separately in classification 6601.

**Special note:** When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

### 6303-03 Insurance sales personnel and claims adjusters

Applies to insurance sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

**Special note:** Individuals performing duties as an agent, broker, or solicitor (and who hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010((, 48.17.020, and 48.17.030)). To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

### 6303-21 Home health care services: Social workers and dietitians

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching physically or developmentally disabled individuals in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops((,)) a food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported sepa-

rately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any account that does not also have classification 6110 and/or 6511.*

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### WAC 296-17A-6406 Classification 6406.

This classification applies to specialty retail store operations engaged primarily in the sale of a wide variety of products ranging from collectibles such as stamps, coins, sports cards, and dolls to table top appliances such as portable televisions, blenders, mixers and toasters. This classification is comprised of sub classifications that cover a specific type of retail store operation. One of the sub classifications applies to the sale of products which are not covered by another classification. Although the products sold by establishments subject to this classification will vary by each sub classification, the overall operational activities are similar. Each business covered by this classification will generally employ cashiers and merchandise stockers, as well as other occupations of workers.

**Special note:** This classification excludes all repair operations unless it is specifically included in the classification, delivery service, outside installation work, and lunch counters and restaurants which are to be reported separately in the classification applicable to the work or service being performed.

Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

### 6406-00 Retail stores, N.O.C.

Applies to establishments engaged in the retail sale of merchandise or services not covered by another classification (N.O.C.). Merchandise includes, but is not limited to, greeting cards, costume jewelry, scarves, tropical fish and birds and related fish or bird supplies, table top appliances such as mixers, blenders, microwave ovens, or table top satellite receiving units, ((~~quick print~~)) copy or fax services and related specialty items or services. This classification also applies to establishments that provide inventory services for other businesses.

This classification excludes pet stores that sell dogs or cats and establishments engaged in pet grooming services which are to be reported separately in classification 7308; pet food stores which are to be reported separately in classification 6403; and offset, cold press and similar printing operations which are to be reported separately in classification 4101.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-01 Stores: Camera or photography supply - Retail**

Applies to establishments engaged in the retail sale of cameras and photography and dark room supplies such as, but not limited to, batteries, film, processing trays, chemicals, print paper, enlargers, and timers. It is common for these establishments to offer film developing services which may be either a one-hour service or an overnight process. Both types of film developing services are included in this classification when conducted in connection with a camera and photography supply store. This classification is distinguishable from classification 6506 in that establishments covered in classification 6506 are not engaged in the sale of cameras or photo developing equipment.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-03 News and magazine stands - Retail**

Applies to establishments engaged in the retail sale of newspapers and magazines. Establishments subject to this classification may sell newspapers or magazines from various locations such as, but not limited to, stands at public markets, store operations in malls, or from a street corner.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-09 Arcades: Coin or token operated**

Applies to establishments engaged in operating coin- or token-operated arcades. This classification covers attendants, change makers, and security personnel who monitor the game rooms and make change. Attendants may remove tokens and money from machines and may perform minor adjustments such as resetting a jarred machine.

This classification excludes the installation, removal or repair of machines which is to be reported separately in classification 0606.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-11 Stores: Office stationery and machinery - Retail**

Applies to establishments engaged in the retail sale of office stationery, supplies, and/or machinery. For purposes of this classification "office stationery and supplies" includes, but is not limited to, paper, writing tablets, computer software, pens, pencils, markers, staples, staplers, scissors, paper clips, and binders. "Office machinery or business machinery" includes, but is not limited to, calculators, typewriters, various types of copy machines, fax machines, and desk top and lap top computers.

This classification excludes service and repair of office/business machines which is to be reported separately in classification 4107 and establishments engaged in sale of office furniture which are to be reported separately in classification 6306.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-12 Stores: Fabric, yardage, yarn and needlework supplies - Retail**

Applies to establishments engaged in the retail sale of fabric, yardage, yarn and needlework supplies. It is common for establishments subject to this classification to have a small inventory of noncommercial/industrial sewing machines and sergers for sale in addition to fabric, sewing notions, patterns, and related supplies. Fabric and yarn stores may also offer sewing and craft classes which are included in this classification when taught by employees of an employer subject to this classification. This classification is distinguishable from sewing machine stores in classification 6309 in that the principle products sold in classification 6406 are fabric and sewing notions while sewing machine stores are not engaged in the sale of fabric or yardage.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-14 Stores: Wind or string musical instruments - Retail**

Applies to establishments engaged in the retail sale of musical instruments such as, but not limited to, drums, wind instruments, guitars, and banjos. This classification includes music lessons when provided by employees of an employer subject to this classification and includes minor adjustment services such as replacing a drum skin or a broken string on a guitar.

This classification excludes the repair of wind and string musical instruments which is to be reported separately in the applicable repair classification; establishments engaged in the repair of pianos which are to be reported separately in classification 2906; and establishments engaged in the sale of pianos and organs which are to be reported separately in classification 6306.

**Special notes:** Classification 6406 does not apply to any establishments that sell((s)) pianos or organs in addition to wind or string instruments. Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-16 Stores: Drug - Retail**

Applies to establishments engaged in the retail sale of prescription and nonprescription drugs and/or nutritional supplements such as, but not limited to, vitamins, herbal compounds, and energy bars. Drug stores subject to this classification may also carry a variety of personal care and grooming products and may rent crutches, canes, wheel chairs, and walkers.

This classification excludes establishments engaged in the sale and/or rental of hospital beds, motorized wheel chairs, and other patient appliances which are to be reported separately in classification 6306, and establishments engaged in the sale/rental and service (repair) of motorized mobility aids such as wheelchairs and 3-wheel scooters which are to be reported separately in classification 3309.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-17 Stores: Variety - Retail**

Applies to establishments engaged in the retail sale of a variety of consumer goods such as, but not limited to, housewares, linens, clothing, toys, and candy. In earlier years establishments subject to this classification were often referred to as "5 and 10 cent stores." Although these stores carry much of the same merchandise as a department store, they are distinguishable in that variety stores are not comprised of specialized departments and do not generally carry the quantity/assortment of products that department stores do.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-18 Private mail box; safety deposit box; computer tape storage facilities - Rent or lease**

Applies to establishments engaged in renting or leasing private mail boxes, safety deposit boxes, or computer and financial record storage facilities. Establishments subject to this classification will operate a secured facility where they receive and sort their customers' mail, parcels and packages from the U.S. Post Office or other parcel/package delivery companies, and package articles for shipment for their customers. They also provide a secured storage facility equipped with safety deposit boxes which they rent out on a short or long term basis. It is common for these establishments to offer additional services such as fax, and copying services.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-19 Stores: Coins, stamps, baseball cards, and comic books - Retail**

Applies to establishments engaged in the retail sale of coins, stamps, baseball cards, comic books, and similar collectibles. Establishments subject to this classification may be engaged exclusively in mail order sales, sell from browse tables at collectible or trade shows, through specialty auctions, or may sell from a store location. Coin and stamp stores routinely sell magazines, periodicals, and supplies that cater to collections or hobbies. Card shops routinely sell other sports memorabilia such as autographed baseballs, footballs and basketballs, framed pictures, POGS and buttons.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-20 Stores: Book, record, cassette, compact disc, and video - Retail**

Applies to establishments engaged in the retail sale or rental of new or used books, records, cassettes, compact discs or videos. Establishments subject to this classification may be engaged exclusively in mail order sales, sell from browse tables or trade shows, through specialty auctions or may sell from a store location.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-23 Stores: Candy - Retail**

Applies to establishments engaged in the retail sale of packaged and unpackaged candy they have purchased from others.

This classification excludes establishments engaged in the on-premise manufacture of candy and the subsequent retail sale of these products which are to be reported separately in classification 3905; and establishments engaged in the manufacture of candy or confections for wholesale to retail establishments or distributors which are to be reported separately in classification 3906.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-24 Stores: Cigarette and tobacco - Retail**

Applies to establishments engaged in the retail sale of cigarettes, tobacco, and related products such as, but not limited to, pipes, pipe cleaning supplies, rolling machines, cigarette papers, lighters, lighter fluid, and cigarette cases.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-25 Stores: Telephones - Retail**

Applies to establishments engaged in the retail sale of telephones, pagers, and cell phones. Establishments subject to this classification are not a utility company in that they do not operate telephone exchanges and are not regulated by the utilities and transportation commission of Washington. Their operations are limited to the sale of communication hardware. Stores subject to this classification may arrange activation and service for their customer, or the customer may contact the service provider directly.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-27 Stores: Stereo components - Retail**

Applies to establishments engaged in the retail sale of stereo components. Establishments subject to this classification will sell a variety of audio and video appliances such as, but not limited to, video players, stereos and portable televisions. These establishments may also sell and install automobile stereo speaker systems and car phone systems; however, the installation is not covered in classification 6406-27.

This classification excludes the installation, service or repair of home or car stereos and car phone systems which are to be reported separately in classification 0607, and establishments engaged in the sale of stereo and television console sets, big screen televisions, or other major appliances which are to be reported separately in classification 6306.

**Special note:** Classification 6306 applies to any establishment that sells TV console sets or big screen TVs, even if the majority of their inventory is stereo components and/or portable TVs. Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-29 Stores: Toys - Retail**

Applies to establishments engaged in the retail sale of a variety of toys, games, and related items for persons of all

ages. Merchandise includes, but is not limited to, video games, tricycles or bicycles, books, dolls and stuffed animals, outdoor play equipment, and specialty clothing.

This classification excludes establishments engaged in the retail sale of sporting goods and bicycles which are to be reported separately in classification 6309. This classification is distinguishable from businesses in classification 6309 in that the principle products of stores subject to classification 6406 are toys and games, as compared to stores in classification 6309 which are primarily engaged in the sales of sporting goods and bicycles.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

#### **6406-30 Stores: Cosmetics - Retail**

Applies to establishments engaged in the retail sale of cosmetics and fragrances. Related services usually offered by these types of stores include consultations with clients regarding make-up techniques, styles, and colors.

This classification excludes hair and nail salons which are to be reported separately in classification 6501.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

#### **6406-31 Stores: Housewares - Retail**

Applies to establishments engaged in the retail sale of housewares such as, but not limited to, pots and pans, flatware, dishes, towels, canister sets, soap dishes, towel bars, waste baskets, plant stands, and curtains or draperies.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

#### **6406-33 Stores: Gift shops, N.O.C. - Retail**

Applies to establishments engaged in the retail sale of gift items not covered by another classification (N.O.C.) such as, but not limited to, crystal and silver serving pieces, china, cut glass, picture frames, wedding and shower books and invitations, special occasion cards, decorative statues, boxed candy, and ornaments. This merchandise tends to be of a finer selection than the everyday wares common in variety shops.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-6512 Classification 6512.**

#### **6512-00 Home care services/home care ((quality authority (HCQA))) referral registry (HCRR)**

Applies to persons who are employed by ill, disabled, or vulnerable individuals to provide home care services that enable those individuals to remain in their own homes. Services provided may include, but are not ((be)) limited to: ((Personal care such as assistance with dressing, feeding, personal hygiene to facilitate self-care;))

- Household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; and((/-er)) delegated tasks of nursing under RCW 18.79.260 (3)(e)((-));

- Personal care such as assistance with dressing, feeding, and personal hygiene to facilitate self-care.

**Special note:** Premiums are paid by the home care ((quality authority (HCQA))) referral registry (HCRR) on behalf of the persons who provide the home care services.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### **WAC 296-17A-6708 Classification 6708.**

##### **6708-01 Jockeys**

Applies to jockeys riding horses in a race, or working with the horses in any way, during the dates of a scheduled race meet. Coverage during a race meet is through election of optional coverage and is to be reported at ten hours per mount per race or ten hours per day if not riding in a race. Coverage outside the dates of a race meet is mandatory. Jockeys will be considered exercise riders when employed by a trainer and/or owner at a time other than during the dates of a scheduled race meet and are then reportable in classification 6614, 6616, or 7302 as appropriate to their job duties.

##### **6708-02 Professional motor vehicle or watercraft race drivers**

Applies to professional motor vehicle/water craft race drivers during a competition. Coverage during a competition is mandatory and is subject to a division of hours as provided in the general exclusion section of the general reporting rules.

When not driving during competition, hours worked are reportable as appropriate to the work being performed((:));

- Maintenance of a racing motor vehicle and/or pit crew operations which ((is)) are to be reported separately in classification 3411;

- Assembly of a racing motor vehicle which is to be reported separately in classification 3402; maintenance of a racing water craft and/or pit crew operations which ((is)) are to be reported separately in classification 3414; assembly of a racing water craft which is to be reported separately in classification 2903, 3402 or 3511 as appropriate; and any other work usually done for this employer which is to be reported separately as appropriate to the employees usual job duties.

This classification excludes piloting an aircraft in a race which is to be reported separately in classification 6803 for a plane or 6801 for a hot air balloon.

**Special note:** Race car drivers are reported at ten hours for each race/heat.

**AMENDATORY SECTION** (Amending WSR 08-15-132, filed 7/22/08, effective 10/1/08)

#### **WAC 296-17A-7202 Classification 7202.**

##### **7202-00 Real estate agencies**

Applies to establishments engaged in buying, selling, renting, and appraising real estate for others. A real estate licensee will ((study property listings, accompany clients to property sites to show the property, and assist in the completion of real estate documents such as real estate contracts,

~~leases, and seller's disclosure documents. They will also hold open houses, conduct negotiations, and assist at the closing):~~

- Accompany clients to property sites to show the property;
- Assist at the closing;
- Assist in the completion of real estate documents such as real estate contracts, leases, and seller disclosure documents;
- Conduct negotiations;
- Hold open houses;
- Study property listings.

This classification includes clerical office and sales personnel. Real estate sales personnel, including ((agents)) brokers, are considered to be workers of the managing broker or real estate agency employing them.

This classification excludes building and/or property management services which are to be reported separately in classification 4910.

**Special note:** Real estate ((sales agents)) brokers are included in the industrial insurance definition of "worker" and ((should)) must NOT be treated as independent contractors. (RCW 51.08.180 and 51.08.195.)

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

#### WAC 296-17A-0504 Classification 0504.

##### 0504-06 Waterproofing, N.O.C.: Buildings or structures

Applies to contractors engaged in waterproofing buildings or structures not covered by another classification (N.O.C.). This classification includes the application ((and repair services)) of waterproofing or sealant material to surfaces or cracks and voids to eliminate leaks in all types of buildings or structures, regardless of height((, including)). Such structures may include, but are not limited to((,)): Foundations and foundation walls, walls, floors, decks, fences, walkways and driveways. Waterproof material is applied to a variety of surfaces such as wood, concrete, asphalt, steel, metal, plaster, or stone. There are several types of waterproof processes which may include: Membrane, which adheres long strips of rubber and pumice to exterior walls or foundations with the use of primer; pressure injection, which uses a long wand inserted into the ground to fill cracks; epoxy injection, which is performed on the interior or exterior with use of a caulk gun to inject a silicon material into cracks; or application with use of a brush, roller or spray directly onto the surface. ((This classification includes the application of asphalt sealant to driveways.))

This classification excludes: Excavation work performed in conjunction with a waterproofing contract which is to be reported separately in classification 0101; waterproofing operations performed in connection with roofing or aqueous work which ((is)) are to be reported separately in the classification applicable to the work being performed; the application of asphalt sealant or waterproof materials to roadways and parking lots which is to be reported separately in classification 0219; filling cracks or voids with like materials which is to be reported separately in the classification applicable to the repair work being performed; and the application of waterproof materials performed by a concrete contractor

as part of the concrete construction project which is to be reported separately in the classification applicable to the work being performed.

**Special note:** ((Classification 0101 applies when)) If excavation work is performed (to remove dirt away from a foundation wall or to push it against the wall after the waterproofing material is applied) classification 0101 applies, regardless of the type of contractor performing the excavation work.

##### 0504-18 Pressure washing services or sandblasting, N.O.C.: Buildings or structures

Applies to contractors engaged in pressure washing or sandblasting buildings or structures, not covered by another classification (N.O.C.). This classification includes cleaning, washing, pressure washing or sandblasting ((buildings or structures. These services are performed)) to remove dirt, moss, rust or old paint ((from buildings or structures)). Pressure washing involves a forced spray of air and water to remove unwanted surface materials((, whereas,)). Sandblasting, or abrasive blasting, involves a forced spray of sand, steel, or glass. This classification includes the cleaning of roofs, gutters, and downspouts, and the removal of moss or snow from multiple story buildings. ((Pressure washing and sandblasting systems include portable blast and pressure cleaning machines, hand-operated cabinet-type sandblasting or pressure washing machines, automatic blast or pressure cleaning machines and wetblast cleaning machines.))

This classification excludes: Contractors engaged in multimedia blasting in shop which is to be reported separately in classification 3402; pressure washing or sandblasting by a painting contractor as a part of the preparation for painting exterior buildings, structures, or the interior/exterior of tanks which is to be reported separately in the classification 0504-21; pressure washing as a part of interior building painting contracts which is to be reported separately in classification 0521; cleaning or washing roofs, or removing snow from, single story buildings (((provided)) when the cleaning or washing is not part of a painting or roofing contract) which is to be reported separately in classification 6602; waterproofing buildings or structures, N.O.C. which is to be reported separately in classification 0504-06; and pressure washing or sandblasting operations performed in conjunction with and as a part of another type of business such as a foundry, metal goods manufacturer, auto body repair shop, etc., which is to be reported separately in the applicable classification.

##### 0504-20 Lead abatement

Applies to contractors engaged in lead abatement which is performed on structures where there are significant amounts of lead-based paint and lead dust. Contractors must comply with various governmental regulations. The first step in all lead abatement projects is the preliminary testing of the site to determine the presence of lead and the extent of the contamination. If the ground surrounding the proposed worksite is contaminated, it will require remediation, which is done by a soil remediation contractor who is to be reported separately in the appropriate classification. The next step is deciding which abatement procedure is right for the project such as: Encapsulation which is used on interior surfaces to

seal the lead-based paint with a bonding material; enclosure which is used on interior and exterior surfaces and involves constructing special airtight enclosures made out of gypsum wallboard, plywood paneling, aluminum, vinyl or wood exterior sidings; component replacement which involves removing building components such as paneling, moldings, windows and doors which are coated with lead-based paint and replacing them with new components; and chemical removal, abrasive removal or ((hand scraping)) hand scraping which are methods to physically remove the lead paint. This classification includes all preparation work and all cleanup work.

This classification excludes: Soil remediation work which is to be reported separately in classification 0101; asbestos abatement which is to be reported separately in classification 0512; and lead abatement as part of a painting contract for interior/exterior of buildings or structures, or the interior/exterior of tanks which is to be reported separately in the applicable classification.

**0504-21 Painting: Exterior buildings or structures, N.O.C.; Cleaning: Interior/exterior of oil or gas storage tanks, beer vats, and sewage treatment tanks**

Applies to contractors engaged in painting the exterior of all types of buildings or structures not covered by another classification (N.O.C.), regardless of height. Buildings and structures include, but are not limited to(( )); Bridges, towers, smokestacks, stadiums, factories, warehouses, stores, churches, and residential or commercial single or multiple story buildings. Paint is applied by brush, roller or spray to a variety of surfaces such as wood, concrete, steel, metal, plaster, stone, or other types of exterior surfaces. This classification includes all preparation work such as the set up of scaffolding or power lifts, pressure washing, removal of old paint or asbestos, sandblasting, taping or masking, and cleanup work. This classification also applies to cleaning, coating, or painting the interior/exterior of oil or gas storage tanks, beer vats, or sewage treatment tanks.

This classification excludes: Contractors engaged in waterproofing buildings or structures, N.O.C. which are to be reported separately in classification 0504-06; pressure washing services or sandblasting of buildings or structures which are to be reported separately in classification 0504-18; interior painting of buildings which is to be reported separately in classification 0521; painting of murals or other artwork on the interior of buildings which is to be reported separately in classification 4109; and painting of murals or other artwork on the exterior of buildings which is to be reported separately in classification 0403.

**AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)**

**WAC 296-17A-1103 Classification 1103.**

**1103-00 Coal and solid fuel dealers - Yard operations**

Applies to establishments engaged in the sale and delivery of coal, pressed wood fiber logs (fire logs), wood stove pellets, wood chips, and sawdust. Operations contemplated by this classification include all related store, yard and delivery operations when conducted by employees of employers having operations subject to this classification.

This classification excludes all manufacturing operations which are to be reported separately in the classification applicable to the material and process used, and all mining operations which are to be reported separately in the applicable classification.

**1103-02 Firewood dealers - Yard operations**

Applies to establishments engaged in the sale of firewood. This classification is limited to establishments operating a firewood sales lot where customers either pick up firewood or the dealer ((will)) makes deliveries from. Operations contemplated by this classification are limited to yard and delivery operations.

This classification excludes firewood cutting operations conducted in timber or forest lands and firewood sales lots conducted from a logging landing which are both to be reported separately in the applicable logging classification.

***Special note:*** Establishments subject to this classification may purchase precut firewood from other nonrelated businesses or may have a cutting crew. The only cutting operations allowed in classification 1103 are those conducted in the sales lot.

**1103-04 Composting**

Applies to establishments engaged in composting yard waste or other materials. Depending on the type of yard waste accepted, grinders may be used to reduce the size of the material for faster composting. Once the material is an acceptable size for composting, it may be placed in static curing piles, turned periodically to aerate until it is adequately decomposed, then sometimes screened. Another method of curing is to place the waste material in long rows, called "windrows" which are turned periodically. Other establishments, either operated privately or by municipalities, may use processed and dewatered sludge which is mixed with other materials such as shredded yard waste, sawdust, or other wood waste. The mixture must be designed to have the right degree of moisture and air to maintain a temperature of between 130 and 160 degrees Fahrenheit. The end product, in either instance, is a "Class A" pathogen product, meaning it can be used in soil for raising vegetables and is referred to as "manufactured" soil. This classification includes delivery when performed by employees of an employer having operations subject to this classification.

**1103-06 Top soil, humus, peat and beauty bark dealers - Yard operations**

Applies to establishments engaged in the sale of soils, humus, peat, and beauty bark to others. Operations contemplated by this classification are limited to the receipt of soils, peat, humus, bark and compost in bulk and the subsequent load out of bark, soil and related organic matter into customer vehicles. This classification includes: Custom mixing soils(( )); incidental sales of landscaping rock, sand, gravel, and crushed rock(( )); and delivery when performed by employees of an employer subject to this classification.

This classification excludes: Contract delivery by non-dealer employees who are to be reported separately in classification 1102(( )); building materials dealers selling stone, brick, and concrete products which are to be reported separately in classification 2009; and digging of soils/humus/peat/

gravel or grinding of bark which are to be reported separately in the applicable classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-4905 Classification 4905.**

#### **4905-04 Hotels or motels**

Applies to establishments engaged in providing lodging and associated services to others. Accommodations included in this classification vary from a single room in a "bed & breakfast," to individual cabins, to luxury suites in a multi-story hotel. Hotel and motel operations may include a wide range of activities which are within the scope of this classification such as, but not limited to ((~~housekeeping, laundry, bellhops, valets, shuttle service, maintenance personnel, and continental breakfast (if not in connection with a separate restaurant operation.)~~)):

- Bellhops:
- Continental breakfast (if not in connection with a separately licensed restaurant operation):

- Housekeeping:
- Laundry:
- Maintenance personnel:
- Shuttle service:
- Valets.

Hotel and motel desk clerks with no other duties can be reported separately in classification 4904. If no interchange of labor exists between operations, multiple classifications may be allowed for operations such as, but not limited to ((~~shops, beauty salons, grocery stores, drug stores, newsstands, and service stations, provided no interchange of labor exists between operations.~~)):

- Beauty salons:
- Drug stores:
- Grocery stores:
- Newsstands:
- Service stations:
- Shops.

When an interchange of labor exists, the operations are to be assigned to classification 4905-04 without a division of hours.

This classification excludes restaurant and lounge employees which are to be reported separately in classification 3905 and other operations conducted by independent concessionaires which are to be reported separately in the applicable services or store classification.

**Special note:** If a lodging establishment has a separately licensed restaurant operation, they may qualify for classification 3905. With two basic classifications an employee's hours may be divided, see WAC 296-17-31017. Providing only a continental breakfast requires either a bed and breakfast or continental breakfast food-service license. These types of food service do not qualify for classification 3905.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-7107 Classification 7107.**

#### **7107-01 Temporary staffing services: Retail bakery, restaurant, or food ((sundry)) preparation; musicians or entertainers**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in activities such as, but not limited to, baking, cooking, food preparation, waiting and busing tables, and dishwashing. This classification also includes musician and entertainment employees assigned on a temporary basis to a client customer.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-7109 Classification 7109.**

#### **7109-01 Temporary staffing services: Electronic, precision, and scientific equipment assembly; nonfield technician services**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in the assembly of electronic or biomedical equipment or engaged in printing and bindery work and temporary staffing employees assigned to work in a client company's mail room and who as a part of their duties operate bindery, labeling, mailing or sorting machines. This classification includes, but is not limited to, electronic assemblers, electro-mechanical assemblers, quality control inspectors, test technicians, kit pullers, storekeepers, upholsterers, seamstresses, tailors, laboratory technicians, printers, offset operators, lead typesetters, mail clerks who operate equipment, and bindery workers.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-7112 Classification 7112.**

#### **7112-00 Temporary staffing services: Agricultural operations; animal care**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in any aspects of agricultural operations such as field crops, livestock, stables, dairies, nurseries, and greenhouses. This classification contemplates all agricultural employments including the operation of power driven farm machinery or equipment.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

### **WAC 296-17A-7113 Classification 7113.**

#### **7113-00 Temporary staffing services: Janitorial, plant or facility supplemental maintenance, excluding machinery and grounds keeping services**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in janitorial work, building preoccupancy cleanup, plant or facility maintenance, and/or grounds maintenance work on an existing landscape. Grounds keeping work contemplated by this classifi-

cation means, but is not limited to, mowing lawns, pruning shrubs, and weeding, as compared to new landscape construction work. This classification includes landscape workers involved exclusively in hand labor work such as raking, digging, using a wheelbarrow to haul soil, beauty bark or decorative rock, whether performed as maintenance of existing landscape or new landscape work.

This classification excludes employees engaged in cleaning exterior windows, cleaning and removing debris or building material, and construction of new landscapes such as, but not limited to, clearing of land, installation of underground sprinkler systems, moving boulders, who are to be reported separately in classification 7118; and employees engaged in removing trees who are to be reported separately in classification 7121, and machinery maintenance which is to be reported in classification 7117. A division of worker hours is not permitted between this classification and any other classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-7115 Classification 7115.**

**7115-00 Temporary staffing services: Cannery, bottling or food processing and manufacturing operations**

This classification applies all to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged in cannery, bottling or food processing operations such as, but not limited to, canning, freezing, or dehydrating, or in packing fresh fruits or vegetables. Cooking or otherwise preparing food prior to processing or packing is included in this classification.

**AMENDATORY SECTION** (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-7117 Classification 7117.**

**7117-00 Temporary staffing services: Manufacturing operations, N.O.C.; specialty trades**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer engaged in a variety of manufacturing and processing operations. This classification includes employees who may operate power driven equipment or machinery such as, but not limited to, forklifts, table saws, drill presses, industrial packaging and processing equipment or machinery N.O.C. This classification includes occupations such as, but not limited to, machinists, mechanics, welders, tool and die makers, cabinet makers, painters, and fabricators. This classification also includes employees of a temporary staffing company who work in the specialty trades of plumbing, electrical wiring, or sheet metal work either at a plant or a construction site. Businesses or industries contemplated by this classification include, but are not limited to, cabinet shops, wood products manufacturers, plastic goods manufacturers, fiberglass goods manufacturers, glass manufacturers, foundries, metal goods manufacturers, brick, cement or masonry products manufacturers; lumber remanufacturers, amuse-

ment parks, sign painting shops, and laundries, but does not apply to shake or shingle mills.

This classification excludes all employees of a temporary staffing company assigned to work for a client customer at a construction site except the specialty trades described above. This classification also excludes employees of a temporary staffing company who are assigned to work in maritime trades subject to Washington workers' compensation laws who are to be reported separately in classification 7120((~~, and employees assigned to do plant maintenance work in a customer's plant who are to be reported separately in classification 7113~~)).