

**WSR 18-14-004**  
**PROPOSED RULES**  
**NORTHWEST CLEAN**  
**AIR AGENCY**

[Filed June 21, 2018, 8:32 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Regulation of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): On August 22, 2018, at 10:00 a.m., at the NWCAA Office, 1600 South 2nd Street, Mount Vernon, WA.

Date of Intended Adoption: September 13, 2018.

Submit Written Comments to: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA 98273, email info@nwcleanairwa.gov, fax 360-428-1620, by August 22, 2018.

Assistance for Persons with Disabilities: Contact Laurie Caskey-Schreiber, phone 360-428-1617, fax 360-428-1620, email info@nwcleanairwa.gov, by August 15, 2018.

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

***Gasoline Dispensing Facilities (GDF) (amended NWCAA Section 580.6)***

- Added, revised, and clarified relevant definitions and terminology to better correlate with GDF provisions.
- Updated the applicability of GDF provisions to be more consistent with federal regulations (i.e., 40 C.F.R. 63 Subpart CCCCCC) and chapter 173-491 WAC.
- Clarified GDF requirements, including those related to keeping the vapor recovery system equipment in good working order.
- Added a tiered pressure decay test varying from every one to five years, depending on GDF size, which should help ensure gasoline tanks at GDFs are operated and maintained in a vapor-tight condition and in good working order.
  - Added certification requirement for testers.
  - Added shutdown provisions if failed equipment not repaired within fourteen days.
  - Added submittal of test reports.
  - Added five-year test report record retention.

***Spray Coating Operations (new NWCAA Section 508):***

- This is a spray coating regulation modeled after other local clean air agency regulations and 40 C.F.R. 63 Subpart HHHHHH that focuses on work practices and controls for spray coating operations at sources of air pollution and portable spray coating operations.
- There are requirements for enclosures, filtration, ventilation stacks, clean-up, storage and disposal of volatile organic compounds, and record keeping.
- There are exemptions for architectural or maintenance coatings to stationary structures, maintenance coatings to farm and mining equipment, bed liners, fiberglass resin and gel coat applications, air-brush equipment, aerosol spray cans, surface coating applications using powder coating or non-atomizing applications (e.g., paint brushes, rollers, hand-wipe, etc.), inside exhaust, and enclosures for large objects and existing spray coat-

ing operations conducted in enclosed spray areas located outdoors.

- Sources have up to twenty-four months to come into compliance with certain enclosure and control requirements.
- The regulation will reduce particulate emissions and lessen public exposure to toxic air pollutants.

***Public Records (amended NWCAA Section 106):***

- Clarified and updated the public records program to reflect recent changes in chapters 42.56 RCW and 44-14 WAC.

***Definitions (amended NWCAA Section 200):***

- Update general definition section to remove terms that are not used in the regulation, incorporate definitions from NWCAA Section 580, and add terms related to the GDF change.

***Adoption by Reference (amended NWCAA Section 104):***

- Update adoption by reference list to allow us to implement the most recent version of the referenced state and federal rules. In addition, adopt by reference the following federal rules so that NWCAA will be the implementing agency rather than EPA within NWCAA jurisdiction: 40 C.F.R. 60 Subpart XXX (Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification after July 17, 2014) and 40 C.F.R. 60 Subpart OOOOa (Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced after September 18, 2015).
- Remove citations that do not need to be adopted by reference or have been deleted from the WAC.

***New/Amended Regulation Section Derivations:***

Amended NWCAA Section 106: Revised to reflect chapters 42.56 RCW and 44-14 WAC; subsection numbering to match current format.

Amended NWCAA Section 200 -

"Bottom Loading" definition: Copied from NWCAA Section 580 and clarified.

"Bulk Gasoline Plant" definition: Copied from NWCAA Section 580 and clarified.

"Closed Refinery System" definition: Copied from NWCAA Section 580 and clarified.

"Cutback Asphalt" definition: Copied from NWCAA Section 580 and clarified.

"Disposal System" definition: Copied from NWCAA Section 580 and clarified.

"Fuel Burning Equipment" definition: New language.

"Gasoline" definition: Copied from NWCAA Section 580 and clarified.

"Gasoline Dispensing Facility" definition: Copied from NWCAA Section 580 and clarified.

"Gasoline Loading Terminal" definition: Copied from NWCAA Section 580 and clarified.

"National Pollution Discharge Elimination System (NPDES)" definition: New language.

"Petroleum Refinery" definition: Copied from NWCAA Section 580 and clarified.

"Process Unit" definition: Copied from NWCAA Section 580 and clarified.

"Proper Attachment Fittings" definition: Copied from NWCAA Section 580 and clarified.

"Stage I Vapor Recovery" definition: New term and definition.

"Stage II Vapor Recovery" definition: Copied from NWCAA Section 580 and clarified.

"Submerged Fill Line" definition: Copied from NWCAA Section 580 and clarified.

"Submerged Loading" definition: Copied from NWCAA Section 580 and clarified.

"Suitable Closure or Suitable Cover" definition: Copied from NWCAA Section 580 and clarified

"Temporary Source" definition: New term and definition.

"Throughput" definition: Copied from NWCAA Section 580 and clarified.

"Transport Tank" definition: Copied from NWCAA Section 580 and clarified.

"Turnaround or Process Unit Turnaround" definition: Copied from NWCAA Section 580 and clarified.

"Vapor Balance System" definition: Copied from NWCAA Section 580 and clarified.

"Vapor Recovery System" definition: Copied from NWCAA Section 580 and clarified.

"Volatile Organic Compound (VOC)" definition: Revised to reference chapter 173-400 WAC.

"Waxy, Heavy Pour Crude Oil" definition: Copied from NWCAA Section 580 and clarified.

New NWCAA Section 508: New language.

Amended NWCAA Section 580.6: Revised language; subsection numbering changed to match current format.

**Distributions for Section Being Replaced:** Amended NWCAA Section 200 -

"Adverse Impact on Visibility" definition: Deleted as not used.

"Air Quality Standard" definition: Deleted as not used.

"Class I Area" definition: Deleted as not used.

"Combustion and Incineration Units" definition: Deleted as not used.

"Commence" definition: Deleted as not used.

"Complainant" definition: Deleted as not used.

"Existing Stationary Facility" definition: Deleted as not used.

"Federal Class I Area" definition: Deleted as not used.

"Federal Land Manager" definition: Deleted as not used.

"Fire Chief" definition: Deleted as not used.

"Hearings Board" definition: Deleted as not used.

"Hog Fuel Boiler" definition: Deleted as not used.

"Lowest Achievable Emission Rate (LAER)" definition: Deleted as not used.

"Mandatory Class I Federal Area" definition: Deleted as not used.

"Mercury" definition: Deleted as not used.

"Mercury Ore" definition: Deleted as not used.

"Natural Conditions" definition: Deleted as not used.

"Net Emissions Increase" definition: Deleted as not used.

"Non-Highway Mobile Source" definition: Deleted as not used.

"Pathological Waste" definition: Deleted as not used.

"Reasonably Attributable" definition: Deleted as not used.

"Stack Height" definition: Deleted as not used.

"Straw" definition: Deleted as not used.

Reasons Supporting Proposal: See bullet list above.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141(1).

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

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA, 360-428-1617.

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

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

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

Is exempt under RCW 70.94.141.

Explanation of exemptions: Not applicable under RCW 70.94.141.

June 21, 2018

Mark Buford

Executive Director

#### AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of ~~((State Law))~~ the following state rules that are in effect as of June 21, 2018 ~~((8, 2016, which are pertinent to the operation of the NWCAA,))~~ are hereby adopted by reference and made part of the Regulation of the NWCAA ~~((Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (chapter 70.94 RCW), the Administrative Procedure Act (chapter 34.05 RCW) and chapters 43.21A and 43.21B RCW and the following state rules))~~: chapter 173-400 WAC, (except - ~~025, -030, -035, -036, -040(1)(c)) & (7), -045, -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930~~), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-442 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-476 ~~((470 WAC, chapter 173-474))~~ WAC, chapter 173-~~((475))~~480 WAC, chapter 173-481 WAC, chapter 173-~~485((490))~~485 WAC, chapter 173-491 WAC ~~((chapter 173-492 WAC, and chapter 173-495 WAC))~~. The requirements of the NWCAA Regulation apply in addition to the state-wide regulations adopted and enforced under this paragraph.

104.2 All provisions of the following federal rules that are in effect as of June 21, 2018 (~~(8, 2016)~~) are hereby adopted by reference and made part of the Regulation of the NWCAA: (~~(40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards);)~~) 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, QQQQ, and Appendix A - I; 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF; 40 CFR Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants) Subpart LLL; 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, YYYY, ZZZZ, BBBB, CCCC, EEEE, FFFF, GGGG, HHHH, JJJJ, MMMM, NNNN, QQQQ, SSSS, TTTT, VVVV, WWWW, XXXXX, ZZZZZ, AAAAAA, DDDDDD, EEEEE, and HHHHHH; (~~(40 CFR Part 65 (Consolidated Federal Air Rule);)~~) and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, March 14, 2013, September 11, 2014, August 13, 2015, August 11, 2016, September 13, 2018

## AMENDATORY SECTION

### SECTION 106 - PUBLIC RECORDS

~~(106.1 The purpose of this section is to implement the requirements of RCW 42.56 Public Records.~~

#### ~~106.2 Definitions~~

~~106.21 The terms "agency", "public record", and "writing" shall have the same meaning as stated in RCW 42.17.020.~~

#### ~~106.3 Public records available~~

~~106.31 All public records of the NWCAA are available for public inspection and copying at its office located at 1600~~

~~South Second Street, Mount Vernon, Washington 98273-5202 pursuant to these rules subject to subsections 106.32, 106.33, and 106.34 of this section.~~

~~106.32 Availability of public records is subject to exemptions and requirements of RCW 42.56.070.~~

~~106.33 When a public record includes information, the disclosure of which would lead to an unreasonable invasion of personal privacy, and the NWCAA becomes aware of this fact, the NWCAA shall delete such information before making the record available.~~

~~106.34 Within 5 days of receiving a public records request the NWCAA will respond by either:~~

~~(a) Providing the records requested~~

~~(b) Acknowledging the request and providing a reasonable estimate of time the agency needs to respond to the request, or~~

~~(c) Denying the public request.~~

~~106.4 Records Index. The NWCAA does not maintain an index of just the public records listed in RCW 42.56.070. The NWCAA's Board of Directors are of the opinion that the establishment of such an index would be unduly burdensome and interfere with the NWCAA's operation because a significant and integral portion of the NWCAA's records are exempt from public inspection and copying pursuant to RCW 42.56.070. The release of such records would be an unreasonable invasion of personal privacy or the violation of the confidentiality of records and information provisions of the State Clean Air Act (RCW 70.94.205).~~

~~The NWCAA is in substantive compliance with RCW 42.56.070 by making available for public inspection and copying public records listed in RCW 42.56.070 (7)(a)(b), (8) and (9). These include promulgated regulations of the NWCAA, final opinions made in adjudicated cases, minutes and resolutions of the Board of Directors, monthly activity reports, policy memorandums of the Control Officer, logs of Notice of Violations issued, upset, breakdown and startup reports, assessment of penalties, index of registered sources, annual emission inventory summaries and summaries of ambient air monitoring data, annual state and federal grant applications, including the annual program plan, certification to operate, inspection reports for air pollution sources, variance and notice of construction records with confidential records and information deleted in accordance with RCW 70.94.205.~~

~~The Control Officer or designee shall assist any person to obtain public records requested from the NWCAA's record files.~~

#### ~~106.5 Request for public records.~~

~~106.51 All requests for inspection or copying of public records shall be made on a form as follows:~~

#### ~~106.52 REQUEST FOR PUBLIC RECORDS~~

~~Date: \_\_\_\_\_ Time: \_\_\_\_\_~~

~~Name: \_\_\_\_\_~~

~~Address: \_\_\_\_\_~~

~~Telephone No.: \_\_\_\_\_~~

~~Description of Records: \_\_\_\_\_~~

~~I certify that lists of individuals obtained through this request for public records will not be used for commercial purposes.~~

## Signature

~~FOR NWCAA USE:~~~~Number of Copies:~~~~Number of Pages:~~~~Per Page Charge: \$~~~~Total Charge: \$~~

~~All requests made in person may be made at the NWCAA office during regular business hours, Monday through Friday, excluding legal holidays.~~

~~A request for inspection or copying of public records may be made by mail, email or fax containing the following information:~~

~~(a) The name and address of the person making the request and the organization the person represents.~~

~~(b) The time of day and calendar date on which the person wishes to inspect the public records.~~

~~(c) A description of the public records requested.~~

~~(d) A statement whether access to copying equipment is desired.~~

~~(e) A phone number where the person can be reached in case the Control Officer or designee needs to contact the person for further description of the material or any other reason.~~

~~(f) A signed statement certifying that the person making the request will not use, for commercial purposes, any information which identifies an individual or individuals.~~

~~All requests must be received by the NWCAA at least three business days before the requested date of inspection to allow the Control Officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection.~~

~~106.6 Fees. No fee shall be charged for the inspection of public records. For printed, typed and written material a maximum size of 8 1/2" by 14", the NWCAA shall charge a reasonable fee, determined from time to time by the Control Officer, for providing copies of public records and for use of the NWCAA's copy equipment, payable at the time copies are furnished. This charge is the amount necessary to reimburse the NWCAA for its actual costs incident to such copying. Copies of maps, photos, reports, and other nonstandard items shall be furnished at the regular price established by the NWCAA. When other special copy work for nonstandard items is requested, the fee charged will reflect the total cost, including the time of NWCAA personnel.~~

~~106.7 Statement of reason for denial of public records request. When the NWCAA refuses, in whole or part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record withheld.~~

~~106.8 Review of denials of public records request.~~

~~106.81 Any person who objects to the refusal of a written request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the Control Officer or designee which constituted or accompanied the refusal.~~

~~106.82 Immediately after receiving a written request for review of a decision denying a public record, the Control Officer or designee denying the request shall refer it to the~~

~~NWCAA Board of Directors. The Board shall promptly consider the matter and either affirm or reverse such refusal. The final decision shall be sent to the objecting persons.~~

~~106.83 Whenever the agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request judicial review of the agency decision.~~

~~106.9 Protection of public records. In order to adequately protect the public records of the NWCAA, the following guidelines shall be adhered to by any person inspecting such public records:~~

~~106.91 No public records shall be removed from the NWCAA premises.~~

~~106.92 Inspection of any public record shall be conducted in the presence of a designated NWCAA employee.~~

~~106.93 No public records may be marked or defaced in any manner during inspection.~~

~~106.94 Public records, which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by the Control Officer or designee.~~

~~106.95 Access to file cabinets, shelves, and other storage areas is restricted to NWCAA personnel, unless other arrangements are made with the Control Officer or designee.)~~

106.1 AUTHORITY AND PURPOSE.

(A) The Northwest Clean Air Agency (NWCAA) will make available for inspection and copying nonexempt public records in accordance with the Public Records Act, chapter 42.56 RCW. The Public Records Act defines public records to include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the agency.

(B) The purpose of this section is to establish the procedures the NWCAA will follow in order to provide full access to nonexempt public records. These sections provide information to persons wishing to request access to public records of the NWCAA and establish processes for both requesters and NWCAA staff that are designed to best assist members of the public in obtaining records.

106.2 AGENCY CONTACT INFORMATION

(A) Any person wishing to request access to public records of the NWCAA, or seeking assistance in making such a request should contact the Public Records Officer of the NWCAA:

Public Records Officer  
Northwest Clean Air Agency  
1600 S Second St  
Mount Vernon, WA 98273-5202  
Phone: 360-428-1617  
Facsimile: 360-428-1620  
Email: [PublicInformationRequests@nwcleanairwa.gov](mailto:PublicInformationRequests@nwcleanairwa.gov)  
Requests may be submitted on the NWCAA website at [www.nwcleanairwa.gov](http://www.nwcleanairwa.gov).

(B) Duties of Public Records Officer. The Public Records Officer will oversee compliance with this section but another NWCAA staff member may process the request.

Therefore, any reference to the Public Records Officer in this section may refer to the Public Records Officer or designee.

106.3 AVAILABILITY OF PUBLIC RECORDS.

(A) Public records are available for inspection Monday through Friday during the hours of 8:30 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the NWCAA office. Arrangements to inspect records should be made in advance with the Public Records Officer.

(B) The NWCAA finds that maintaining an index is unduly burdensome and would interfere with agency operations due to the agency's small size and the high volume and types of public records generated and received by the agency.

(C) The NWCAA will maintain its records in a reasonably organized manner. The NWCAA will take reasonable actions to protect records from damage and disorganization.

(D) Making a Request for Public Records. Any person wishing to inspect or to have copies made of public records should make this request in writing by letter, email sent to [PublicInformationRequests@nwcleanairwa.gov](mailto:PublicInformationRequests@nwcleanairwa.gov), or through the NWCAA website at [www.nwcleanairwa.gov](http://www.nwcleanairwa.gov).

(1) The request should include the following information:

(a) Name of requester;

(b) Address of requester;

(c) Other contact information, including telephone number and email address;

(d) Identification of the information or records sought adequate to locate the records; and

(e) The date and time of day of the request.

(2) The Public Records Officer may accept requests for public records by telephone or in person. The Public Records Officer will confirm receipt of the request and summarize the request in writing.

(3) If requesters refuse to identify themselves or provide sufficient contact information, the NWCAA will respond to the extent feasible and consistent with the law.

106.4 PROCESSING OF PUBLIC RECORDS REQUESTS

(A) The Public Records Officer will provide the fullest assistance to requesters and prevent excessive interference with other essential functions of the NWCAA.

(B) Within 5 business days of receipt of a request, the Public Records Officer will do one or more of the following:

(1) Make the records available for inspection.

(2) Provide a copy of the record.

(a) If photocopies or scanned copies are requested, the Public Records Officer will notify the requester with an estimated cost of the copies and make arrangements for payment.

(b) If the records are available on the NWCAA website, the Public Records Officer will provide an internet address to the specific records requested.

(3) Provide a reasonable estimate of when records or an installment of records will be available.

(4) Ask the requester to provide clarification for a request that is unclear. If the requester fails to respond to a request for clarification and the entire request is unclear, the NWCAA need not respond to it. The NWCAA will respond to those portions of a request that are clear.

(5) Deny the request.

(C) If the NWCAA does not respond within 5 business days of receipt of the request, the requester should contact the

Public Records Officer to determine the reason for the failure to respond.

(D) The NWCAA will notify the requester when records are available for inspection and provide space to review documents. No member of the public may remove a document from the designated reviewing area or from the file. The requester shall indicate which documents he or she wishes the NWCAA to copy.

(E) The Public Records Officer will evaluate the request according to the nature and volume of the request. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

(F) When the request is for a large number of records, the Public Records Officer may provide access for inspection or send copies in installments.

(G) If, after the NWCAA has informed the requester that it has provided all available records, the NWCAA becomes aware of additional responsive documents existing at the time of the request, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.

(H) When the requester either withdraws the request, fails to clarify an unclear request, fails to pay the deposit, fails to make final payment for the requested copies, or fails to inspect or claim the requested records within 30 days after notification, the Public Records Officer may close the request and refile the records.

106.5 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

(A) There is no fee for inspecting public records or for the NWCAA's time spent locating public documents and making them available. There is no fee for providing electronic records if they already exist in an electronic format.

(B) The NWCAA is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: the NWCAA does not have the resources to conduct a study to determine actual copying costs for all its records and to conduct such a study would interfere with other essential agency functions. Therefore, in order to timely implement a fee schedule consistent with the public records act, it is more cost efficient, expeditious and in the public interest for the NWCAA to adopt the state legislature's approved fees and costs for most of the NWCAA records, as authorized in RCW 42.56.120 and as published in NWCAA 106.5(C).

(C) The costs for copying and conveying records are as follows:

<b>Public Records Fee Schedule</b>	
15 cents/ standard page	Photocopies provided by NWCAA staff using agency equipment - no fee for first 100 pages per request
10 cents/ standard page	Scanned documents provided by NWCAA staff using agency equipment (if the documents are not already in electronic format) - no fee for first 100 pages per request
Actual cost	Digital storage media or devices
Actual cost	Any container or envelope used to mail copies
Actual cost	Postage or delivery charges
Actual cost	Copying or scanning charged by an outside vendor

<u>Public Records Fee Schedule</u>	
Actual cost	Expertise to prepare data compilations or provide customized electronic access services
Actual cost	Retrieving documents out of storage
Other	Other charges allowed in RCW 42.56.120

(D) Payment may be made with a credit card on-line, cash, check, or money order made out to the Treasurer of the NWCAA.

#### 106.6 EXEMPT RECORDS

(A) The Public Records Act provides that some records are exempt in whole or in part from public inspection and copying. In addition to the list of exemptions in RCW 42.56.050, RCW 42.56.210 through RCW 42.56.400, and WAC 44-14-060, common exemptions include:

(1) Confidential business information. The owner or operator of a source may certify that a record or information provided to the agency is confidential because it relates to a process or production unique to the owner or operator or is likely to affect adversely the competitive position if released. Emission and ambient air quality data are excluded from any confidential claim. (RCW 70.94.205)

(2) Attorney-client communications. Communication between an attorney, who is acting as counsel or advisor, and NWCAA staff is confidential unless a member of the public is copied on that communication (RCW 5.60.060 (2)(a))

(3) Preliminary drafts, notes, recommendations, and intra-agency memorandums (RCW 42.56.280)

(4) List of individuals (private or natural persons) for commercial purpose. The NWCAA is prohibited by statute from disclosing lists of individuals for commercial purposes (RCW 42.56.070(8))

(5) Investigative records and information pertaining to ongoing investigations where premature disclosure could jeopardize effective law enforcement or any person's right to privacy. (RCW 42.56.240(1))

(6) Identity of persons who file a complaint with the NWCAA if disclosure would endanger any person's life, physical safety or property. If at the time a complaint is filed, the complainant indicates a desire for nondisclosure, such desire shall govern (RCW 42.56.240(2))

(B) For records or portions of records that are withheld, the Public Records Officer will document the applicable exemption and provide a brief written explanation as to why the record or portion of the record is being withheld.

(C) In the event that the requested public records contain information that may affect rights of others and may be exempt from disclosure, the Public Records Officer may, prior to providing the public records, give notice to such others whose rights may be affected by the disclosure.

#### 106.7 REVIEW OF DENIALS OF PUBLIC RECORD

(A) Any person who objects to the initial denial or partial denial of a records request may petition in writing to the Control Officer of the NWCAA for a review of that decision. The petition shall include a copy of the written statement by the Public Records Officer denying the request.

(B) The Control Officer or designee will either affirm or reverse the denial within 10 business days following the NWCAA's receipt of the petition.

(C) Any person may petition the Skagit County Superior Court for a review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of 10 business days after the initial denial regardless of any internal appeal process.

PASSED: August 9, 1978 AMENDED: November 8, 2007, September 13, 2018

### AMENDATORY SECTION

#### SECTION 200 - DEFINITIONS

The terms used in the Regulation of the NWCAA are defined in this section as follows:

ACTUAL EMISSIONS - The actual rate of emissions of a pollutant from an emission unit, as determined in accordance with ((a)) (A) through ((e)) (C) of this definition.

((a)) (A) In general, the actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal stationary source operation. The NWCAA shall allow the use of a different time period upon a determination by the NWCAA that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

((b)) (B) The NWCAA may presume that stationary source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

((e)) (C) For any emissions unit that ~~that~~ ((which)) has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

~~((ADVERSE IMPACT ON VISIBILITY—Adverse impact on visibility is defined in WAC 173-400-117.))~~

AIR CONTAMINANT or AIR POLLUTANT - Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. ("Air pollutant" means the same as "air contaminant.")

AIR POLLUTION - The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purposes of ((this §)) the NWCAA Regulation, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

AIR QUALITY OBJECTIVE - The concentration and exposure time of one or more air contaminants in the ambient air below which, according to available knowledge, undesirable effects will not occur.

~~((AIR QUALITY STANDARD—An established concentration, exposure time and frequency of occurrence of one or more air contaminants in the ambient air which shall not be exceeded.))~~

ALLOWABLE EMISSIONS - The emission rate of a stationary source calculated using the maximum rated capacity of

the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

((~~Ⓐ~~) (A)) The applicable standards as in 40 CFR Part 60, 61 or 63;

((~~Ⓑ~~) (B)) Any applicable SIP emissions limitation including those with a future compliance date; or

((~~Ⓒ~~) (C)) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

AMBIENT AIR - The surrounding outside air.

AMBIENT AIR QUALITY STANDARD OR AIR QUALITY STANDARD - An established concentration, exposure time, and frequency of occurrence of one or more air contaminants ~~((~~Ⓐ~~))~~ in the ambient air which shall not be exceeded.

AMBIENT AIR MONITORING STATION - A station so designated by the Control Officer for the purpose of measuring air contaminant concentrations in the ambient air. ~~((The station location and sampling probe locations shall be designated by the Control Officer utilizing as a guide 40 CFR Part 58, Appendix "D" Network Design and Appendix "E" Probe Siting Criteria.))~~

ATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant.

BEGIN ACTUAL CONSTRUCTION - In general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) - An emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the NWCAA, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such stationary source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the ~~((~~Ⓐ~~))~~ Best Available Control Technology ~~((~~Ⓐ~~))~~ result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. Emissions from any stationary source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

BOARD - Board of Directors of the NWCAA.

BOTTOM LOADING - The filling of a tank through a line entering the bottom of the tank.

BUBBLE - A set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

BULK GASOLINE PLANT - A gasoline storage and transfer facility that receives more than 90 percent of its annual gasoline throughput by transport tank and reloads gasoline into transport tanks.

BUSINESS ESTABLISHMENT - A facility and/or place where commercial and/or professional dealings are conducted.

CATALYTIC CRACKING UNIT - A petroleum refinery cracking unit of the fluid or compact moving bed type consisting of a reactor, regenerator, and fractionating tower and, where employed, a carbon monoxide boiler.

~~((CLASS I AREA - Any area designated under section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:~~

- ~~a) Alpine Lakes Wilderness;~~
- ~~b) Glacier Peak Wilderness;~~
- ~~c) Goat Rocks Wilderness;~~
- ~~d) Mount Adams Wilderness;~~
- ~~e) Mount Rainier National Park;~~
- ~~f) North Cascades National Park;~~
- ~~g) Olympic National Park;~~
- ~~h) Pasayten Wilderness; and~~
- ~~i) Spokane Indian Reservation))~~

~~((COMBUSTION AND INCINERATION UNITS - Units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.~~

~~COMMENCE - As applied to construction, the owner or operator has either:~~

~~(1) Begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or~~

~~(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.))~~

CLOSED REFINERY SYSTEM - A disposal system that will process or dispose of those VOC collected from another system.

COMMERCIAL COMPOSTING FACILITY - A facility that is operated for the purpose of selling or off-site distribution of compost produced via the controlled biological degradation of organic material.

~~((COMPLAINANT - Any person who files a complaint.))~~

COMPLIANCE ORDER - An order issued by the NWCAA pursuant to the authority of RCW 70.94.332 and 70.94.141 (3) that addresses or resolves a compliance issue regarding any requirement of chapter 70.94 RCW or the rules adopted thereunder. Compliance orders may include, but are not limited to, time schedules and/or necessary actions for preventing, abating, or controlling emissions.

CONCEALMENT - Any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

CONTROL FACILITY - Includes any treatment works, control devices and disposal systems, machinery equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste which, if released to the outdoor atmosphere, could cause air pollution.

CONTROL OFFICER - Air Pollution Control Officer of the NWCAA, also known as Director.

CRITERIA POLLUTANT - A pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

CUTBACK ASPHALT - An asphalt that has been blended with more than 7 percent petroleum distillates by weight.

DAYLIGHT HOURS - The hours between official sunrise and official sunset.

DISPOSAL SYSTEM - A process or device that reduces the mass quantity of the uncontrolled VOC emissions by at least 90 percent.

ECOLOGY - Washington State Department of Ecology (WDOE).

EMISSION - A release of air contaminants into the ambient air.

EMISSION REDUCTION CREDIT (ERC) - A credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

EMISSION POINT - The location (place in horizontal plane and vertical elevation) from which an emission enters the atmosphere.

EMISSION STANDARD, ~~(and)~~ EMISSION LIMITATION, or EMISSION LIMIT - A requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

EMISSIONS UNIT - Any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, ~~(€)~~ chapter 70.94 RCW, ~~(€)~~ chapter 70.98 RCW, or the Regulation of the NWCAA.

EQUIPMENT - Any stationary or portable device or any part thereof capable of causing the emission of any contaminant into the atmosphere or ambient air.

EXCESS EMISSIONS - Emissions of an air pollutant in excess of any applicable emission standard.

~~((EXISTING STATIONARY FACILITY - Is defined in WAC 173-400-151.))~~

FEDERAL CLEAN AIR ACT (FCAA) - The Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

~~((FEDERAL CLASS I AREA - Any federal land that is classified or reclassified Class I area. The following areas are the Class I areas in Washington state:~~

a) Alpine Lakes Wilderness;

~~b) Glacier Peak Wilderness;~~

~~c) Goat Rocks Wilderness;~~

~~d) Mount Adams Wilderness;~~

~~e) Mount Rainier National Park;~~

~~f) North Cascades National Park;~~

~~g) Olympic National Park; and~~

~~h) Pasayten Wilderness~~

~~FEDERAL LAND MANAGER - The secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior - National Park Service, the U.S. Department of Agriculture - Forest Service, and/or the U.S. Department of the Interior - Bureau of Land Management.))~~

FEDERALLY ENFORCEABLE - All limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61 and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order of approval under a SIP-approved new source review regulation, or any voluntary limits on emissions pursuant to WAC 173-400-091.

~~((FIRE CHIEF - A state, county, or city fire marshal, city fire chief, chief of each County Fire Protection District or authorized forestry officials from the Washington State Department of Natural Resources.))~~

FUEL BURNING EQUIPMENT - ~~((Equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.))~~ Any device used for the external combustion of fuel for the primary purpose of producing useful heat or power.

FUGITIVE DUST - A particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that generate ~~((originate))~~ fugitive dust. Fugitive dust is a type of fugitive emission.

FUGITIVE EMISSIONS - Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

GASOLINE - A petroleum distillate that is liquid at standard conditions, has a true vapor pressure greater than 4 psia at 20 degrees C, and is used as a fuel for internal combustion engines.

GASOLINE DISPENSING FACILITY (GDF) - Any stationary facility that dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.

GASOLINE LOADING TERMINAL - A gasoline transfer facility that receives more than 10 percent of its annual gasoline throughput solely or in combination by pipeline, ship, or barge, and loads gasoline into transport tanks.

GREENHOUSE GASES (GHGs) - Includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

HAZARDOUS AIR POLLUTANT (HAP) - Any air pollutant listed in or pursuant to Section 112(b) of the Federal Clean Air Act, 42 U.S.C. §7412.

~~((HEARINGS BOARD—The state Pollution Control Hearings Board or equivalent local hearings board as set forth in RCW 43.21B.))~~

HEAT INPUT CAPACITY - ~~((Is the))~~ The maximum actual or design heat capacity, whichever is greater, stated in British thermal units per hour (BTU/hr), generated by the stationary source and ~~((shall be))~~ expressed using the higher heating value of the fuel unless otherwise specified.

~~((HOG FUEL BOILER—A boiler that utilizes wood, commonly called "hog fuel", as one source of fuel.))~~

INCINERATOR - A furnace used primarily for the thermal destruction of waste.

INSTALLATION - The placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

~~((LOWEST ACHIEVABLE EMISSION RATE (LAER)—For any stationary source that rate of emissions which reflects the more stringent of:~~

a) ~~The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified stationary source demonstrates that such limitations are not achievable; or~~

b) ~~The most stringent emission limitation which is achieved in practice by such class or category of source.~~

~~In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable New Source Performance Standards.))~~

MAJOR MODIFICATION - ~~((a))~~ (A) ~~((b))~~ (B) Major modification ~~((c))~~ (C) as it applies to stationary sources subject to requirements for new stationary sources in nonattainment areas, is defined in WAC 173-400-112. ~~((d))~~ (D) ~~((e))~~ (E) Major modification ~~((f))~~ (F) as it applies to stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

MAJOR STATIONARY SOURCE - ~~((a))~~ (A) ~~((b))~~ (B) Major stationary source ~~((c))~~ (C) as it applies to stationary sources subject to requirements for new stationary sources in nonattainment areas is defined in WAC 173-400-112. ~~((d))~~ (D) ~~((e))~~ (E) Major stationary source ~~((f))~~ (F) as it applies to stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

~~((MANDATORY CLASS I FEDERAL AREA—any area defined in Section 162(a) of the Federal Clean Air Act. The following areas are the mandatory Class I federal areas in Washington state:~~

- a) ~~Alpine Lakes Wilderness;~~
- b) ~~Glacier Peak Wilderness;~~
- c) ~~Goat Rocks Wilderness;~~
- d) ~~Mount Adams Wilderness;~~
- e) ~~Mount Rainier National Park;~~
- f) ~~North Cascades National Park;~~
- g) ~~Olympic National Park; and~~
- h) ~~Pasayten Wilderness))~~

MASKING - The mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

MATERIAL(S) HANDLING - The handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

~~((MERCURY—The element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.~~

~~MERCURY ORE—A mineral mined specifically for its mercury content.))~~

MODIFICATION - Any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

MULTIPLE CHAMBER INCINERATOR - Any incinerator consisting of two or more combustion chambers in series, employing adequate design parameters necessary for maximum combustion of the material to be burned.

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) - An ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP(S)) - The federal rules in 40 CFR Part 61.

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - The federal rules in 40 CFR Part 63.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) - ~~((Shall be referred to as NPDES.))~~ The permit program that addresses water pollution by regulating facilities that discharge to waters of the United States.

~~((NATURAL CONDITIONS—Naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.~~

~~NET EMISSIONS INCREASE— a) Net emissions increase as it applies to stationary sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112. b) Net emissions increase as it applies to stationary sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.))~~

NEW SOURCE - means one or more of the following:

~~((a))~~ (A) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emission of any air contaminant not previously emitted ~~((c))~~

~~((b))~~ (B) The restart of a stationary source after permanent shutdown

~~((c))~~ (C) Any other project that constitutes a new stationary source under the Federal Clean Air Act ~~((d))~~

NEW SOURCE PERFORMANCE STANDARDS (NSPS) - The federal rules in 40 CFR Part 60.

NONATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient

Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

~~((NON-HIGHWAY MOBILE SOURCE - A source which is neither used on nor does ordinarily travel on the public roadways and is powered by an internal combustion or other type engine. These sources include, but are not limited to, farm tractors, bulldozers, earthmovers, ships, boats, railroad locomotives and non-commercial aircraft.))~~

NONROAD ENGINE - ~~((a))~~ (A) Except as discussed in ~~((b))~~ (B) of this definition, a nonroad engine is any internal combustion engine:

~~((+))~~ (1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

~~((2))~~ (2) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

~~((3))~~ (3) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

~~((b))~~ (B) An internal combustion engine is not a nonroad engine if:

~~((+))~~ (1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

~~((2))~~ (2) The engine is regulated by a New Source Performance Standard (NSPS) promulgated under section 111 of the Federal Clean Air Act; or

~~((3))~~ (3) The engine otherwise included in ~~((a))~~ (A) ~~(3)~~ of this definition remains or will remain at a location for more than ~~((twelve))~~ 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. ~~((As))~~ (A) seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

NOTICE OF CONSTRUCTION APPLICATION - A written application to ~~((permit))~~ allow construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

ODOR - That property ~~((of))~~ of a substance ~~((which))~~ that enables ~~((allows))~~ its detection~~((s))~~ by the sense of smell and/or taste.

ODOR SOURCE - Any source that incurs two verified odor nuisance complaints within a ~~((twelve))~~ 12 month time

period. Odor nuisance complaints are verified by a NWCAA representative according to the criteria ~~((of the))~~ in NWCAA ~~((Regulation))~~ Sections 530~~((+))~~ and 535~~((-3))~~.

OPACITY - The degree to which an object seen through a plume is obscured, stated as a percentage.

ORDER - Any order issued by the NWCAA pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, compliance order, order of approval, and regulatory order.

ORDER OF APPROVAL~~((, APPROVAL ORDER))~~ or ORDER OF APPROVAL TO CONSTRUCT (OAC) - A regulatory order issued by the NWCAA to approve the notice of construction application for a proposed new source or modification or the replacement or substantial alteration of control technology at an existing stationary source.

OWNER, OPERATOR, OR AGENT - Includes the person who leases, supervises, or operates the equipment or control facility.

OZONE DEPLETING SUBSTANCE - Substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

PARTICLE - A small discrete mass of solid or liquid matter.

PARTICULATE MATTER or PARTICULATES - Any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

PARTS PER MILLION (PPM) - parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

~~((PATHOLOGICAL WASTE - Human and animal remains consisting of carcasses, organs and solid organic wastes, consisting of up to 85% moisture, 5% incombustible solids.))~~

PERMANENT SHUTDOWN - Permanently stopping or terminating all processes at a "stationary source" or "emissions unit." Except as provided in subsections ~~((a))~~ (A) and ~~((b))~~ (B), whether a shutdown is permanent depends on the intention of the owner or operator at the time of the shutdown as determined from all facts and circumstances, including the cause of the shutdown.

~~((a))~~ (A) A shutdown is permanent if the owner or operator files a report of shutdown, as provided in NWCAA ~~((Regulation))~~ Section~~((s))~~ 325. Failure to file such a report does not mean that a shutdown was not permanent.

~~((b))~~ (B) Any shutdown lasting ~~((two-2))~~ 2 or more years is considered to be permanent.

~~((PERMITTING AGENCY - Ecology or the local air pollution control authority with jurisdiction over the source.))~~

PERSON - An individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

PETROLEUM LIQUIDS - Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Numbers 2 through ~~((Number))~~ 6 fuel oils as specified in ~~((A.S.T.M.))~~ ASTM D396-~~((69))~~ 78, 89, 90, 92, 96, or 98, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ~~((A.S.T.M.))~~ ASTM D2880-~~((74))~~ 78 or 96, or diesel fuel oils Numbers 2-D and 4-D as specified in ~~((A.S.T.M.))~~ ASTM D975-~~((68))~~ 78, 96, or 98a.

PETROLEUM REFINERY - A facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting, or reforming unfinished petroleum derivatives.

PM<sub>2.5</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM<sub>2.5</sub> EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 51 or by a test method specified in the SIP. PM<sub>2.5</sub> emissions are also known as primary PM<sub>2.5</sub>, direct PM<sub>2.5</sub>, total PM<sub>2.5</sub>, or combined filterable PM<sub>2.5</sub> and condensable PM. These solid particles are emitted directly from an air emissions source or activity, or are the gaseous emissions or liquid droplets from an air emissions source or activity that condense to form PM at ambient temperatures.

PM<sub>10</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM<sub>10</sub> EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

PORTLAND CEMENT PLANT - Any facility manufacturing ((P)) portland cement by either the wet or dry process.

POTENTIAL TO EMIT (PTE) - The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) - The program in WAC 173-400-((720))700 through 750.

PROCESS - A physical and/or chemical modification or treatment of a material from its previous state or condition.

((REASONABLY ATTRIBUTABLE — ~~Attributable by visual observation or any other technique the state deems appropriate.~~))

PROCESS UNIT - All the equipment essential to a particular production process.

PROPER ATTACHMENT FITTINGS - Connecting hardware for the attachment of fuel transfer or vapor lines that meets or exceeds industrial standards or specifications and the standards of other agencies or institutions responsible for health and safety.

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) - The lowest emission limit that a particular stationary source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual stationary source or source category taking into account the impact of the stationary source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any stationary source or source category shall be adopted only after notice and opportunity for comment are afforded.

REFUSE - Putrescible and non-putrescible solid waste including garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings, and industrial wastes including waste disposal in industrial salvage.

REFUSE BURNING EQUIPMENT - Equipment designed to burn waste (refuse) material, scrap or combustion remains.

REGISTRATION - ((†)) The process of identifying, delineating, and itemizing all air contaminant sources within the jurisdiction of the NWCAA including the making of periodic reports, as required, by the persons operating or responsible for such sources and may contain information concerning location, size, height of contaminant outlets, processes employed, nature of the contaminant emissions and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

REGULATORY ORDER - An ((⊕)) Order issued by the NWCAA to an air contaminant source or sources pursuant to chapter 70.94 RCW including, but not limited to, RCW 70.94.141(3). A ((†)) Regulatory ((⊕)) Order includes an ((⊕)) Order ((which applies to)) that ((source or sources)) requires compliance with any applicable provision of chapter 70.94 RCW ((or the)), rules adopted thereunder, or the NWCAA Regulation.

SMOKE - Gas borne particulate matter in a sufficient amount to be observable.

SOLID WASTE - All putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid, and semisolid materials, which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to septage from septic tanks, dangerous waste, and problem wastes. Solid waste does not include wood waste or sludge from ((waste water)) wastewater treatment plants.

SOURCE - All of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or

functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

**SOURCE CATEGORY** - All sources of the same type or classification.

**STACK** - Any point in a stationary source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

~~((STACK HEIGHT—The height of an emission point measured from the ground-level elevation at the base of the stack.))~~

**STAGE I VAPOR RECOVERY** - Vapor recovery system that captures gasoline vapors during gasoline transfer operations at gasoline dispensing facilities, except during motor vehicle refueling.

**STAGE II VAPOR RECOVERY** - Vapor recovery system that captures gasoline vapors during motor vehicle refueling operations from stationary tanks at gasoline dispensing facilities.

**STANDARD CONDITIONS** - A temperature of 20 degrees C (68 degrees F) and a pressure of 760 mm (29.92 inches) of mercury.

**STANDARD CUBIC FOOT OF GAS** - That amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 68 degrees F.

**STATE ACT** - Washington Clean Air Act (~~((RCW))~~ chapter 70.94 RCW) and chapter 43.21B RCW.

**STATE IMPLEMENTATION PLAN (SIP)** (~~(or WASHINGTON SIP))~~ - Washington and NWCAA SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local, and federal regulations and orders, the state plan, and compliance schedules approved and promulgated by EPA((?)) for the purpose of implementing, maintaining, and enforcing National Ambient Air Quality Standards.

**STATIONARY SOURCE** - Any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216(11) of the Federal Clean Air Act.

~~((STRAW—All vegetative material of agricultural origin other than seed removed by swathing, combining or cutting.))~~

**SUBMERGED FILL LINE** - Any discharge pipe or nozzle that meets either of the following conditions:

(A) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 6 inches from the bottom of the tank, or

(B) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 18 inches from the bottom of the tank.

**SUBMERGED LOADING** - The filling of a tank with a submerged fill line.

**SUITABLE CLOSURE or SUITABLE COVER** - A door, hatch, cover, lid, pipe cap, pipe blind, valve, or similar device that prevents the accidental spilling or emitting of VOC. Pressure relief valves, aspirator vents, or other devices specifically required for safety and fire protection are not included.

**SULFURIC ACID PLANT** - Any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

**SYNTHETIC MINOR** - Any stationary source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

**TEMPORARY SOURCE** - An emissions unit that remains or will remain at one location for less than 12 consecutive months. A location is any single site at a building, structure, facility, or installation. A nonroad engine is not considered a temporary source.

**THROUGHPUT** - means the amount of material passing through a facility.

**TON** - Short ton or 2,000 pounds (a long ton is considered 2,240 pounds).

**TOTAL SUSPENDED PARTICULATE** - Particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

**TOXIC AIR POLLUTANT (TAP) or TOXIC AIR CONTAMINANT** - Any toxic air pollutant listed in WAC 173-460-150. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

**TRANSPORT TANK** - A container with a capacity greater than 264 gallons used for transporting gasoline, including, but not limited to, tank truck, tank trailer, railroad car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer, or railroad car.

**TRUE VAPOR PRESSURE** - The equilibrium partial pressure exerted by a hydrocarbon at storage conditions.

**TURNAROUND or PROCESS UNIT TURNAROUNDS** - The shutting down and starting up of process units for periodic major maintenance and repair of equipment, or other planned purpose.

**UNCLASSIFIABLE AREA** - An area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY** - ((Shall be referred)) Referred to as EPA.

**VAPOR BALANCE SYSTEM** - A combination of pipes or hoses that create a closed system between the vapor spaces of an unloading tank and receiving tank such that the vapors displaced from the receiving tank are transferred to the tank being unloaded.

**VAPOR RECOVERY SYSTEM** - A process and equipment that prevents emission to the atmosphere of volatile organic compounds released by the operation of any transfer, storage, or process equipment.

**VOLATILE ORGANIC COMPOUND (VOC)** - Any carbon compound that participates in atmospheric photochemical reactions as defined in WAC 173-400-030(95). ((Any carbon compound that participates in atmospheric photochemical reactions. a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic

acid; metallic carbides or carbonates; ammonium carbonate; methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloroethane; 1,1,2,2-tetrafluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ea); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225eb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ea); 1,1,2,3,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C3F7OCH3 or HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane (HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea); methyl formate (HCOOCH3); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane (HFE-7300); dimethyl carbonate; propylene carbonate; dimethyl carbonate; *trans*-1,3,3,3-tetrafluoropropene; HCF<sub>2</sub>OCF<sub>2</sub>H (HFE-134); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236ea12); HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (HFE-338pee13); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (H-Galden 1040x or alden ZT 130 (or 150 or 180)); *trans*-1-chloro-3,3,3-trifluoropropene; 2,3,3,3-tetrafluoropropene; 2-amino-2-methyl-1-propanol; and perfluorocarbon compounds that fall into these classes:

1) Cyclic, branched, or linear completely fluorinated alkanes;

2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

3) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

4) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly reactive compounds may be excluded as

VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by Ecology, the NWCAA, or EPA.

e) As a precondition to excluding these negligibly reactive compounds as VOC or at any time thereafter, Ecology or the NWCAA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of Ecology or the NWCAA, or EPA, the amount of negligibly reactive compounds in the source's emissions.

d) The following compounds are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: Tertiary-butyl acetate.)

WASHINGTON ADMINISTRATIVE CODE (WAC) - Regulations of executive branch agencies in the state of Washington, such as the Department of Ecology.

WAXY, HEAVY POUR CRUDE OIL - A crude oil with a pour point of 10 degrees C or higher (determined by the ASTM Standard D97-66, "Test for Pour Point of Petroleum Oils").

WOOD WASTE BURNER - A sheet metal or other type of enclosure to form a truncated cone or a single chamber cylindrical shaped incinerator line or constructed of suitable refractory material that ((which employs controlled fuel feed, tangential overfire and underfire air supply system, and)) is designed and used for the disposal of wood and bark wastes by incineration.

PASSED: January 8, 1969 AMENDED: October 31, 1969, September 3, 1971, June 14, 1972, July 11, 1973, February 14, 1973, January 9, 1974, October 13, 1982, November 14, 1984, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011, March 14, 2013, August 13, 2015, August 11, 2016, September 13, 2018

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### SECTION 508 - SPRAY COATING OPERATIONS

#### 508.1 PURPOSE

This section of the NWCAA Regulation establishes a program of work practice standards and controls for spray coating operations in order to reduce particulate emissions from coating overspray, lessen public exposure to toxic air pollutants, decrease emissions of precursors to the formation of tropospheric ozone, and encourage pollution prevention.

#### 508.2 APPLICABILITY

(A) This section applies to spray coating operations at a source and at portable spray coating operations except as provided in NWCAA 508.2(B).

(B) This section does not apply to spray application of:

(1) Architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, mobile homes, pavement/curbs, or similar structures).

(2) Maintenance coatings to farm equipment and mining equipment for which it is not practical or feasible to move to a dedicated spray coating facility.

(3) Asphaltic or plastic liners including undercoating, sound deadening coating, and spray-on truck bed liners.

(4) Fiberglass resin and gel coat.

#### 508.3 DEFINITIONS

Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meaning:

**AIRLESS OR AIR-ASSISTED AIRLESS SPRAY EQUIPMENT** - Any paint spray technology that relies solely on the fluid pressure of the paint to create an atomized paint spray pattern and does not apply any atomizing compressed air to the paint before it leaves the paint nozzle. Air-assisted airless spray uses compressed air to shape and distribute the fan of atomized paint, but still uses fluid pressure to create the atomized paint.

**COATING** - A material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

**CONTAINER** - An individual receptacle that holds a coating or coating component for storage or distribution.

**ELECTROSTATIC APPLICATION** - Application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

**ENCLOSED SPRAY AREA** - An enclosed area used for spray coating including, but not limited to, spray booth, preparation station, or portable enclosure.

**HIGH VOLUME, LOW PRESSURE (HVLP) SPRAY EQUIPMENT** - Equipment used to apply coatings by means of a spray gun that is designed and operated between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle.

**MOBILE EQUIPMENT** - Any device that may be drawn and/or driven on a roadway including, but not limited to, heavy-duty trucks, truck trailers, fleet delivery trucks, buses, mobile cranes, bulldozers, street cleaners, agriculture equipment, motor homes, and other recreational vehicles (including camping trailers and fifth wheels).

**OTHER SPRAY COATING** - Spray coating of items other than complete motor vehicles and complete mobile equipment.

**SPRAY COATING OPERATION** - Application of coatings using a hand-held device that creates an atomized mist of coating and deposits the coating on a substrate. For the purposes of this section, a spray coating operation does not include the following materials or activities:

(A) Use of air-brush spray equipment with a maximum cup capacity of 3 fluid ounces.

(B) Use of aerosol spray cans.

(C) Surface coating application using powder coating or non-atomizing application technology, including, but not limited to, paint brushes, rollers, hand wiping, flow coating, dip coating, electrodeposition coating, web coating, coil coating, touch-up markers, or marking pens.

(D) Thermal spray operations (also known as metallizing, flame spray, plasma arc spray, and electric arc spray, among other names) in which solid metallic or non-metallic material is heated to a molten or semi-molten state and pro-

pelled to the work piece or substrate by compressed air or other gas, where a bond is produced upon impact.

#### 508.4 GENERAL REQUIREMENTS FOR SPRAY COATING OPERATIONS

(A) Except as in NWCAA 508.4(B), it shall be unlawful for any person subject to this section to cause or allow spray coating unless all of the following requirements are met as applicable:

(1) Enclosures. Except as in NWCAA 508.4 (A)(1)(d) & (f), spray coating shall take place inside an enclosed spray area that is capable of capturing all visible paint overspray.

(a) Refinishing Complete Motor Vehicles and Complete Mobile Equipment. An enclosed spray area for refinishing complete motor vehicles and complete mobile equipment shall be one of the following:

(i) A negative pressure enclosure equipped with a full roof and four complete walls or complete side curtains and ventilated at a negative pressure so that air is drawn into any openings in the enclosed spray area, or

(ii) A positive pressure enclosure equipped with seals on all doors and other openings and an automatic pressure balancing system. The pressure balancing system shall be operated at a pressure not more than 0.05 inches water gauge positive pressure as measured by a functioning gauge that displays the pressure to the nearest 0.01 inches water column.

(b) Other Spray Coating. Except as in NWCAA 508.4 (A)(1)(c) through (f), an enclosed spray area for other spray coating shall be equipped with a full roof, at least three complete walls or complete side curtains, and shall be ventilated at a negative pressure so that air is drawn into the enclosed spray area. The enclosed spray area may have openings, if needed, to allow for conveyors and parts to pass through the enclosed spray area during the spray coating process.

(c) Other Spray Coating in an Existing Enclosed Spray Area Located Outdoors. Enclosed spray areas used for other spray coating with complete three-walled/curtain and a full roof located outdoors that are not equipped with a negative pressure ventilation system as of April 20, 2018 are not required to install such system provided the spray coating operation does not create a nuisance.

(d) Other Spray Coating of Large Objects. Conducting other spray coating of large objects outside an enclosed spray area is allowed when it is impractical to totally enclose the large object, provided that reasonable precautions are employed to enclose the object to the extent practicable and to avoid creating a nuisance.

(e) Portable Other Spray Coating Operations. An enclosed spray area for a portable other spray coating operation shall be equipped with a frame-and-fabric shelter consisting of a fabric roof and three fabric sides or similar shelter.

(f) Inside Exhaust. An enclosed spray area is not required if the Department of Labor & Industries and fire protection agency with jurisdiction approve inside exhaust of spray coating operations.

(2) Filtration. Except as in NWCAA 508.4 (A)(1)(c) & (e), all enclosed spray areas shall employ either:

(a) Water-wash curtains with a continuous water curtain to control the overspray or

(b) Properly-seated filter(s) that have a capture efficiency of at least 98 percent as described in NWCAA 508.4 (A)(8)(c). A gauge shall be installed, operated, and maintained that displays the pressure drop across the filter(s). The acceptable pressure drop range shall be clearly marked on the gauge or posted next to the gauge. The enclosed spray area shall be operated such that the pressure drop across the filter(s) is within the acceptable range and the filter(s) are properly seated with no holes or tears.

(3) Spray Application Methods. The spray application methods in NWCAA 508.4 (A)(3)(a) shall be used for spray coating unless the exemption in NWCAA 508.4 (A)(3)(b) applies.

(a) Required Spray Application Methods.

(i) HVLP spray equipment;

(ii) Airless or air-assisted airless spray equipment;

(iii) Electrostatic application; or

(iv) A method that has a transfer efficiency of 65% or higher using ASTM Standard D 5327-92 or a test method approved in writing by the NWCAA.

(b) If the required spray application methods under NWCAA 508.4 (A)(3)(a) cannot be used in a certain situation, the situation is exempt from using a required spray application method provided that the facility maintains appropriate records (e.g., manufacturing specifications) to demonstrate that the required spray application methods cannot be used.

(4) Vertical Unobstructed Exhaust Vent. Except as provided in NWCAA 508.4 (A)(1)(c) & (e), emissions from an enclosed spray area shall be vented to the atmosphere through an unobstructed vertical exhaust vent. If the exhaust vent exits horizontally out of the side of the building, then the exhaust vent shall bend to vent vertically above the eave of the roof. There shall be no flow obstructions that will impede upward vertical flow of the exhaust.

(5) Visible Emissions. Visible emissions from an enclosed spray area exhaust vent shall not exceed 0% opacity for more than an aggregate of 3 minutes in any consecutive 60-minute period as determined by Ecology Method 9A.

(6) Equipment Cleanup. Spray guns shall be cleaned in an enclosed cleaning device or disassembled and cleaned in a container. Each gun cleaning device and container shall be kept closed when not in use. Guns and spray equipment must not atomize solvent into the air during cleanup.

(7) Storage and Disposal. VOC-containing materials shall be kept in closed containers except when materials are actively being added or removed. Rags and paper towels contaminated with VOC-containing materials shall be collected immediately after use and kept in closed containers. Empty containers as defined in WAC 173-303-160 are exempt from this requirement.

(8) Recordkeeping. All records required by this section shall be maintained onsite for at least 3 years from the date of generation and made available to NWCAA personnel upon request. Maintain the following records as applicable:

(a) Data Sheets. Environmental data sheets (EDS) or other data sheets that clearly indicate the contents of the spray coatings and solvents used.

(b) Usages. Records of total coating and solvent purchases or usages for the calendar year.

(c) Filter Efficiency. For those facilities utilizing filter(s) pursuant to NWCAA 508.4 (A)(2)(b), documentation that demonstrates the filter(s) being used have a capture efficiency of at least 98 percent. The procedure used to demonstrate filter efficiency must be consistent with the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Method 52.1, Method 52.2, or an alternate test method approved by the NWCAA in writing. Published filter efficiency data provided by filter vendors may be used to demonstrate compliance with this requirement.

(d) Filter Condition. For those facilities utilizing filter(s) pursuant to NWCAA 508.4 (A)(2)(b), weekly observations of the filter(s) including: date, time, confirmation that filters are properly seated and in good condition, any corrective actions taken, and initials of person making the record. Weekly observations are not required for weeks that the enclosed spray area was not operated. Instead, the record must reflect the enclosed spray area was not in operation that week.

(e) Pressure Drop. For those facilities utilizing a pressure gauge pursuant to NWCAA 508.4 (A)(1)(a)(ii) and/or NWCAA 508.4 (A)(2)(b), weekly observations of pressure drop readings while operating including: date, time, pressure drop value, corrective action taken if the pressure drop is outside of the normal range (e.g., filter change), and initials of person making the record. Weekly observations are not required for weeks that the enclosed spray area was not operated. Instead, the record must reflect the enclosed spray area was not in operation that week.

(f) Disposal. Disposal records of waste materials, including volumes of waste solvents and coatings transferred to authorized waste haulers.

(B) Compliance Date. Subject sources shall be in compliance with NWCAA 508.4 (A)(1)(a) & (b), (A)(2), and (A)(4) by no later than October 12, 2020.

PASSED: September 13, 2018

#### AMENDATORY SECTION

~~580.6 ((Gasoline Stations))~~ GASOLINE DISPENSING FACILITIES

(A) NWCAA 580.6(B) ((61-Section-580.62)) shall apply to(~~:~~

~~580.611 All))~~ all gasoline ((stations)) dispensing facilities (GDF) with ((a-total)) an annual 12-consecutive month gasoline throughput equal to or greater than ((seven-hundred and fifty-seven thousand liters (200)) 120,000 gallons(† and)).

~~((580.612 All gasoline stations installed or reconstructed after January 1, 1990 with a nominal total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons):~~

~~580.62))~~ (B) It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank, except as provided in NWCAA 580.6(C) ((63-of this section)), unless all of the following conditions are met:

~~((580.621))~~ (1) Such stationary storage tank is equipped with a permanent submerged or bottom loading fill ((pipe) line and ((approved)) a vapor recovery system(† and)).

(2) Vapor recovery system equipment, including, but not limited to, caps, adaptors, drain valves, and poppets, shall be installed and maintained to be vapor tight and in good working order.

~~((580.622))~~ (3) Such transport tank is equipped with a vapor balance system and is maintained in a vapor-tight condition in accordance with NWCAA 580.10 ~~((and)).~~

~~((580.623))~~ (4) All vapor return lines are connected between the transport tank and the stationary storage tank and the vapor recovery system is functional and operating during loading.

~~((580.63 Notwithstanding the requirements of 580.61 of this regulation, the following))~~ (C) The following stationary gasoline storage tanks are exempt from the requirements of 580.6 (A), (B), (D), and (F): ~~((62:))~~

~~((580.631))~~ (1) All tanks with a capacity less than 2,000 gallons ~~((seven thousand five hundred liters -))~~ installed before January 1, 1990.

~~((580.632))~~ (2) All tanks with offset fill lines installed before January 1, 1990.

~~((580.633))~~ (3) All tanks with a capacity less than 264 gallons ~~((one thousand liters -260))~~.

~~((580.64 It shall be unlawful for any person to cause or allow the transfer of gasoline from a stationary tank into a motor vehicle fuel tank except as provided in WAC 173-491.))~~

(D) Except for gasoline storage tanks specified in NWCAA 580.6(C), all gasoline tank vent pipes at gasoline dispensing facilities shall be equipped with properly functioning pressure vacuum vent (PV) caps.

(E) All gasoline storage tanks at gasoline dispensing facilities shall be maintained in a vapor-tight condition and in good working order. This includes, but is not limited to, caps, adaptors, and drain valves.

(F) All gasoline dispensing facilities that have Stage I vapor recovery shall conduct static pressure decay tests on all gasoline storage tanks, except those specified in NWCAA 580.6(C).

(1) The static pressure decay tests shall be conducted on the following frequency unless more frequent testing is required by an Order of Approval or General Order of Approval:

<u>GDF Throughput</u>	<u>Frequency</u>
<u>30,000 to 119,999 gal/yr</u>	<u>Every 5 calendar years</u>
<u>120,000 to 1,200,000 gal/yr</u>	<u>Every 3 calendar years</u>
<u>&gt; 1,200,000 gal/yr</u>	<u>Every calendar year</u>

(2) The pressure decay tests shall be conducted in accordance with California Air Resources Board (CARB) TP-201.3 (dated 7/26/12) for underground storage tanks and CARB TP-201.3B (dated 4/12/96) for above ground tanks, or test procedures that have been approved by CARB as equivalent.

(3) Any person conducting a compliance test must be certified by the International Code Council or other association approved by the NWCAA in writing.

(4) Failed Compliance Tests. If the defective gasoline dispensing facility equipment cannot be repaired within 14

calendar days of failing a test, the owner or operator must stop receiving and/or dispensing gasoline from the defective equipment until it is repaired and retested, and passes all required compliance tests.

(5) Test Reports

(a) The owner or operator shall submit a written test report to the NWCAA within 30 calendar days after the testing has been completed that includes the following information:

(i) Identification of the facility.

(ii) Name and address of the person(s) who conducted each test.

(iii) Current certification credential information for each person who conducted each test.

(iv) Date of each test.

(v) Equipment tested.

(vi) Test procedures or methods used.

(vii) Results of each test conducted (pass/fail), and

(viii) Any maintenance, repairs, or corrective actions taken necessary to pass the tests.

(b) Owners or operators shall keep a copy of all test reports on-site for at least 5 years after the date of testing that shall be made available for inspection upon request.

PASSED: February 14, 1990 AMENDED: April 14, 1993, October 13, 1994, March 13, 1997, May 14, 1998, November 12, 1998, September 13, 2018

**WSR 18-15-023  
PROPOSED RULES  
DEPARTMENT OF REVENUE**

[Filed July 10, 2018, 2:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-10-038.

Title of Rule and Other Identifying Information: WAC 458-20-252 Hazardous substance tax, this rule clarifies the consumer's tax measure under circumstances where the consumer is the first person in possession of any nonexempt hazardous substance or where the consumer is the first person who must pay the tax upon substances previously possessed in this state.

Hearing Location(s): On September 12, 2018, at 10:00 a.m., at Conference Room 114A, 6400 Linderson Way S.W., Tumwater, WA 98501.

Date of Intended Adoption: September 19, 2018.

Submit Written Comments to: Darius Massoudi, P.O. Box 47453, Olympia, WA 98504-7453, email DariusM@dor.wa.gov, fax 360-534-1572.

Assistance for Persons with Disabilities: Julie King or Renee Cosare, phone 360-704-5717 or 360-725-7514, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment only clarifies application of RCW 82.21.020(5), 82.21.030(1), and 82.21.050 (2)(a)(ii). The proposed rule does not impose more-than-minor costs on business, as it does not propose any new requirements not already provided for in statute.

Reasons Supporting Proposal: The department is amending WAC 458-20-252 to clarify the consumer's tax measure under circumstances where the consumer is the first person in possession of any nonexempt hazardous substance, or where the consumer is the first person who must pay the tax upon substances previously possessed in this state, in accordance with the statutory definition of wholesale value contained in RCW 82.21.020(5).

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: Chapter 82.21 RCW.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Darius Massoudi, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1572; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule language for WAC 458-20-252 provides information to businesses on how to calculate their tax measure under circumstances where the business is the first person in possession of any nonexempt hazardous substance or where the business is the first person who must pay the tax upon substances previously possessed in this state. The proposed rule does not impose more-than-minor costs on businesses, as it does not propose any new tax rate, tax measure, reporting or recordkeeping requirements not already established by statute.

July 10, 2018  
Erin T. Lopez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-01-155, filed 12/21/16, effective 1/21/17)

**WAC 458-20-252 Hazardous substance tax.** (1) Introduction. Under chapter 82.21 RCW (referred to in this rule as the "law"), a hazardous substance tax is imposed upon the wholesale value of certain substances and products, with specific credits and exemptions provided. The tax is an excise tax upon the privilege of possessing hazardous substances or products in this state.

(a) Chapter 82.21 RCW defines certain specific substances as being hazardous and includes other substances by reference to federal legislation governing such things. It also provides authority to the director of the state department of ecology to designate by rule any other substance or product as hazardous that could present a threat to human health or the environment. (Chapter 173-342 WAC.)

(b) Chapter 82.21 RCW is administered exclusively under this rule. The law relates exclusively to the possession of hazardous substances and products. The law does not relate to waste, releases or spills of any materials, cleanup, compensation, or liability for such things, nor does tax liability under the law depend upon such factors. The incidence or privilege that incurs tax liability is simply the possession of the hazardous substance or product, whether or not such possession actually causes any hazardous or dangerous circumstance.

(c) The hazardous substance tax is imposed upon any possession of a hazardous substance or product in this state by any person who is not expressly exempt of the tax. However, it is the intent of the law that the economic burden of the tax should fall upon the first such possession in this state. Therefore, the law provides that if the tax has not been paid upon any hazardous substance or product the department of revenue may collect the tax from any person who has had possession. The amount of tax paid then constitutes a debt owed by the first person having had taxable possession to the person who pays the tax.

(2) Definitions. For purposes of this rule the following definitions apply.

(a) "Tax" means the hazardous substance tax imposed under chapter 82.21 RCW.

(b) "Hazardous substance" means:

(i) Any substance that, on March 1, 2002, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Sec. 9601(14), as amended by Public Law 99-499 on October 17, 1986, except that hazardous substance does not include the following non-compound metals when in solid form in a particle larger than one hundred micrometers (0.004 inches) in diameter: Antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc. These substances consist of chemicals and elements in their purest form. A CERCLA substance that contains water is still considered pure. Combinations of CERCLA substances as ingredients together with nonhazardous substances will not be taxable unless the end product is specifically designated as a hazardous substance by the department of ecology;

(ii) Petroleum products (further defined below);

(iii) Pesticide products required to be registered under section 136a of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. Sec. 136 et seq., as amended by Public Law 104-170 on August 3, 1996; and

(iv) Anything else enumerated as a hazardous substance in chapter 173-342 WAC by the department of ecology.

(c) "Product(s)" means any item(s) containing a combination of ingredients, some of which are hazardous substances and some of which are not hazardous substances.

(d) "Petroleum product" means any plant condensate, lubricating oil, crankcase motor oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual fuel, asphalt base, liquefied or liquefiable gases, such as butane, ethane and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

The term "derived from the refining of crude oil" as used herein, means produced because of and during petroleum

processing. "Petroleum processing" includes all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to crude oil or any byproduct of crude oil so that as a result thereof a fuel or lubricant is produced for sale or commercial or industrial use. "Fuel" includes all combustible gases and liquids suitable for the generation of energy. The term "derived from the refining of crude oil" does not mean petroleum products that are manufactured from refined oil derivatives, such as petroleum jellies, cleaning solvents, asphalt paving, etc. Such further manufactured products become hazardous substances only when expressly so designated by the director of the department of ecology in chapter 173-342 WAC.

(e) "Possession" means control of a hazardous substance located within this state and includes both actual and constructive possession.

(i) "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(ii) "Actual possession" occurs when the person with control has physical possession.

(iii) "Constructive possession" occurs when the person with control does not have physical possession.

(f) "Previously taxed hazardous substance" means a hazardous substance upon which the tax has been paid and which has not been remanufactured or reprocessed in any manner.

(i) Remanufacturing or reprocessing does not include the mere repackaging or recycling for beneficial reuse. Rather, these terms embrace activities of a commercial or industrial nature involving the application of skill or labor by hand or machinery so that as a result, a new or different substance or product is produced.

(ii) "Recycling for beneficial reuse" means the recapturing of any used substance or product, for the sole purpose of extending the useful life of the original substance or product in its previously taxed form, without adding any new, different, or additional ingredient or component.

(iii) Example: Used motor oil drained from a crankcase, filtered, and containerized for reuse is not remanufactured or reprocessed. If the tax was paid on possession of the oil before use, the used oil is a previously taxed substance.

(iv) Possessions of used hazardous substances by persons who merely operate recycling centers or collection stations and who do not reprocess or remanufacture the used substances are not taxable possessions.

(g) "Wholesale value" is the tax measure or base. It means the fair market value determined by the wholesale selling price.

In cases where no sale has occurred, wholesale value means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character. In such cases the wholesale value shall be the "value of the products" as determined under the alternate methods set forth in WAC 458-20-112.

(h) "Selling price" means consideration of any kind expressed in terms of money paid or delivered by a buyer to a seller, without any deductions for any costs whatsoever. Bona fide discounts actually granted to a buyer result in reductions in the selling price rather than deductions.

(i) "State," for purposes of the credit provisions of the hazardous substance tax, means:

(i) The state of Washington.

(ii) States of the United States or any political subdivisions of such other states.

(iii) The District of Columbia.

(iv) Territories and possessions of the United States.

(v) Any foreign country or political subdivision thereof.

(j) "Person" means any natural or artificial person, including a business organization of any kind, and has the further meaning defined in RCW 82.04.030.

The term "natural person," for purposes of the tax exemption in subsection (4)(b) of this rule regarding substances used for personal or domestic purposes, means human beings in a private, as opposed to a business sense.

(k) Except as otherwise expressly defined in this rule, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this rule. Other terms not expressly defined in these chapters or this rule are to be given their common and ordinary meanings.

(3) Tax rate and measure. The tax is imposed upon the privilege of possessing a hazardous substance in this state. The tax rate is seven tenths of one percent (.007). The tax measure or base is the wholesale value of the substance, as defined in this rule.

(4) Exemptions. The following are expressly exempt from the tax:

(a) Any successive possessions of any previously taxed hazardous substances are tax exempt.

(i) Any person who possesses a hazardous substance that has been acquired from any other person who is registered with the department of revenue and doing business in this state may take a written statement certifying that the tax has been previously paid. Such certifications must be taken in good faith and must be in the form provided in subsection (14) of this rule. Blanket certifications may be taken, as appropriate, which must be renewed at intervals not to exceed four years. These certifications may be used for any single hazardous substance or any broad classification of hazardous substances, e.g., "all chemicals."

(ii) In the absence of taking such certifications, the person who possesses any hazardous substance must retain proofs that it purchased or otherwise acquired the substance from a previous possessor in this state. It is not necessary for subsequent possessors to obtain certificates of previously taxed hazardous substances in order to perfect their tax exemption. Documentation that establishes any evidence of previous tax payment by another person will suffice. This includes invoices or billings from in-state suppliers that reflect their payment of the tax or simple bills of lading or delivery documents revealing an in-state source of the hazardous substances.

(iii) This exemption for taxes previously paid is available for any person in successive possession of a taxed hazardous substance even though the previous payment may have been satisfied by the use of credits or offsets available to the previous person in possession.

(iv) Example. Company A brings a substance into this state upon which it has paid a similar hazardous substance tax in another state. Company A takes a credit against its Wash-

ington tax liability in the amount of the other state's tax paid. It then sells the substance to Company B, and provides Company B with a certificate of previously taxed substance. Company B's possession is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any possession of a hazardous substance by a natural person for use of a personal or domestic nature, rather than a business nature, is tax exempt.

(i) This exemption extends to relatives, as well as other natural persons who reside with the person possessing the substance, and also to regular employees of that person who use the substance for the benefit of that person.

(ii) This exemption does not extend to possessions by any independent contractors hired by natural persons, which contractors themselves provide the hazardous substance.

(iii) Examples: Possessions of spray materials by an employee-gardener or soaps and cleaning solvents by an employee-domestic servant, when such substances are provided by the natural person for whose domestic benefit such things are used, are tax exempt. Also, possessions of fuel by private persons for use in privately owned vehicles are tax exempt.

(c) Any possession of any hazardous substance, other than pesticides or petroleum products, possessed by a retailer for making sales to consumers, in an amount that is determined to be "minimal" by the department of ecology. That department has determined that the term "minimal" means less than \$1,000.00 worth of such hazardous substances measured by their wholesale value, possessed during any calendar month.

(d) Possessions of alumina or natural gas are tax exempt.

(e) Persons or activities that the state is prohibited from taxing under the United States Constitution are tax exempt.

(i) This exemption extends to the U.S. government, its agencies and instrumentalities, and to any possession the taxation of which has been expressly reserved or preempted under the laws of the United States.

(ii) The tax will not apply with respect to any possession of any hazardous substance purchased, extracted, produced or manufactured outside this state that is shipped or delivered into this state until the interstate transportation of such substance has finally ended in this state. Thus, out-of-state sellers or producers need not pay the tax on substances shipped directly to customers in this state. The customers must pay the tax upon their first possession unless otherwise expressly exempt.

(iii) Out-of-state sellers or producers will be subject to tax upon substances shipped or delivered to warehouses or other in-state facilities owned, leased, or otherwise controlled by them.

(iv) However, the tax will not apply with respect to possessions of substances that are only temporarily stored or possessed in this state in connection with through, interstate movement of the substances from points of origin to points of destination both of which are outside of this state.

(f) The former exemption for petroleum products for export sale or use outside this state as fuel was effectively repealed by I-97. There are no exemptions under the law for any possessions of hazardous substances in this state simply

because such substances may later be sold or used outside this state.

(g) Any possession of an agricultural crop protection product that is solely for use by a farmer or certified applicator as an agricultural crop protection product and is warehoused in this state or transported to or from this state is tax exempt, provided that the person possessing the product does not use, manufacture, package for sale, or sell the product in this state. The following definitions apply throughout this subsection unless the context clearly requires otherwise.

(i) "Agricultural crop protection product" means a chemical regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 as amended as of September 1, 2015, when used to prevent, destroy, repel, mitigate, or control predators, diseases, weeds, or other pests.

(ii) "Certified applicator" has the same meaning as provided in RCW 17.21.020.

(iii) "Farmer" has the same meaning as in RCW 82.04.213.

(iv) "Manufacturing" includes mixing or combining agricultural crop protection products with other chemicals or other agricultural crop protection products.

(v) "Package for sale" includes transferring agricultural crop protection products from one container to another, including the transfer of fumigants and other liquid or gaseous chemicals from one tank to another.

(vi) "Use" has the same meaning as in RCW 82.12.010.

(5) Credits. There are three distinct kinds of tax credits against liability that are available under the law.

(a) A credit may be taken by any manufacturer or processor of a hazardous substance produced from ingredients or components that are themselves hazardous substances, and upon which the hazardous substance tax has been paid by the same person or is due for payment by the same person.

(i) Example. A manufacturer possesses hazardous chemicals that it combines to produce an acid which is also designated as a hazardous substance or product. When it reports the tax upon the wholesale value of the acid it may use a credit to offset the tax by the amount of tax it has already paid or reported upon the hazardous chemical ingredients or components. In this manner the intent of the law to tax hazardous substances only once is fulfilled.

(ii) Under circumstances where the hazardous ingredient and the hazardous end product are both possessed by the same person during the same tax reporting period, the tax on the respective substances must be computed and the former must be offset against the latter so that the tax return reflects the tax liability after the credit adjustment.

(iii) This credit may be taken only by manufacturers who have the first possession in this state of both the hazardous ingredients and the hazardous end product.

(b) A credit may be taken in the amount of the hazardous substance tax upon the value of fuel that is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(i) The credit may be claimed only for the amount of tax reported or actually due to be paid on the fuel, not the amount representing the value of the fuel.

(ii) The purpose of this credit is to exclude from taxation any possessions of fuel that remains in the fuel tanks of any

carrier vehicles powered by such fuel when they leave this state, regardless of where or from whom such fuel-in-tanks was acquired.

(iii) The nature of this credit is such that it generally has application only for interstate and foreign private or common carriers that carry fuel into this state and/or purchase fuel in this state. The intent is that the tax will apply only to so much of such fuel as is actually consumed by such carriers within this state.

(iv) In order to equitably and efficiently administer this tax credit, any fuel that is brought into this state in carrier vehicle fuel tanks must be accounted for separately from fuel that is purchased in this state for use in such fuel tanks. Formulas approved by the department of revenue for reporting the amount of fuel consumed in this state for purposes of this tax or other excise tax purposes will satisfy the separate accounting required under this subsection.

(v) Fuel-in-tanks brought into this state must be fully reported for tax and then the credit must be taken in the amount of such fuel that is taken back out of this state. This is to be done on the same periodic excise tax return so that the net effect is that the tax is actually paid only upon the portion of fuel consumed here.

(vi) The credit for fuel-in-tanks purchased in this state must be accounted for by using a fuel-in-tanks credit certificate in substantially the following form:

**Certificate of Credit for Fuel Carried from this State in Fuel Tanks**

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (name of seller or transferor), are entitled to the credit for fuel that is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle operated by a private or common carrier in interstate or foreign commerce. I will become liable for and pay the taxes due upon all or any part of such fuel that is not so carried from this state. This certification is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. ....  
 (if applicable)

Type of Business .....

Firm Name .....

Business Address .....

Registered Name .....

(if different)

Tax Reporting Agent .....

(if applicable)

Authorized Signature .....

Title .....

Identity of Fuel .....

(kind and amount by volume)

Date: .....

(vii) This certificate may be executed and provided to any possessor of fuel in this state, throughout the chain of distribution, with respect to fuel that ultimately will be sold and delivered into any carrier's fuel tanks in this state. Thus, refiners or manufacturers will take such certificates directly from

carriers or from their wholesale purchasers who will sell to such carriers. Similarly, fuel dealers and distributors will take such certificates from carriers to whom they sell such fuel. These certificates must be retained as a permanent part of such seller's business records.

(viii) Persons who execute and provide these credit certificates to their fuel suppliers must retain suitable purchase and sales records as may be necessary to determine the amount of tax for which such persons may be liable.

(ix) Blanket certificates may be used to cover recurrent purchases of fuel by the same purchaser. Such blanket certificates must be renewed every two years.

(c) A credit may be taken against the tax owed in this state in the amount of any other state's hazardous substance tax that has been paid by the same person measured by the wholesale value of the same hazardous substance.

(i) In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be possessing the substance; the tax purpose must be that the substance is hazardous; and the tax measure must be stated in terms of the wholesale value of the substance, without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.

(ii) This credit may be taken for the amount of any other state's qualifying tax that has actually been paid before Washington state's tax is incurred because the substance was previously possessed by the same person in another taxing jurisdiction.

(iii) The amount of credit is limited to the amount of tax paid in this state upon possession of the same hazardous substance in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the hazardous substance tax imposed under chapter 82.21 RCW.

(iv) Exchange agreements under which hazardous substances or products possessed in this state are exchanged through any accounts crediting system with like substances possessed in other states do not qualify for this credit. The substance taxed in another state, and for which this credit is sought, must be actually, physically possessed in this state.

(v) Persons claiming this credit must maintain records necessary to verify that the credit taking qualifications have been met. Additional information regarding recordkeeping requirements is provided in WAC 458-20-19301. The department of revenue will publish an excise tax bulletin listing other states' taxes that qualify for this credit.

(6) Newly defined hazardous substances. Under chapter 82.21 RCW the director of the department of ecology may identify and designate other substances or products as being hazardous substances for purposes of the tax. The director of the department of ecology may also delete substances or products previously designated as hazardous substances. Such actions are done by amending chapter 173-342 WAC.

(a) The law allows the addition or deletion of substances or products as hazardous substances by rule amendments, no more often than twice in any calendar year.

(b) When such additions or deletions are made, they do not take effect for tax purposes until the first day of the following month that is at least thirty days after the effective date of rule amendment by the department of ecology.

(i) Example. The department of ecology amends chapter 173-342 WAC by adding a new substance and the effective date of the amendment is June 15th. Possession of the substance does not become taxable until August 1st.

(ii) The tax is owed by any person who has possession of the newly designated hazardous substance upon the tax effective date as explained herein. It is immaterial that the person in possession on that date was not the first person in possession of the substance in this state before it was designated as hazardous.

(7) Recurrent tax liability. It is the intent of the law that all hazardous substances possessed in this state should incur this tax liability only once unless they are expressly exempt. This is true of hazardous ingredients of products as well as the manufactured end product itself, if designated as a hazardous substance. The *exemption* for previously taxed hazardous substances does not apply to "products" that have been manufactured or remanufactured simply because an ingredient or ingredients of that product may have already been taxed when possessed by the manufacturer. Instead of an exemption, manufacturers in possession of both the hazardous ingredient(s) and end product(s) should use the *credit* provision explained at subsection (5)(a) of this rule.

(a) However, the term "product" is defined to mean only an item or items that contain a combination of both hazardous substance(s) and nonhazardous substance(s). The term does not include combinations of only hazardous substances. Thus, possessions of substances produced by combining other hazardous substances upon all of which the tax has previously been paid will not again be taxable.

(b) When any hazardous substance(s) is first produced during and because of any physical combination or chemical reaction that occurs in a manufacturing or processing activity, the intermediate possession of such substance(s) within the manufacturing or processing plant is not considered a taxable possession if the substance(s) becomes a component or ingredient of the product being manufactured or processed or is otherwise consumed during the manufacturing or processing activity.

However, when any intermediate hazardous substance is first produced during a manufacturing or processing activity and is withdrawn for sale or transfer outside of the manufacturing or processing plant, a taxable first possession occurs.

(c) Concentrations or dilutions for shipment or storage. The mere addition or withdrawal of water or other nonhazardous substances to or from hazardous substances designated under CERCLA or FIFRA for the sole purpose of transportation, storage, or the later manufacturing use of such substances does not result in any new hazardous product.

(8) How and when to pay tax. The tax must be reported on a special line of the combined excise tax return designated "hazardous substances." It is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the hazardous substance(s) is first possessed within this state. Any person who is not expressly exempt of the tax and who possesses any hazardous substance in this state, without having proof that the tax has previously been paid on that substance, must report and pay the tax.

(a) It may be that the person who purchases a hazardous substance will not have billing information from which to determine the wholesale value of the substance when the tax return for the period of possession is due. In such cases the tax is due for payment no later than the next regular reporting due date following the reporting period in which the substance(s) is first possessed.

(b) The taxable incident or event is the possession of the substance. Tax is due for payment by the purchaser of any hazardous substance whether or not the purchase price has been paid in part or in full.

(c) Special provision for manufacturers, refiners, and processors. Manufacturers, refiners, and processors who possess hazardous substances are required to report the tax and take any available exemptions and credits only at the time that such hazardous substances are withdrawn from storage for purposes of their sale, transfer, remanufacture, or consumption.

(9) How and when to claim credits. Credits should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on hazardous substances and a line for taking credits as an offset against the tax reported. It is not required that any documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(10) Special provision for consumer/first possessors. Under circumstances where the consumer is the first person in possession of any nonexempt hazardous substance (e.g., substances imported by the consumer), or where the consumer is the person who must pay the tax upon substances previously possessed in this state (fuel purchased for export in fuel tanks) the consumer's tax measure will be ~~((eighty percent of its retail purchase price. This provision is intended to achieve a tax measure equivalent to))~~ determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character.

(11) Hazardous substances or products on consignment. Consignees who possess hazardous substances or products in this state with the power to sell such things, in their own name or on behalf of a disclosed or undisclosed consignor are liable for payment of the tax. The exemption for previously taxed substances is available for such consignees only if the consignors have paid the tax and the consignee has retained the certification or other proof of previous tax payment referred to in subsection (4)(a)(i) and (ii) of this rule. Possession of consigned hazardous substances by a consignee does not constitute constructive possession by the consignor.

(12) Hazardous substances untraceable to source. Various circumstances may arise whereby a person will possess hazardous substances in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases formulary tax reporting may be used, only upon a special ruling by the department of revenue.

Example. Fungible petroleum products from sources both within and outside this state are commingled in common storage facilities. Formulary reporting is appropriate based upon volume percentages reflecting the ratio of in-state pro-

duction to out-of-state production or other form of acquisition.

(13) Administrative provisions. The provisions of chapter 82.32 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the hazardous substance tax. Special requested rulings covering unique circumstances generally will be issued within sixty days from the date upon which complete information is provided to the department of revenue.

(14) Certification of previously taxed hazardous substance. Certification that the hazardous substance tax has already been paid by a person previously in possession of the substance(s) may be taken in substantially the following form:

I hereby certify that this purchase - all purchases of (omit one) by (identify substance(s) purchased) (name of purchaser) who possesses registration no. (buyer's number, if registered)

consists of the purchase of hazardous substance(s) or product(s) upon which the hazardous substance tax has been paid in full by a person previously in possession of the substance(s) or product(s) in this state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion, and with the full knowledge and agreement that the undersigned hereby assumes any liability for hazardous substance tax which has not been previously paid because of possession of the hazardous substance(s) or product(s) identified herein.

The registered seller named below personally paid the tax upon possession of the hazardous substances. A person in possession of the hazardous substances prior to the possession of the registered seller named below paid the tax.

(Check the appropriate line.)

Name of registered seller Registration No. Firm name Address Type of business Authorized signature Title Date

WSR 18-15-033 PROPOSED RULES WASHINGTON STATE PATROL [Filed July 12, 2018, 9:35 a.m.]

Original Notice. Preproposal statement of inquiry was filed as WSR 18-11-026. Title of Rule and Other Identifying Information: Proposed new chapter 446-100 WAC, Bump-fire stock buyback

program: WAC 446-100-010 Authority, 446-100-015 Definitions, and 446-100-020 Procedures.

Hearing Location(s): On August 23, 2018, at 10:30 a.m. - 11:30 a.m., at the Washington State Patrol (WSP), Helen Somers Building, 106 11th Street S.E., Room G015A, Olympia, WA 98507.

Date of Intended Adoption: August 27, 2018.

Submit Written Comments to: Kimberly Mathis, Agency Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507, email wsprules@wsp.wa.gov, by August 22, 2018.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, phone 360-596-4017, by August 20, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESB 5992 requires WSP to adopt rules to implement the bump-fire stock buyback program, allowing a person in possession of a bump-fire stock to relinquish the device to WSP in exchange for a monetary payment.

Reasons Supporting Proposal: To provide clarity of the procedures of the bump-fire stock buyback program.

Statutory Authority for Adoption: Chapter 43.43 RCW. Statute Being Implemented: Chapter 43.43 RCW.

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

Name of Proponent: WSP, governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: WSP, Olympia, Washington, 360-596-4017.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt pursuant to RCW 34.05.328 (5)(b)(v).

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

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

July 12, 2018 John R. Batiste Chief

Chapter 446-100 WAC BUMP-FIRE STOCK BUYBACK PROGRAM

NEW SECTION

WAC 446-100-010 Authority. The Washington state patrol will establish and administer a bump-fire stock buyback program in accordance with chapter 43.43 RCW.

NEW SECTION

WAC 446-100-015 Definitions. For the purpose of these rules, the following words and phrases will have the following meanings:

"Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of

increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

#### NEW SECTION

**WAC 446-100-020 Procedures.** The buyback program in which the Washington state patrol will pay one hundred fifty dollars to any Washington state resident, excluding gun dealers, who present a bump-fire stock that are in working condition, can be brought to a specified location.

(1) The Washington state patrol will hold events at its facilities throughout the state. These events will be announced on social media and the Washington state patrol web page at [www.wsp.wa.gov](http://www.wsp.wa.gov).

(2) An individual must bring the bump-fire stock as defined in WAC 446-100-015 along with a valid driver's license or any other identification to a scheduled event.

(a) An individual must complete a voucher form provided by the Washington state patrol, with the individual's name and a valid mailing address for payment.

(b) The Washington state patrol will destroy the bump-fire stock and process the voucher form for payment.

(c) The Washington state patrol will issue a check and mail to the name and address on the voucher form.

### **WSR 18-15-055**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

(Medical Quality Assurance Commission)

[Filed July 16, 2018, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-156.

Title of Rule and Other Identifying Information: Chapters 246-919 and 246-918 WAC, the medical quality assurance commission (commission) proposes new sections and changes to existing rules that will establish requirements and standards for prescribing opioid drugs by allopathic physicians and allopathic physician assistants consistent with the directives of ESHB 1427 (chapter 297, Laws of 2017).

Hearing Location(s): On August 22, 2018, at 2:00 p.m., at the Hotel RL Olympia, 2300 Evergreen Park Drive S.W., Olympia, WA 98502.

Date of Intended Adoption: August 22, 2018.

Submit Written Comments to: Daidria Underwood, P.O. Box 47866, Olympia, WA 98504-7866, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4626, by August 16, 2018.

Assistance for Persons with Disabilities: Contact Daidria Underwood, phone 800-525-0127, TTY 360-833-6388 or 711, email [medical.rules@doh.wa.gov](mailto:medical.rules@doh.wa.gov), by August 15, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing establishing new sections of rules to implement the provisions of ESHB 1427. The bill directed five boards and commissions to consider the agency medical directors' group

and the Centers for Disease Control guidelines, and to work in consultation with the department of health, the University of Washington, and the professional associations of each profession to develop requirements for prescribing opioid drugs. The commission is also proposing amendments to the current pain management rules to assure alignment with the proposed opioid prescribing rules, increase consistent rule application, and reduce duplication between existing and new rules.

Reasons Supporting Proposal: The proposed rules are necessary to establish and implement opioid prescribing requirements for allopathic physicians and allopathic physician assistants. The proposed rules provide a necessary framework and structure for safe, consistent opioid prescribing practice consistent with the directives of ESHB 1427. The goal is to reduce the number of people who inadvertently become addicted to opioids and, consequently, reduce the burden on opioid treatment programs.

Statutory Authority for Adoption: RCW 18.71.017, 18.71.800, and 18.71A.800.

Statute Being Implemented: ESHB 1427 (chapter 297, Laws of 2017), codified in part as RCW 18.71.800 and 18.71A.800.

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

Name of Proponent: Medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Underwood, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2727; Implementation and Enforcement: Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2755.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Daidria Underwood, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-236-2727, fax 360-236-2795, TTY 360-833-6388 or 711, email [daidria.underwood@doh.wa.gov](mailto:daidria.underwood@doh.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules impact clinics and hospitals where physicians or physician assistants practice if the physician(s) or physician assistant(s) in the business prescribe opioids for pain management. The proposed rules do not apply to physicians or physician assistants who do not prescribe opioids. The following North American Industrial Classification System (NAICS) six-digit codes, total number of businesses in Washington state in 2013, total combined and average business payroll (rounded to the thousands), and minor cost thresholds have been applied to the proposal:

1. NAICS Code: 62111 Office of Physicians (except mental health specialists)

Total establishments in Washington: 3,120

Total combined annual payroll: \$3,744,650,000.00

Average annual payroll (total payroll divided by total establishments): \$1,200,208.00

Minor cost threshold (average payroll multiplied by .01): \$12,002.00

2. NAICS Code: 622110 General Medical and Surgical Hospitals

Total establishments in Washington: 100

Total combined annual payroll: \$6,566,100,000.00

Average annual payroll (total payroll divided by total establishments): \$656,610,000

Minor cost threshold (average payroll multiplied by .01): \$656,610

The commission has analyzed the anticipated costs of compliance for a business at \$54.08 per patient only when the physician prescribes opioids, and only if the physician performs all of the tasks required in the proposed rules. The anticipated costs of compliance for a business is \$30.24 per patient encounter only when a physician assistant prescribes opioids, and only if the physician assistant performs all of the tasks required in the proposed rules. Some of the required tasks in the rules are sometimes performed by other staff (such as medical assistants or licensed practical nurses) at much lower costs. For example, querying the prescription monitoring program (PMP) takes an estimated three minutes, and would result in a business cost per PMP query of:

- \$5.07 if a physician performs this task;\*
- \$2.52 if a physician assistant performs this task;\* or
- \$0.81 if a medical assistant-certified performs this task.\*

\*Based on United States Department of Labor Statistics, Occupational Employment and Wages 2017 for 29-1069 Physicians and Surgeons, 29-1071 Physician Assistants, and 31-9092 Medical Assistants.

Costs were calculated using the mean hourly wage for physicians and surgeons as reported by the United States Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics. Employment estimates and mean wage estimates for physicians is \$101.63 per hour and for physician assistants is \$50.37 per hour. These cost estimates are based on survey results from one thousand three hundred twenty-two practitioners. The cost estimates in the analysis of each proposed rule section below were calculated by multiplying the estimated minutes from the survey and the wage per minute for physicians (\$1.69) and physician assistants (\$0.84). The overall average, which is an average time based on responses to the same survey questions for each phase of pain, is an estimated total cost per patient of \$47.77 for physicians and \$24.94 for physician assistants. This would amount to an annual cost calculation of \$11,943 for physicians and \$6,234 for physician assistants based on two hundred fifty hours of practice annually for physicians and physician assistants.

If, hypothetically, a patient received treatment in all phases of pain covered in these proposed rules the estimated total cost per patient would be \$65.91 for physicians and \$32.76 for physician assistants. This would amount to an estimated \$16,478 annually for physicians and \$8,190 annually for physician assistants.

However, activities that may result in costs during varying phases of pain treatment typically do not occur at every patient encounter, and are variable depending on the phase of treatment and individual patient characteristics. Patients may experience the pain phases described in the proposed rules at different times, so the activities described in the rules will not

occur at the same time. Further, some of the activities described may be performed before or after the visit, or may be delegated when appropriate to a licensed assistant or other practitioner support personnel. The overall average, which is an average time based on responses to the same questions in each phase of pain, the estimated total cost per patient would be \$47.77 for physicians and \$24.94 for physician assistants. This would amount to an estimated \$11,943 annually for physicians and \$6,234 annually for physician assistants.

Based on these anticipated costs, the commission has determined that the proposed rules would not impose more-than-minor costs for businesses that must comply, and these anticipated costs do not exceed the minor cost threshold.

July 16, 2018

Melanie de Leon  
Executive Director

## OPIOID PRESCRIBING—GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-918-800 (~~(Pain management—)~~) Intent and scope.** (~~(These)~~) The rules in WAC 246-918-800 through 246-918-935 govern the (~~(use)~~) prescribing of opioids in the treatment of (~~(patients for chronic noneancer)~~) pain.

(~~(Nothing in these rules in any way restricts the current scope of practice of physician assistants as set forth in chapters 18.71A and 18.57A RCW and the working agreements between the physician and physician assistant, which may include pain management.)~~)

The Washington state medical quality assurance commission (commission) recognizes that principles of quality medical practice dictate that the people of the state of Washington have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity, mortality, and costs associated with untreated or inappropriately treated pain. For the purposes of (~~(this)~~) these rules, the inappropriate treatment of pain includes nontreatment, undertreatment, overtreatment, and the continued use of ineffective treatments.

The diagnosis and treatment of pain is integral to the practice of medicine. The commission encourages physician assistants to view pain management as a part of quality medical practice for all patients with pain, including acute (~~(or)~~), perioperative, subacute, and chronic (~~(, and it is especially urgent for patients who experience pain as a result of terminal illness)~~) pain. All physician assistants should become knowledgeable about assessing patients' pain and effective methods of pain treatment, as well as statutory requirements for prescribing (~~(controlled substances)~~) opioids, including co-occurring prescriptions. Accordingly, (~~(this rule has been developed to)~~) these rules clarify the commission's position on pain control, particularly as related to the use of controlled substances, to alleviate physician assistant uncertainty and to encourage better pain management.

Inappropriate pain treatment may result from a physician assistant's lack of knowledge about pain management. Fears of investigation or sanction by federal, state, ~~((and))~~ or local agencies may also result in inappropriate treatment of pain. Appropriate pain management is the treating physician assistant's responsibility. As such, the commission will consider the inappropriate treatment of pain to be a departure from standards of practice and will investigate such allegations, recognizing that some types of pain cannot be completely relieved, and taking into account whether the treatment is appropriate for the diagnosis.

The commission recognizes that controlled substances including opioids ~~((analgesics))~~ may be essential in the treatment of acute, subacute, perioperative, or chronic pain due to disease, illness, trauma, or surgery ~~((and chronic pain, whether due to cancer or noncancer origins))~~. The commission will refer to current clinical practice guidelines and expert review in approaching cases involving management of pain. The medical management of pain should consider current clinical knowledge and scientific research and the use of pharmacologic and nonpharmacologic modalities according to the judgment of the physician assistant. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity, duration, impact of the pain, and treatment outcomes. Physician assistants should recognize that tolerance and physical dependence are normal consequences of sustained use of opioids ~~((analgesics))~~ and are not the same as ~~((addiction))~~ opioid use disorder.

The commission is obligated under the laws of the state of Washington to protect the public health and safety. The commission recognizes that the use of opioids ~~((analgesics))~~ for other than legitimate medical purposes poses a threat to the individual and society ~~((and that))~~. The inappropriate prescribing of controlled substances, including opioids ~~((analgesics))~~, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Accordingly, the commission expects that physician assistants incorporate safeguards into their practices to minimize the potential for the abuse and diversion of controlled substances.

Physician assistants should not fear disciplinary action from the commission for ordering, prescribing, dispensing or administering controlled substances, including opioids ~~((analgesics))~~, for a legitimate medical purpose and in the course of professional practice. The commission will consider prescribing, ordering, dispensing or administering controlled substances for pain to be for a legitimate medical purpose if based on sound clinical judgment. All such prescribing must be based on clear documentation of unrelieved pain. To be within the usual course of professional practice, a physician assistant-patient relationship must exist and the prescribing should be based on a diagnosis and documentation of unrelieved pain. Compliance with applicable state or federal law is required.

The commission will judge the validity of the physician assistant's treatment of the patient based on available documentation, rather than solely on the quantity and duration of medication administration. The goal is to control the patient's pain while effectively addressing other aspects of the

patient's functioning, including physical, psychological, social, and work-related factors.

These rules are designed to assist ~~((practitioners))~~ physician assistants in providing appropriate medical care for patients. ~~((They are not inflexible rules or rigid practice requirements and are not intended, nor should they be used, to establish a legal standard of care outside the context of the medical quality assurance committee's jurisdiction.~~

~~The ultimate judgment regarding the propriety of any specific procedure or course of action must be made by the practitioner based on all the circumstances presented. Thus, an approach that differs from the rules, standing alone, does not necessarily imply that the approach was below the standard of care. To the contrary, a conscientious practitioner may responsibly adopt a course of action different from that set forth in the rules when, in the reasonable judgment of the practitioner, such course of action is indicated by the condition of the patient, limitations of available resources, or advances in knowledge or technology subsequent to publication of these rules. However, a practitioner who employs an approach substantially different from these rules is advised to document in the patient record information sufficient to justify the approach taken.)~~

The practice of medicine involves not only the science, but also the art of dealing with the prevention, diagnosis, alleviation, and treatment of disease. The variety and complexity of human conditions make it impossible to always reach the most appropriate diagnosis or to predict with certainty a particular response to treatment.

Therefore, it should be recognized that adherence to these rules will not ~~((assure))~~ guarantee an accurate diagnosis or a successful outcome. The sole purpose of these rules is to assist ~~((practitioners))~~ physician assistants in following a reasonable course of action based on current knowledge, available resources, and the needs of the patient to deliver effective and safe medical care.

For more specific best practices, the physician assistant may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree Collaborative.

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-918-801 Exclusions.** ~~((The rules adopted under))~~ WAC 246-918-800 through ~~((246-918-813))~~ 246-918-935 do not apply to:

- (1) The treatment of patients with cancer-related pain;
- (2) To the provision of palliative, hospice, or other end-of-life care; ~~((or~~
- (2) To the management of acute pain caused by an injury or surgical procedure.)
- (3) The treatment of inpatient hospital patients, which is a person who has been admitted to a hospital for more than twenty-four hours; or
- (4) The provision of procedural medications.

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-918-802 Definitions.** The definitions (~~(in this section)~~) apply (~~(in)~~) to WAC 246-918-800 through (~~(246-918-813)~~) 246-918-935 unless the context clearly requires otherwise.

(1) "Aberrant behavior" means behavior that indicates current misuse, diversion, unauthorized use of alcohol or other controlled substances, multiple early refills (renewals), or active opioid use disorder.

(2) "Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal, or mechanical stimulus and typically is associated with invasive procedures, trauma, and disease. ((It is generally time limited, often less than three months in duration, and usually less than six months.

(2) "Addiction" means a primary, chronic, neurobiologic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include:

- (a) Impaired control over drug use;
- (b) Craving;
- (c) Compulsive use; or
- (d) Continued use despite harm.

(3) Acute pain is of six weeks or less in duration.

(3) "Biological specimen test" or "biological specimen testing" means tests of urine, hair, or other biological samples for various drugs and metabolites.

(4) "Cancer-related pain" means pain that is an unpleasant, persistent, subjective sensory and emotional experience associated with actual or potential tissue injury or damage or described in such terms and is related to cancer or cancer treatment that interferes with usual functioning.

(5) "Chronic (~~nonrenewer~~) pain" means a state in which (~~nonrenewer~~) pain persists beyond the usual course of an acute disease or healing of an injury, or that may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years. Chronic pain is considered to be pain that persists for more than twelve weeks.

(~~(4)~~) "Comorbidity" (6) "Comorbidities" means a preexisting or coexisting physical or psychiatric disease or condition.

(~~(5)~~) (7) "Episodic care" means noncontinuing medical or dental care provided by a (~~(practitioner)~~) physician assistant other than the designated primary (~~(care practitioner in the acute care setting, for example, urgent care or emergency department.~~

(6) prescriber for a patient with chronic pain.

(8) "High dose" means a ninety milligram morphine equivalent dose (MED), or more, per day.

(9) "High-risk" is a category of patient at high risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, current substance use disorder or abuse, aberrant behavior, dose of opioids, or the use of any concurrent central nervous system depressant.

(10) "Hospice" means a model of care that focuses on relieving symptoms and supporting patients with a life expectancy of six months or less(~~- Hospice involves an interdisci-~~

plinary approach to provide health care, pain management, and emotional and spiritual support. The emphasis is on comfort, quality of life and patient and family support. Hospice can be provided in the patient's home as well as freestanding hospice facilities, hospitals, nursing homes, or other long-term care facilities).

(~~(7)~~) (11) "Hospital" as defined in chapters 70.41, 71.12 RCW, and RCW 72.23.020.

(12) "Low-risk" is a category of patient at low risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, and dose of opioids of less than a fifty milligram morphine equivalent dose.

(13) "Medication assisted treatment" or "MAT" means the use of pharmacologic therapy, often in combination with counseling and behavioral therapies, for the treatment of substance use disorders.

(14) "Moderate-risk" is a category of patient at moderate risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, past history of substance use disorder or abuse, aberrant behavior, and dose of opioids between fifty to ninety milligram morphine equivalent doses.

(15) "Morphine equivalent dose" or "MED" means a conversion of various opioids to a morphine equivalent dose (~~(by the use of accepted)~~) using the agency medical directors group or other conversion table(~~(s)~~) approved by the commission. MED is considered the same as morphine milligram equivalent or MME.

(~~(8)~~) (16) "Multidisciplinary pain clinic" means a (~~(clinic or office that provides comprehensive pain management and includes care provided by multiple available disciplines or treatment modalities, for example, medical care through physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, advanced registered nurse practitioners, and physical therapy, occupational therapy, or other complementary therapies.~~

(9) health care delivery facility staffed by physicians of different specialties and other nonphysician health care providers who specialize in the diagnosis and management of patients with chronic pain.

(17) "Opioid" means a drug that is either an opiate that is derived from the opium poppy or opiate-like that is a semi-synthetic or synthetic drug. Examples include morphine, codeine, hydrocodone, oxycodone, fentanyl, meperidine, tramadol, buprenorphine, and methadone.

(18) "Palliative care" means care that maintains or improves the quality of life of patients and their families facing serious, advanced, or life-threatening illness. (~~(With palliative care particular attention is given to the prevention, assessment, and treatment of pain and other symptoms, and to the provision of psychological, spiritual, and emotional support.)~~

(19) "Perioperative pain" means acute pain that occurs surrounding the performance of surgery.

(20) "Prescription monitoring program" or "PMP" means the Washington state prescription monitoring program authorized under chapter 70.225 RCW. Other jurisdictions may refer to this as the prescription drug monitoring program or PDMP.

(21) "Practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a dentist licensed under chapter 18.32 RCW, a physician licensed under chapter 18.71 or 18.57 RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or a podiatric physician licensed under chapter 18.22 RCW.

(22) "Refill" or "renewal" means a second or subsequent filling of a previously issued prescription.

(23) "Subacute pain" is considered to be a continuation of pain that is six to twelve weeks in duration.

(24) "Substance use disorder" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Substance use disorder is not the same as physical dependence or tolerance that is a normal physiological consequence of extended opioid therapy for pain. It is characterized by behaviors that include, but are not limited to, impaired control over drug use, craving, compulsive use, or continued use despite harm.

#### NEW SECTION

**WAC 246-918-815 Patient notification, secure storage, and disposal.** (1) The physician assistant shall ensure the patient is provided the following information at the first issuance of a prescription for opioids and at the transition from acute to subacute, and subacute to chronic:

(a) Risks associated with the use of opioids as appropriate to the medical condition, the type of patient, and the phase of treatment;

(b) The safe and secure storage of opioid prescriptions; and

(c) The proper disposal of unused opioid medications including, but not limited to, the availability of recognized drug take-back programs.

(2) This requirement may be satisfied with a document provided by the department of health.

#### NEW SECTION

**WAC 246-918-820 Use of alternative modalities for pain treatment.** The physician assistant shall exercise their professional judgment in selecting appropriate treatment modalities for acute nonoperative, acute perioperative, or subacute pain including the use of multimodal pharmacologic and nonpharmacologic therapy as an alternative to opioids whenever reasonable, clinically appropriate, evidence-based alternatives exist.

#### NEW SECTION

**WAC 246-918-825 Continuing education requirements for opioid prescribing.** (1) To prescribe an opioid in Washington state, a physician assistant licensed to prescribe opioids shall complete a one-time continuing education requirement regarding the opioid prescribing rules in this chapter. The continuing education must be at least one hour in length.

(2) The physician assistant shall complete the one-time continuing education requirement described in subsection (1) of this section by the end of the physician assistant's first full

continuing education reporting period after January 1, 2019, or during the first full continuing education reporting period after initial licensure, whichever is later.

(3) The hours spent completing training in prescribing of opioids count toward meeting applicable continuing education requirements in the same category specified in WAC 246-919-460.

### **OPIOID PRESCRIBING—ACUTE NONOPERATIVE PAIN AND ACUTE PERIOPERATIVE PAIN**

#### NEW SECTION

**WAC 246-918-830 Patient evaluation and patient record—Acute nonoperative pain.** Prior to issuing an opioid prescription for acute nonoperative pain or acute perioperative pain, the physician assistant shall:

(1) Conduct and document an appropriate history and physical examination, including screening for risk factors for overdose and severe postoperative pain;

(2) Evaluate the nature and intensity of the pain or anticipated pain following surgery; and

(3) Inquire about any other medications the patient is prescribed or is taking.

#### NEW SECTION

**WAC 246-918-835 Treatment plan—Acute nonoperative pain.** The physician assistant shall comply with the requirements in this section when prescribing opioids for acute nonoperative pain.

(1) The physician assistant should consider prescribing nonopioids as the first line of pain control in patients unless not clinically appropriate in accordance with the provisions of WAC 246-918-820.

(2) The physician assistant, or their designee, as defined in WAC 246-470-050, shall conduct queries of the PMP in accordance with the provisions of WAC 246-918-935.

(3) If the physician assistant prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. A three-day supply or less will often be sufficient. The physician assistant shall not prescribe beyond a seven-day supply without clinical documentation in the patient record to justify the need for such a quantity.

(4) The physician assistant shall reevaluate the patient who does not follow the expected course of recovery, and reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional indicated diagnostic evaluations.

(6) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-918-920, such prescribing must be in accordance with WAC 246-918-920.

(7) Long-acting or extended release opioids are not indicated for acute nonoperative pain.

(8) Medication assisted treatment medications must not be discontinued when treating acute pain, except as consistent with the provisions of WAC 246-918-925.

(9) If the physician assistant elects to treat a patient with opioids beyond the six-week time period of acute nonoperative pain, the physician assistant shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-918-845 and 246-918-850 shall apply.

#### NEW SECTION

**WAC 246-918-840 Treatment plan—Acute perioperative pain.** The physician assistant shall comply with the requirements in this section when prescribing opioids for perioperative pain.

(1) The physician assistant shall consider prescribing nonopioids as the first line of pain control in patients unless not clinically appropriate in accordance with the provisions of WAC 246-918-820.

(2) The physician assistant, or their designee, as defined in WAC 246-470-050, shall conduct queries of the PMP in accordance with the provisions of WAC 246-918-935.

(3) If the physician assistant prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. A three-day supply or less will often be sufficient. The physician assistant shall not prescribe beyond a fourteen-day supply from the time of discharge without clinical documentation in the patient record to justify the need for such a quantity.

(4) The physician assistant shall reevaluate a patient who does not follow the expected course of recovery and reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control should include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional indicated diagnostic evaluations or other treatments.

(6) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-918-920, such prescribing must be in accordance with WAC 246-918-920.

(7) Long-acting or extended release opioids are not indicated for acute perioperative pain.

(8) Medication assisted treatment medications must not be discontinued when treating acute perioperative pain, except as consistent with the provisions of WAC 246-918-925.

(9) If the physician assistant elects to treat a patient with opioids beyond the six-week time period of acute perioperative pain, the physician assistant shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain,

WAC 246-918-845 and 246-918-850, shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

#### **OPIOID PRESCRIBING—SUBACUTE PAIN**

#### NEW SECTION

**WAC 246-918-845 Patient evaluation and patient record—Subacute pain.** The physician assistant shall comply with the requirements in this section when prescribing opioids for subacute pain.

(1) Prior to issuing an opioid prescription for subacute pain, the physician assistant shall assess the rationale for continuing opioid therapy:

- (a) Conduct an appropriate history and physical examination;
- (b) Reevaluate the nature and intensity of the pain;
- (c) Conduct, or cause their designee as defined in WAC 246-470-050 to conduct, a query of the PMP in accordance with the provisions of WAC 246-918-935;
- (d) Screen the patient's level of risk for aberrant behavior and adverse events related to opioid therapy;
- (e) Obtain a biological specimen test if the patient's functional status is deteriorating or if pain is escalating; and
- (f) Screen or refer the patient for further consultation for psychosocial factors if the patient's functional status is deteriorating or if pain is escalating.

(2) The physician assistant treating a patient for subacute pain with opioids shall ensure that, at a minimum, the following is documented in the patient record:

- (a) The presence of one or more recognized diagnoses or indications for the use of opioid pain medication;
- (b) The observed effect on function or pain control forming the basis to continue prescribing opioids beyond the acute pain episode;
- (c) Pertinent concerns discovered in the PMP;
- (d) An appropriate pain treatment plan including the consideration of, or attempts to use, nonpharmacological modalities and nonopioid therapy;
- (e) The action plan for any aberrant biological specimen testing results and the risk-benefit analysis if opioids are to be continued;
- (f) Results of psychosocial screening or consultation;
- (g) Results of screening for the patient's level of risk for aberrant behavior and adverse events related to opioid therapy, and mitigation strategies; and
- (h) The risk-benefit analysis of any combination of prescribed opioid and benzodiazepines or sedative-hypnotics, if applicable.

(3) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes, at a minimum:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional indicated diagnostic evaluations or other treatments.

NEW SECTION**WAC 246-918-850 Treatment plan—Subacute pain.**

The physician assistant, having recognized the progression of a patient from the acute nonoperative or acute perioperative phase to the subacute phase shall develop an opioid treatment plan.

(1) If tapering has not begun prior to the six- to twelve-week subacute phase, the physician assistant shall reevaluate the patient. Based on effect on function or pain control, the physician assistant shall consider whether opioids will be continued, tapered, or discontinued.

(2) If the physician assistant prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain that is severe enough to require opioids. The physician assistant shall not prescribe beyond a fourteen-day supply of opioids without clinical documentation to justify the need for such a quantity during the subacute phase.

(3) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-918-920, such prescribing must be in accordance with WAC 246-918-920.

(4) If the physician assistant elects to treat a patient with opioids beyond the six- to twelve-week subacute phase, the physician assistant shall document in the patient record that the patient is transitioning from subacute pain to chronic pain. Rules governing the treatment of chronic pain, WAC 246-918-855 through 246-918-905, shall apply.

### OPIOID PRESCRIBING—CHRONIC PAIN MANAGEMENT

NEW SECTION

**WAC 246-918-855 Patient evaluation and patient record—Chronic pain.** When the patient enters the chronic pain phase, the patient shall be reevaluated as if presenting with a new disease. The physician assistant shall include in the patient's record:

- (1) An appropriate history including:
  - (a) The nature and intensity of the pain;
  - (b) The effect of pain on physical and psychosocial function;
  - (c) Current and past treatments for pain, including opioids and other medications and their efficacy; and
  - (d) Review of comorbidities with particular attention to psychiatric and substance use.
- (2) Appropriate physical examination.
- (3) Ancillary information and tools to include:
  - (a) Review of the PMP to identify any medications received by the patient in accordance with the provisions of WAC 246-919-985;
  - (b) Any pertinent diagnostic, therapeutic, and laboratory results;
  - (c) Pertinent consultations; and
  - (d) Use of a risk assessment tool that is a professionally developed, clinically recommended questionnaire appropriate for characterizing a patient's level of risk for opioid or other substance use disorders to assign the patient to a high-, moderate-, or low-risk category.

(4) Assessment. The physician assistant must document medical decision making to include:

- (a) Pain related diagnosis, including documentation of the presence of one or more recognized indications for the use of pain medication;
  - (b) Consideration of the risks and benefits of chronic opioid treatment for the patient;
  - (c) The observed effect on function or pain control forming the basis to continue prescribing opioids; and
  - (d) Pertinent concerns discovered in the PMP.
- (5) Treatment plan as provided in WAC 246-918-860.

NEW SECTION**WAC 246-918-860 Treatment plan—Chronic pain.**

The physician assistant, having recognized the progression of a patient from the subacute phase to the chronic phase, shall develop an opioid treatment plan as follows:

- (1) Treatment plan and objectives including:
  - (a) Documentation of any medication prescribed;
  - (b) Biologic specimen testing ordered;
  - (c) Any labs, diagnostic evaluations, referrals, or imaging ordered;
  - (d) Other planned treatments; and
  - (e) Written agreement for treatment as provided in WAC 246-918-865.
- (2) The physician assistant shall complete patient notification in accordance with the provisions of WAC 246-918-815 or provide this information in the written agreement.

NEW SECTION

**WAC 246-918-865 Written agreement for treatment—Chronic pain.** The physician assistant shall use a written agreement that outlines the patient's responsibilities for opioid therapy. This written agreement for treatment must include the following provisions:

- (1) The patient's agreement to provide samples for biological specimen testing when requested by the physician assistant;
- (2) The patient's agreement to take medications at the dose and frequency prescribed with a specific protocol for lost prescriptions and early refills;
- (3) Reasons for which opioid therapy may be discontinued;
- (4) The requirement that all opioid prescriptions for chronic pain are provided by a single prescriber or a single clinic, except as provided in WAC 246-918-915 for episodic care;
- (5) The requirement that all opioid prescriptions for chronic pain are to be dispensed by a single pharmacy or pharmacy system whenever possible;
- (6) The patient's agreement to not abuse alcohol or use other medically unauthorized substances;
- (7) A violation of the agreement may result in a tapering or discontinuation of the prescription;
- (8) The patient's responsibility to safeguard all medications and keep them in a secure location; and
- (9) If the patient violates the terms of the agreement, the violation and the physician assistant's response to the viola-

tion will be documented, as well as the rationale for changes in the treatment plan.

#### NEW SECTION

##### **WAC 246-918-870 Periodic review—Chronic pain.**

(1) The physician assistant shall periodically review the course of treatment for chronic pain. The frequency of visits, biological testing, and PMP queries in accordance with the provisions of WAC 246-918-935, must be determined based on the patient's risk category:

- (a) For a high-risk patient, at least quarterly;
- (b) For a moderate-risk patient, at least semiannually;
- (c) For a low-risk patient, at least annually;
- (d) Immediately upon indication of concerning aberrant behavior; and
- (e) More frequently at the physician assistant's discretion.

(2) During the periodic review, the physician assistant shall determine:

- (a) The patient's compliance with any medication treatment plan;
- (b) If pain, function, and quality of life have improved, diminished, or are maintained; and
- (c) If continuation or modification of medications for pain management treatment is necessary based on the physician assistant's evaluation of progress towards treatment objectives and compliance with the treatment plan.

(3) Periodic patient evaluations must also include:

- (a) History and physical examination related to the pain;
- (b) Use of validated tools to document either maintenance or change in function and pain control; and
- (c) Review of the Washington state PMP at a frequency determined by the patient's risk category in accordance with the provisions of WAC 246-918-935 and subsection (1) of this section.

#### NEW SECTION

**WAC 246-918-875 Long-acting opioids—Chronic pain.** Long-acting opioids should only be prescribed by a physician assistant who is familiar with its risks and use, and who is prepared to conduct the necessary careful monitoring. Special attention should be given to patients who are initiating such treatment. The physician assistant prescribing long-acting opioids should have a one-time completion of at least four hours of continuing education relating to this topic.

#### NEW SECTION

**WAC 246-918-880 Consultation—Recommendations and requirements—Chronic pain.** (1) The physician assistant shall consider referring the patient for additional evaluation and treatment as needed to achieve treatment objectives. Special attention should be given to those chronic pain patients who are under eighteen years of age or who are potential high-risk patients.

(2) The mandatory consultation threshold is one hundred twenty milligrams MED. In the event a physician assistant prescribes a dosage amount that meets or exceeds the consultation threshold of one hundred twenty milligrams MED per

day, a consultation with a pain management specialist as described in WAC 246-918-895 is required, unless the consultation is exempted under WAC 246-918-885 or 246-918-890.

(3) The mandatory consultation must consist of at least one of the following:

- (a) An office visit with the patient and the pain management specialist;
- (b) A telephone, electronic, or in-person consultation between the pain management specialist and the physician assistant;
- (c) An audio-visual evaluation conducted by the pain management specialist remotely where the patient is present with either the physician assistant or a licensed health care practitioner designated by the physician assistant or the pain management specialist; or
- (d) Other chronic pain evaluation services as approved by the commission.

(4) A physician assistant shall document each consultation with the pain management specialist.

#### NEW SECTION

**WAC 246-918-885 Consultation—Exemptions for exigent and special circumstances—Chronic pain.** A physician assistant is not required to consult with a pain management specialist as defined in WAC 246-918-895 when the physician assistant has documented adherence to all standards of practice as defined in WAC 246-918-855 through 246-918-895 and when one or more of the following conditions are met:

- (1) The patient is following a tapering schedule;
- (2) The patient requires treatment for acute pain, which may or may not include hospitalization, requiring a temporary escalation in opioid dosage, with an expected return to their baseline dosage level or below;
- (3) The physician assistant documents reasonable attempts to obtain a consultation with a pain management specialist and the circumstances justifying prescribing above one hundred twenty milligrams morphine equivalent dose (MED) per day without first obtaining a consultation; or
- (4) The physician assistant documents the patient's pain and function are stable and the patient is on a nonescalating dosage of opioids.

#### NEW SECTION

**WAC 246-918-890 Consultation—Exemptions for the physician assistant—Chronic pain.** The physician assistant is exempt from the consultation requirement in WAC 246-918-880 if one or more of the following qualifications are met:

- (1) The physician assistant is a pain management specialist under WAC 246-918-895;
- (2) The physician assistant has successfully completed a minimum of twelve category I continuing education hours on chronic pain management within the previous four years. At least two of these hours must be dedicated to substance use disorders;
- (3) The physician assistant is a pain management physician assistant working in a multidisciplinary chronic pain

treatment center or a multidisciplinary academic research facility; or

(4) The physician assistant has a minimum of three years of clinical experience in a chronic pain management setting, and at least thirty percent of their current practice is the direct provision of pain management care.

#### NEW SECTION

**WAC 246-918-895 Pain management specialist—Chronic pain.** A pain management specialist shall meet one or more of the following qualifications: If an allopathic physician assistant or osteopathic physician assistant who has a delegation agreement with a physician pain management specialist and meets the educational requirements and practice requirements listed below: Is board certified or board eligible by an American Board of Medical Specialties-approved board (ABMS) or by delegation agreement with a physician pain management specialist and meets the educational requirements and practice requirements listed below:

(1) A minimum of three years of clinical experience in a chronic pain management care setting;

(2) Credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for an allopathic physician assistant or the Washington state board of osteopathic medicine and surgery for an osteopathic physician assistant;

(3) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and

(4) At least thirty percent of the physician assistant's current practice is the direct provision of pain management care or in a multidisciplinary pain clinic.

#### NEW SECTION

**WAC 246-918-900 Tapering considerations—Chronic pain.** The physician assistant shall consider tapering or referral for a substance use disorder evaluation when:

(1) The patient requests;

(2) The patient experiences a deterioration in function or pain;

(3) The patient is noncompliant with the written agreement;

(4) Other treatment modalities are indicated;

(5) There is evidence of misuse, abuse, substance use disorder, or diversion;

(6) The patient experiences a severe adverse event or overdose;

(7) There is unauthorized escalation of doses; or

(8) The patient is receiving an escalation in opioid dosage with no improvement in their pain or function.

#### NEW SECTION

**WAC 246-918-905 Patients with chronic pain, including those on high doses of opioids, establishing a relationship with a new physician assistant.** (1) When a patient receiving chronic opioid pain medications changes to a new physician assistant, it is normally appropriate for the new physician assistant to initially maintain the patient's cur-

rent opioid doses. Over time, the physician assistant may evaluate if any tapering or other adjustments in the treatment plan can or should be done.

(2) A physician assistant's treatment of a new high dose chronic pain patient is exempt from the mandatory consultation requirements of WAC 246-918-880 if:

(a) The patient was previously being treated with a dosage of opioids in excess of a one hundred twenty milligram MED for chronic pain under an established written agreement for treatment of the same chronic condition or conditions;

(b) The patient's dose is stable and nonescalating;

(c) The patient has a history of compliance with treatment plans and written agreements documented by medical records and PMP queries; and

(d) The patient has documented functional stability, pain control, or improvements in function or pain control at the presenting opioid dose.

(3) With respect to the treatment of a new patient under subsection (1) or (2) of this section, this exemption applies for the first three months of newly established care, after which the requirements of WAC 246-918-880 shall apply.

### **OPIOID PRESCRIBING—SPECIAL POPULATIONS**

#### NEW SECTION

**WAC 246-918-910 Special populations—Children or adolescent patients, pregnant patients, and aging populations.** (1) Children or adolescent patients. In the treatment of pain for children or adolescent patients, the physician assistant shall treat pain in a manner equal to that of an adult but must account for the weight of the patient and adjust the dosage prescribed accordingly.

(2) Pregnant patients. The physician assistant shall not initiate opioid detoxification without consultation with a provider with expertise in addiction medicine. Medication assisted treatment for opioids, such as methadone or buprenorphine, must not be discontinued during pregnancy without consultation with a MAT prescribing practitioner.

(3) Aging populations. As people age, their sensitivities to and metabolizing of opioids may change. The physician assistant shall consider the distinctive needs of patients who are sixty-five years of age or older and who have been on chronic opioid therapy or who are initiating opioid treatment.

#### NEW SECTION

**WAC 246-918-915 Episodic care of chronic opioid patients.** (1) When providing episodic care for a patient who the physician assistant knows is being treated with opioids for chronic pain, such as for emergency or urgent care, the physician assistant, or their designee as defined in WAC 246-470-050, shall review the PMP and document their review and any concerns.

(2) A physician assistant providing episodic care to a patient who the physician assistant knows is being treated with opioids for chronic pain should provide additional analgesics, including opioids, to adequately treat acute pain. If opioids are provided, the physician assistant shall limit the use of opioids to the minimum amount necessary to control

the acute pain until the patient can receive care from the practitioner who is managing the patient's chronic pain.

(3) The episodic care physician assistant shall coordinate care with the patient's chronic pain treatment practitioner, if possible.

### OPIOID PRESCRIBING—COPRESCRIBING

#### NEW SECTION

**WAC 246-918-920 Coprescribing of opioids with certain medications.** (1) The physician assistant shall not knowingly prescribe opioids in combination with the following medications without documentation of medical decision making:

- (a) Benzodiazepines;
- (b) Barbiturates;
- (c) Sedatives;
- (d) Carisoprodol; or
- (e) Nonbenzodiazepine hypnotics.

(2) If, because of a prior prescription by another provider, a prescription written by a physician assistant results in a combination of opioids and medications described in subsection (1) of this section, the physician assistant issuing the new prescription shall consult with the other prescriber to establish a patient care plan surrounding these medications. This provision does not apply to emergency care.

#### NEW SECTION

**WAC 246-918-925 Coprescribing of opioids for patients receiving medication assisted treatment.** (1) Where practicable, the physician assistant providing acute nonoperative pain or acute perioperative pain treatment to a patient who is known to be receiving MAT medications shall prescribe opioids for pain relief either in consultation with a MAT prescribing practitioner or a pain specialist.

(2) The physician assistant providing acute nonoperative pain or acute perioperative pain treatment shall not discontinue MAT medications without documentation of the reason for doing so, nor shall the use of these medications be used to deny necessary operative intervention.

#### NEW SECTION

**WAC 246-918-930 Coprescribing of naloxone.** The opioid prescribing physician assistant shall confirm or provide a current prescription for naloxone when opioids are prescribed to a high-risk patient.

### OPIOID PRESCRIBING—PRESCRIPTION MONITORING PROGRAM

#### NEW SECTION

**WAC 246-918-935 Prescription monitoring program—Required registration, queries, and documentation.** (1) The physician assistant shall register to access the PMP or demonstrate proof of having assured access to the PMP if they prescribe Schedule II-V medications in Washington state.

(2) The physician assistant is permitted to delegate performance of a required PMP query to an authorized designee as defined in WAC 246-470-050.

(3) At a minimum, the physician assistant shall ensure a PMP query is performed prior to the prescription of an opioid or of a medication listed in WAC 246-918-920 at the following times:

- (a) Upon the first refill or renewal of an opioid prescription for acute nonoperative pain or acute perioperative pain;
- (b) The time of transition from acute to subacute pain; and

(c) The time of transition from subacute to chronic pain.

(4) For chronic pain management, the physician assistant shall ensure a PMP query is performed at a minimum frequency determined by the patient's risk assessment, as follows:

(a) For a high-risk patient, a PMP query shall be completed at least quarterly;

(b) For a moderate-risk patient, a PMP query shall be completed at least semiannually; and

(c) For a low-risk patient, a PMP query shall be completed at least annually.

(5) The physician assistant shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.

(6) The physician assistant shall ensure a PMP query is performed when providing episodic care to a patient who the physician assistant knows to be receiving opioids for chronic pain, in accordance with WAC 246-918-915.

(7) If the physician assistant is using an electronic medical record (EMR) that integrates access to the PMP into the workflow of the EMR, the physician assistant shall ensure a PMP query is performed for all prescriptions of opioids and medications listed in WAC 246-918-920.

(8) For the purposes of this section, the requirement to consult the PMP does not apply when the PMP or the EMR cannot be accessed by the physician assistant or their designee, as defined in WAC 246-470-050, due to a temporary technological or electrical failure.

(9) Pertinent concerns discovered in the PMP shall be documented in the patient record.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-918-803 Patient evaluation.

WAC 246-918-804 Treatment plan.

WAC 246-918-805 Informed consent.

WAC 246-918-806 Written agreement for treatment.

WAC 246-918-807 Periodic review.

WAC 246-918-808 Long-acting opioids, including methadone.

WAC 246-918-809 Episodic care.

WAC 246-918-810 Consultation—Recommendations and requirements.

- WAC 246-918-811 Consultation—Exemptions for exigent and special circumstances.
- WAC 246-918-812 Consultation—Exemptions for the physician assistant.
- WAC 246-918-813 Pain management specialist.

**((PAIN MANAGEMENT)) OPIOID PRESCRIBING—  
GENERAL PROVISIONS**

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-919-850 ((Pain management—))Intent and scope.** ((These)) The rules in WAC 246-919-850 through 246-919-985 govern the ((use)) prescribing of opioids in the treatment of ((patients for chronic noncancer)) pain.

The Washington state medical quality assurance commission (commission) recognizes that principles of quality medical practice dictate that the people of the state of Washington have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity, mortality, and costs associated with untreated or inappropriately treated pain. For the purposes of ((this)) these rules, the inappropriate treatment of pain includes nontreatment, undertreatment, overtreatment, and the continued use of ineffective treatments.

The diagnosis and treatment of pain is integral to the practice of medicine. The commission encourages physicians to view pain management as a part of quality medical practice for all patients with pain((;)) including acute ((or)), perioperative, subacute, and chronic((; and it is especially urgent for patients who experience)) pain ((as a result of terminal illness)). All physicians should become knowledgeable about assessing patients' pain and effective methods of pain treatment, as well as become knowledgeable about the statutory requirements for prescribing ((controlled substances)) opioids including co-occurring prescriptions. Accordingly, ((this rule has been developed to)) these rules clarify the commission's position on pain control, particularly as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.

Inappropriate pain treatment may result from a physician's lack of knowledge about pain management. Fears of investigation or sanction by federal, state, ((and)) or local agencies may also result in inappropriate treatment of pain. Appropriate pain management is the treating physician's responsibility. As such, the commission will consider the inappropriate treatment of pain to be a departure from standards of practice and will investigate such allegations, recognizing that some types of pain cannot be completely relieved, and taking into account whether the treatment is appropriate for the diagnosis.

The commission recognizes that controlled substances including opioids ((analgesics)) may be essential in the treatment of acute, subacute, perioperative, or chronic pain due to disease, illness, trauma or surgery ((and chronic pain,

~~whether due to cancer or noncancer origins))~~. The commission will refer to current clinical practice guidelines and expert review in approaching cases involving management of pain.

The medical management of pain should consider current clinical knowledge ((and)), scientific research, and the use of pharmacologic and nonpharmacologic modalities according to the judgment of the physician. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity, duration, impact of the pain, and treatment outcomes. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioids ((analgesics)) and are not the same as ((addiction)) opioid use disorder.

The commission is obligated under the laws of the state of Washington to protect the public health and safety. The commission recognizes that the use of opioids ((analgesics)) for other than legitimate medical purposes poses a threat to the individual and society ((and that)). The inappropriate prescribing of controlled substances, including opioids ((analgesics)), may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Accordingly, the commission expects that physicians incorporate safeguards into their practices to minimize the potential for the abuse and diversion of controlled substances.

Physicians should not fear disciplinary action from the commission for ordering, prescribing, dispensing or administering controlled substances, including opioids ((analgesics)), for a legitimate medical purpose and in the course of professional practice. The commission will consider prescribing, ordering, dispensing or administering controlled substances for pain to be for a legitimate medical purpose if based on sound clinical judgment. All such prescribing must be based on clear documentation of unrelieved pain. To be within the usual course of professional practice, a physician-patient relationship must exist and the prescribing should be based on a diagnosis and documentation of unrelieved pain. Compliance with applicable state or federal law is required.

The commission will judge the validity of the physician's treatment of the patient based on available documentation, rather than solely on the quantity and duration of medication administration. The goal is to control the patient's pain while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

These rules are designed to assist ((practitioners)) physicians in providing appropriate medical care for patients. ((They are not inflexible rules or rigid practice requirements and are not intended, nor should they be used, to establish a legal standard of care outside the context of the medical quality assurance committee's jurisdiction.

~~The ultimate judgment regarding the propriety of any specific procedure or course of action must be made by the practitioner based on all the circumstances presented. Thus, an approach that differs from the rules, standing alone, does not necessarily imply that the approach was below the standard of care. To the contrary, a conscientious practitioner may responsibly adopt a course of action different from that set forth in the rules when, in the reasonable judgment of the~~

practitioner, such course of action is indicated by the condition of the patient, limitations of available resources, or advances in knowledge or technology subsequent to publication of these rules. However, a practitioner who employs an approach substantially different from these rules is advised to document in the patient record information sufficient to justify the approach taken.)

The practice of medicine involves not only the science, but also the art of dealing with the prevention, diagnosis, alleviation, and treatment of disease. The variety and complexity of human conditions make it impossible to always reach the most appropriate diagnosis or to predict with certainty a particular response to treatment.

Therefore, it should be recognized that adherence to these rules will not ~~((assure))~~ guarantee an accurate diagnosis or a successful outcome. The sole purpose of these rules is to assist ~~((practitioners))~~ physicians in following a reasonable course of action based on current knowledge, available resources, and the needs of the patient to deliver effective and safe medical care.

For more specific best practices, the physician may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree Collaborative.

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-919-851 Exclusions.** ~~((The rules adopted under))~~ WAC 246-919-850 through ~~((246-919-863))~~ 246-919-985 do not apply:

- ~~((1))~~ (1) The treatment of patients with cancer-related pain;
- ~~((2))~~ (2) The provision of palliative, hospice, or other end-of-life care; ~~((or~~
- ~~((2))~~ (2) To the management of acute pain caused by an injury or surgical procedure.))
- ~~((3))~~ (3) The treatment of inpatient hospital patients who are patients who have been admitted to a hospital for more than twenty-four hours; or
- ~~((4))~~ (4) The provision of procedural medications.

AMENDATORY SECTION (Amending WSR 11-12-025, filed 5/24/11, effective 1/2/12)

**WAC 246-919-852 Definitions.** The following definitions ~~((in))~~ apply to WAC 246-919-850 through ~~((246-919-863 apply))~~ 246-919-985 unless the context clearly requires otherwise.

- ~~((1))~~ (1) "Aberrant behavior" means behavior that indicates current misuse, diversion, unauthorized use of alcohol or other controlled substances, multiple early refills (renewals), or active opioid use disorder.
- ~~((2))~~ (2) "Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal, or mechanical stimulus and typically is associated with invasive procedures, trauma, and disease. ~~((It is generally time limited, often less than three months in duration, and usually less than six months.~~

~~((2))~~ (2) "Addiction" means a primary, chronic, neurobiologic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include:

- ~~((a))~~ (a) Impaired control over drug use;
  - ~~((b))~~ (b) Craving;
  - ~~((c))~~ (c) Compulsive use; or
  - ~~((d))~~ (d) Continued use despite harm.
- ~~((3))~~ (3) Acute pain is six weeks or less in duration.

~~((3))~~ (3) "Biological specimen test" or "biological specimen testing" means tests of urine, hair, or other biological samples for various drugs and metabolites.

~~((4))~~ (4) "Cancer-related pain" means pain that is an unpleasant, persistent, subjective sensory and emotional experience associated with actual or potential tissue injury or damage or described in such terms and is related to cancer or cancer treatment that interferes with usual functioning.

~~((5))~~ (5) "Chronic ~~((noncancer))~~ pain" means a state in which ~~((noncancer))~~ pain persists beyond the usual course of an acute disease or healing of an injury, or ~~((that))~~ which may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years. Chronic pain is considered to be pain that persists for more than twelve weeks.

~~((4))~~ (4) "Comorbidity" (6) "Comorbidities" means a preexisting or coexisting physical or psychiatric disease or condition.

~~((5))~~ (7) "Episodic care" means noncontinuing medical or dental care provided by a ~~((practitioner))~~ physician other than the designated primary ~~((care practitioner in the acute care setting, for example, urgent care or emergency department.~~

~~((6))~~ (6) prescriber for a patient with chronic pain.

~~((8))~~ (8) "High dose" means a ninety milligram morphine equivalent dose (MED), or more, per day.

~~((9))~~ (9) "High-risk" is a category of patient at high risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, current substance use disorder or abuse, aberrant behavior, dose of opioids, or the use of any concurrent central nervous system depressant.

~~((10))~~ (10) "Hospice" means a model of care that focuses on relieving symptoms and supporting patients with a life expectancy of six months or less ~~((Hospice involves an interdisciplinary approach to provide health care, pain management, and emotional and spiritual support. The emphasis is on comfort, quality of life and patient and family support. Hospice can be provided in the patient's home as well as freestanding hospice facilities, hospitals, nursing homes, or other long-term care facilities)).~~

~~((7))~~ (11) "Hospital" means any health care institution licensed pursuant to chapters 70.41 and 71.12 RCW, and RCW 72.23.020.

~~((12))~~ (12) "Low-risk" is a category of patient at low risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, and dose of opioids of less than a fifty milligram morphine equivalent dose.

~~((13))~~ (13) "Medication assisted treatment" or "MAT" means the use of pharmacologic therapy, often in combination with

counseling and behavioral therapies, for the treatment of substance use disorders.

(14) "Moderate-risk" is a category of patient at moderate risk of opioid-induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, past history of substance use disorder or abuse, aberrant behavior, and dose of opioids between fifty to ninety milligram morphine equivalent doses.

(15) "Morphine equivalent dose" or "MED" means a conversion of various opioids to a morphine equivalent dose ((by the use of accepted)) using the agency medical directors' group or other conversion table(s) approved by the commission. MED is considered the same as morphine milligram equivalent or MME.

((8)) (16) "Multidisciplinary pain clinic" means a ((clinic or office that provides comprehensive pain management and includes care provided by multiple available disciplines or treatment modalities, for example, medical care through physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, advanced registered nurse practitioners, and physical therapy, occupational therapy, or other complementary therapies.

(9)) health care delivery facility staffed by physicians of different specialties and other nonphysician health care providers who specialize in the diagnosis and management of patients with chronic pain.

(17) "Opioid" means a drug that is either an opiate that is derived from the opium poppy or opiate-like that is a semi-synthetic or synthetic drug. Examples include morphine, codeine, hydrocodone, oxycodone, fentanyl, meperidine, tramadol, buprenorphine, and methadone.

(18) "Palliative care" means care that maintains or improves the quality of life of patients and their families facing serious, advanced, or life-threatening illness. ((With palliative care particular attention is given to the prevention, assessment, and treatment of pain and other symptoms, and to the provision of psychological, spiritual, and emotional support.))

(19) "Perioperative pain" means acute pain that occurs surrounding the performance of surgery.

(20) "Prescription monitoring program" or "PMP" means the Washington state prescription monitoring program authorized under chapter 70.225 RCW. Other jurisdictions may refer to this as the prescription drug monitoring program or "PDMP."

(21) "Practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a dentist licensed under chapter 18.32 RCW, a physician licensed under chapter 18.71 or 18.57 RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or a podiatric physician licensed under chapter 18.22 RCW.

(22) "Refill" or "renewal" means a second or subsequent filling of a previously issued prescription.

(23) "Subacute pain" is considered to be a continuation of pain that is six- to twelve-weeks in duration.

(24) "Substance use disorder" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Substance use disorder is not the same as physical dependence or tolerance that is a normal physiological conse-

quence of extended opioid therapy for pain. It is characterized by behaviors that include, but are not limited to, impaired control over drug use, craving, compulsive use, or continued use despite harm.

#### NEW SECTION

**WAC 246-919-865 Patient notification, secure storage, and disposal.** (1) The physician shall ensure the patient is provided the following information at the first issuance of a prescription for opioids and at the transition from acute to subacute, and subacute to chronic:

(a) Risks associated with the use of opioids as appropriate to the medical condition, the type of patient, and the phase of treatment;

(b) The safe and secure storage of opioid prescriptions; and

(c) The proper disposal of unused opioid medications including, but not limited to, the availability of recognized drug take-back programs.

(2) This requirement may be satisfied with a document provided by the department of health.

#### NEW SECTION

**WAC 246-919-870 Use of alternative modalities for pain treatment.** The physician shall exercise their professional judgment in selecting appropriate treatment modalities for acute nonoperative, acute perioperative, or subacute pain including the use of multimodal pharmacologic and nonpharmacologic therapy as an alternative to opioids whenever reasonable, clinically appropriate, evidence-based alternatives exist.

#### NEW SECTION

**WAC 246-919-875 Continuing education requirements for opioid prescribing.** (1) To prescribe an opioid in Washington state, a physician licensed to prescribe opioids shall complete a one-time continuing education requirement regarding the opioid prescribing rules in this chapter. The continuing education must be at least one hour in length.

(2) The physician shall complete the one-time continuing education requirement described in subsection (1) of this section by the end of the physician's first full continuing education reporting period after January 1, 2019, or during the first full continuing education reporting period after initial licensure, whichever is later.

(3) The hours spent completing training in prescribing of opioids count toward meeting applicable continuing education requirements in the same category specified in WAC 246-919-460.

### **OPIOID PRESCRIBING—ACUTE NONOPERATIVE PAIN AND ACUTE PERIOPERATIVE PAIN**

NEW SECTION

**WAC 246-919-880 Patient evaluation and patient record—Acute nonoperative pain.** Prior to issuing an opioid prescription for acute nonoperative pain or acute perioperative pain, the physician shall:

- (1) Conduct and document an appropriate history and physical examination including screening for risk factors for overdose and severe postoperative pain;
- (2) Evaluate the nature and intensity of the pain or anticipated pain following surgery; and
- (3) Inquire about any other medications the patient is prescribed or is taking.

NEW SECTION

**WAC 246-919-885 Treatment plan—acute nonoperative pain.** The physician shall comply with the requirements in this section when prescribing opioids for acute nonoperative pain.

(1) The physician should consider prescribing nonopioids as the first line of pain control in patients unless not clinically appropriate in accordance with the provisions of WAC 246-919-870.

(2) The physician, or their designee as defined in WAC 246-470-050, shall conduct queries of the PMP in accordance with the provisions of WAC 246-919-985.

(3) If the physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. A three-day supply or less will often be sufficient. The physician shall not prescribe beyond a seven-day supply without clinical documentation in the patient record to justify the need for such a quantity.

(4) The physician shall reevaluate the patient who does not follow the expected course of recovery, and reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional indicated diagnostic evaluations.

(6) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-919-970, such prescribing must be in accordance with WAC 246-919-970.

(7) Long-acting or extended release opioids are not indicated for acute nonoperative pain.

(8) Medication assisted treatment medications must not be discontinued when treating acute pain, except as consistent with the provisions of WAC 246-919-975.

(9) If the physician elects to treat a patient with opioids beyond the six-week time period of acute nonoperative pain, the physician shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-919-895 and 246-919-900 shall apply.

NEW SECTION

**WAC 246-919-890 Treatment plan—Acute perioperative pain.** The physician shall comply with the requirements in this section when prescribing opioids for perioperative pain.

(1) The physician shall consider prescribing nonopioids as the first line of pain control in patients, unless not clinically appropriate, in accordance with the provisions of WAC 246-919-870.

(2) The physician, or their designee as defined in WAC 246-470-050, shall conduct queries of the PMP in accordance with the provisions of WAC 246-919-985.

(3) If the physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. A three-day supply or less will often be sufficient. The physician shall not prescribe beyond a fourteen-day supply from the time of discharge without clinical documentation in the patient record to justify the need for such a quantity.

(4) The physician shall reevaluate a patient who does not follow the expected course of recovery and reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control should include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional indicated diagnostic evaluations or other treatments.

(6) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-919-970, such prescribing must be in accordance with WAC 246-919-970.

(7) Long-acting or extended release opioids are not indicated for acute perioperative pain.

(8) Medication assisted treatment medications must not be discontinued when treating acute perioperative pain except as consistent with the provisions of WAC 246-919-975.

(9) If the physician elects to treat a patient with opioids beyond the six-week time period of acute perioperative pain, the physician shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain, WAC 246-919-895 and 246-919-900 shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

**OPIOID PRESCRIBING—SUBACUTE PAIN**NEW SECTION

**WAC 246-919-895 Patient evaluation and patient record—Subacute pain.** The physician shall comply with the requirements in this section when prescribing opioids for subacute pain.

(1) Prior to issuing an opioid prescription for subacute pain, the physician shall assess the rationale for continuing opioid therapy as follows:

- (a) Conduct an appropriate history and physical examination;
- (b) Reevaluate the nature and intensity of the pain;
- (c) Conduct, or cause their designee as defined in WAC 246-470-050 to conduct, a query of the PMP in accordance with the provisions of WAC 246-919-985;
- (d) Screen the patient's level of risk for aberrant behavior and adverse events related to opioid therapy;
- (e) Obtain a biological specimen test if the patient's functional status is deteriorating or if pain is escalating; and
- (f) Screen or refer the patient for further consultation for psychosocial factors if the patient's functional status is deteriorating or if pain is escalating.

(2) The physician treating a patient for subacute pain with opioids shall ensure that, at a minimum, the following is documented in the patient record:

- (a) The presence of one or more recognized diagnoses or indications for the use of opioid pain medication;
  - (b) The observed effect on function or pain control forming the basis to continue prescribing opioids beyond the acute pain episode;
  - (c) Pertinent concerns discovered in the PMP;
  - (d) An appropriate pain treatment plan including the consideration of, or attempts to use, nonpharmacological modalities and nonopioid therapy;
  - (e) The action plan for any aberrant biological specimen testing results and the risk-benefit analysis if opioids are to be continued;
  - (f) Results of psychosocial screening or consultation;
  - (g) Results of screening for the patient's level of risk for aberrant behavior and adverse events related to opioid therapy, and mitigation strategies; and
  - (h) The risk-benefit analysis of any combination of prescribed opioid and benzodiazepines or sedative-hypnotics, if applicable.
- (3) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes, at a minimum:
- (a) Change in pain level;
  - (b) Change in physical function;
  - (c) Change in psychosocial function; and
  - (d) Additional indicated diagnostic evaluations or other treatments.

#### NEW SECTION

##### **WAC 246-919-900 Treatment plan—Subacute pain.**

The physician, having recognized the progression of a patient from the acute nonoperative or acute perioperative phase to the subacute phase shall develop an opioid treatment plan.

(1) If tapering has not begun prior to the six- to twelve-week subacute phase, the physician shall reevaluate the patient. Based on effect on function or pain control, the physician shall consider whether opioids will be continued, tapered, or discontinued.

(2) If the physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity

than needed for the expected duration of pain that is severe enough to require opioids. The physician shall not prescribe beyond a fourteen-day supply of opioids without clinical documentation to justify the need for such a quantity during the subacute phase.

(3) If a prescription results in the patient receiving a combination of opioids with a sedative medication listed in WAC 246-919-970, such prescribing must be in accordance with WAC 246-919-970.

(4) If the physician elects to treat a patient with opioids beyond the six- to twelve-week subacute phase, the physician shall document in the patient record that the patient is transitioning from subacute pain to chronic pain. Rules governing the treatment of chronic pain, WAC 246-919-905 through 246-919-955, shall apply.

#### **OPIOID PRESCRIBING—CHRONIC PAIN MANAGEMENT**

#### NEW SECTION

**WAC 246-919-905 Patient evaluation and patient record—Chronic pain.** When the patient enters the chronic pain phase, the patient shall be reevaluated as if presenting with a new disease. The physician shall include in the patient's record:

- (1) An appropriate history including:
  - (a) The nature and intensity of the pain;
  - (b) The effect of pain on physical and psychosocial function;
  - (c) Current and past treatments for pain, including opioids and other medications and their efficacy; and
  - (d) Review of comorbidities with particular attention to psychiatric and substance use.
- (2) Appropriate physical examination.
- (3) Ancillary information and tools to include:
  - (a) Review of the PMP to identify any medications received by the patient in accordance with the provisions of WAC 246-919-985;
  - (b) Any pertinent diagnostic, therapeutic, and laboratory results;
  - (c) Pertinent consultations; and
  - (d) Use of a risk assessment tool that is a professionally developed, clinically recommended questionnaire appropriate for characterizing a patient's level of risk for opioid or other substance use disorders to assign the patient to a high-, moderate-, or low-risk category.
- (4) Assessment. The physician must document medical decision making to include:
  - (a) Pain related diagnosis, including documentation of the presence of one or more recognized indications for the use of pain medication;
  - (b) Consideration of the risks and benefits of chronic opioid treatment for the patient;
  - (c) The observed effect on function or pain control forming the basis to continue prescribing opioids; and
  - (d) Pertinent concerns discovered in the PMP.
- (5) Treatment plan as provided in WAC 246-919-910.

NEW SECTION**WAC 246-919-910 Treatment plan—Chronic pain.**

The physician, having recognized the progression of a patient from the subacute phase to the chronic phase, shall develop an opioid treatment plan as follows:

- (1) Treatment plan and objectives including:
  - (a) Documentation of any medication prescribed;
  - (b) Biologic specimen testing ordered;
  - (c) Any labs, diagnostic evaluations, referrals, or imaging ordered;
  - (d) Other planned treatments; and
  - (e) Written agreement for treatment as provided in WAC 246-919-915.
- (2) The physician shall complete patient notification in accordance with the provisions of WAC 246-919-865 or provide this information in the written agreement.

NEW SECTION

**WAC 246-919-915 Written agreement for treatment—Chronic pain.** The physician shall use a written agreement that outlines the patient's responsibilities for opioid therapy. This written agreement for treatment must include the following provisions:

- (1) The patient's agreement to provide samples for biological specimen testing when requested by the physician;
- (2) The patient's agreement to take medications at the dose and frequency prescribed with a specific protocol for lost prescriptions and early refills;
- (3) Reasons for which opioid therapy may be discontinued;
- (4) The requirement that all opioid prescriptions for chronic pain are provided by a single prescriber or a single clinic, except as provided in WAC 246-919-965 for episodic care;
- (5) The requirement that all opioid prescriptions for chronic pain are to be dispensed by a single pharmacy or pharmacy system whenever possible;
- (6) The patient's agreement to not abuse alcohol or use other medically unauthorized substances;
- (7) A violation of the agreement may result in a tapering or discontinuation of the prescription;
- (8) The patient's responsibility to safeguard all medications and keep them in a secure location; and
- (9) If the patient violates the terms of the agreement, the violation and the physician's response to the violation will be documented, as well as the rationale for changes in the treatment plan.

NEW SECTION**WAC 246-919-920 Periodic review—Chronic pain.**

- (1) The physician shall periodically review the course of treatment for chronic pain. The frequency of visits, biological testing, and PMP queries in accordance with the provisions of WAC 246-919-985, must be determined based on the patient's risk category:
  - (a) For a high-risk patient, at least quarterly;
  - (b) For a moderate-risk patient, at least semiannually;
  - (c) For a low-risk patient, at least annually;

(d) Immediately upon indication of concerning aberrant behavior; and

(e) More frequently at the physician's discretion.

(2) During the periodic review, the physician shall determine:

- (a) The patient's compliance with any medication treatment plan;
  - (b) If pain, function, and quality of life have improved, diminished, or are maintained; and
  - (c) If continuation or modification of medications for pain management treatment is necessary based on the physician's evaluation of progress towards treatment objectives and compliance with the treatment plan.
- (3) Periodic patient evaluations must also include:
- (a) History and physical examination related to the pain;
  - (b) Use of validated tools to document either maintenance or change in function and pain control; and
  - (c) Review of the Washington state PMP at a frequency determined by the patient's risk category in accordance with the provisions of WAC 246-919-985 and subsection (1) of this section.

NEW SECTION

**WAC 246-919-925 Long-acting opioids—Chronic pain.** Long-acting opioids should only be prescribed by a physician who is familiar with its risks and use, and who is prepared to conduct the necessary careful monitoring. Special attention should be given to patients who are initiating such treatment. The physician prescribing long-acting opioids should have a one-time completion of at least four hours of continuing education relating to this topic.

NEW SECTION

**WAC 246-919-930 Consultation—Recommendations and requirements—Chronic pain.** (1) The physician shall consider referring the patient for additional evaluation and treatment as needed to achieve treatment objectives. Special attention should be given to those chronic pain patients who are under eighteen years of age or who are potential high-risk patients.

(2) The mandatory consultation threshold is one hundred twenty milligrams MED. In the event a physician prescribes a dosage amount that meets or exceeds the consultation threshold of one hundred twenty milligrams MED per day, a consultation with a pain management specialist as described in WAC 246-919-945 is required, unless the consultation is exempted under WAC 246-919-935 or 246-919-940.

(3) The mandatory consultation must consist of at least one of the following:

- (a) An office visit with the patient and the pain management specialist;
- (b) A telephone, electronic, or in-person consultation between the pain management specialist and the physician;
- (c) An audio-visual evaluation conducted by the pain management specialist remotely where the patient is present with either the physician or a licensed health care practitioner designated by the physician or the pain management specialist; or

(d) Other chronic pain evaluation services as approved by the commission.

(4) A physician shall document each consultation with the pain management specialist.

#### NEW SECTION

**WAC 246-919-935 Consultation—Exemptions for exigent and special circumstances—Chronic pain.** A physician is not required to consult with a pain management specialist as defined in WAC 246-919-945 when the physician has documented adherence to all standards of practice as defined in WAC 246-919-905 through 246-919-945, and when one or more of the following conditions are met:

(1) The patient is following a tapering schedule;

(2) The patient requires treatment for acute pain, which may or may not include hospitalization, requiring a temporary escalation in opioid dosage, with an expected return to their baseline dosage level or below;

(3) The physician documents reasonable attempts to obtain a consultation with a pain management specialist and the circumstances justifying prescribing above one hundred twenty milligrams morphine equivalent dose (MED) per day without first obtaining a consultation; or

(4) The physician documents the patient's pain and function are stable and the patient is on a nonescalating dosage of opioids.

#### NEW SECTION

**WAC 246-919-940 Consultation—Exemptions for the physician—Chronic pain.** The physician is exempt from the consultation requirement in WAC 246-919-930 if one or more of the following qualifications is met:

(1) The physician is a pain management specialist under WAC 246-919-945;

(2) The physician has successfully completed a minimum of twelve category I continuing education hours on chronic pain management within the previous four years. At least two of these hours must be dedicated to substance use disorders;

(3) The physician is a pain management physician working in a multidisciplinary chronic pain treatment center or a multidisciplinary academic research facility; or

(4) The physician has a minimum of three years of clinical experience in a chronic pain management setting, and at least thirty percent of their current practice is the direct provision of pain management care.

#### NEW SECTION

**WAC 246-919-945 Pain management specialist—Chronic pain.** A pain management specialist shall meet one or more of the following qualifications:

(1) If an allopathic physician or osteopathic physician:

(a) Is board certified or board eligible by an American Board of Medical Specialties-approved board (ABMS) or by the American Osteopathic Association (AOA) in physical medicine and rehabilitation, neurology, rheumatology, or anesthesiology;

(b) Has a subspecialty certificate in pain medicine by an ABMS-approved board;

(c) Has a certification of added qualification in pain management by the AOA;

(d) Is credentialed in pain management by an entity approved by the commission for an allopathic physician or the Washington state board of osteopathic medicine and surgery for an osteopathic physician;

(e) Has a minimum of three years of clinical experience in a chronic pain management care setting; and

(i) Has successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years for an allopathic physician or three years for an osteopathic physician; and

(ii) Has at least thirty percent of the allopathic physician's or osteopathic physician's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.

(2) If an allopathic physician assistant, in accordance with WAC 246-918-885.

(3) If an osteopathic physician assistant, in accordance with WAC 246-854-330.

(4) If a dentist, in accordance with WAC 246-817-965.

(5) If a podiatrist, in accordance with WAC 246-922-750.

(6) If an advanced registered nurse practitioner, in accordance with WAC 246-840-493.

#### NEW SECTION

**WAC 246-919-950 Tapering considerations—Chronic pain.** The physician shall consider tapering or referral for a substance use disorder evaluation when:

(1) The patient requests;

(2) The patient experiences a deterioration in function or pain;

(3) The patient is noncompliant with the written agreement;

(4) Other treatment modalities are indicated;

(5) There is evidence of misuse, abuse, substance use disorder, or diversion;

(6) The patient experiences a severe adverse event or overdose;

(7) There is unauthorized escalation of doses; or

(8) The patient is receiving an escalation in opioid dosage with no improvement in their pain or function.

#### NEW SECTION

**WAC 246-919-955 Patients with chronic pain, including those on high doses of opioids, establishing a relationship with a new physician.** (1) When a patient receiving chronic opioid pain medications changes to a new physician, it is normally appropriate for the new physician to initially maintain the patient's current opioid doses. Over time, the physician may evaluate if any tapering or other adjustments in the treatment plan can or should be done.

(2) A physician's treatment of a new high dose chronic pain patient is exempt from the mandatory consultation requirements of WAC 246-919-930 if:

(a) The patient was previously being treated with a dosage of opioids in excess of a one hundred twenty milligram MED for chronic pain under an established written agreement for treatment of the same chronic condition or conditions;

(b) The patient's dose is stable and nonescalating;

(c) The patient has a history of compliance with treatment plans and written agreements documented by medical records and PMP queries; and

(d) The patient has documented functional stability, pain control, or improvements in function or pain control at the presenting opioid dose.

(3) With respect to the treatment of a new patient under subsection (1) or (2) of this section, this exemption applies for the first three months of newly established care, after which the requirements of WAC 246-919-930 shall apply.

### OPIOID PRESCRIBING—SPECIAL POPULATIONS

#### NEW SECTION

**WAC 246-919-960 Special populations—Children or adolescent patients, pregnant patients, and aging populations.** (1) Children or adolescent patients. In the treatment of pain for children or adolescent patients, the physician shall treat pain in a manner equal to that of an adult but must account for the weight of the patient and adjust the dosage prescribed accordingly.

(2) Pregnant patients. The physician shall not initiate opioid detoxification without consultation with a provider with expertise in addiction medicine. Medication assisted treatment for opioids, such as methadone or buprenorphine, must not be discontinued during pregnancy without consultation with a MAT prescribing practitioner.

(3) Aging populations. As people age, their sensitivities to and metabolizing of opioids may change. The physician shall consider the distinctive needs of patients who are sixty-five years of age or older and who have been on chronic opioid therapy or who are initiating opioid treatment.

#### NEW SECTION

**WAC 246-919-965 Episodic care of chronic opioid patients.** (1) When providing episodic care for a patient who the physician knows is being treated with opioids for chronic pain, such as for emergency or urgent care, the physician or their designee as defined in WAC 246-470-050, shall review the PMP and document their review and any concerns.

(2) A physician providing episodic care to a patient who the physician knows is being treated with opioids for chronic pain should provide additional analgesics, including opioids, to adequately treat acute pain. If opioids are provided, the physician shall limit the use of opioids to the minimum amount necessary to control the acute pain until the patient can receive care from the practitioner who is managing the patient's chronic pain.

(3) The episodic care physician shall coordinate care with the patient's chronic pain treatment practitioner, if possible.

### OPIOID PRESCRIBING—COPRESCRIBING

#### NEW SECTION

**WAC 246-919-970 Coprescribing of opioids with certain medications.** (1) The physician shall not knowingly prescribe opioids in combination with the following medications without documentation of medical decision making:

(a) Benzodiazepines;

(b) Barbiturates;

(c) Sedatives;

(d) Carisoprodol; or

(e) Nonbenzodiazepine hypnotics.

(2) If, because of a prior prescription by another provider, a prescription written by a physician results in a combination of opioids and medications described in subsection (1) of this section, the physician issuing the new prescription shall consult with the other prescriber to establish a patient care plan surrounding these medications. This provision does not apply to emergency care.

#### NEW SECTION

**WAC 246-919-975 Coprescribing of opioids for patients receiving medication assisted treatment.** (1) Where practicable, the physician providing acute nonoperative pain or acute perioperative pain treatment to a patient who is known to be receiving MAT medications shall prescribe opioids for pain relief either in consultation with a MAT prescribing practitioner or a pain specialist.

(2) The physician providing acute nonoperative pain or acute perioperative pain treatment shall not discontinue MAT medications without documentation of the reason for doing so, nor shall the use of these medications be used to deny necessary operative intervention.

#### NEW SECTION

**WAC 246-919-980 Coprescribing of naloxone.** The opioid prescribing physician shall confirm or provide a current prescription for naloxone when opioids are prescribed to a high-risk patient.

### OPIOID PRESCRIBING—PRESCRIPTION MONITORING PROGRAM

#### NEW SECTION

**WAC 246-919-985 Prescription monitoring program—Required registration, queries, and documentation.** (1) The physician shall register to access the PMP or demonstrate proof of having assured access to the PMP if they prescribe Schedule II-V medications in Washington state.

(2) The physician is permitted to delegate performance of a required PMP query to an authorized designee as defined in WAC 246-470-050.

(3) At a minimum, the physician shall ensure a PMP query is performed prior to the prescription of an opioid or of a medication listed in WAC 246-919-970 at the following times:

- (a) Upon the first refill or renewal of an opioid prescription for acute nonoperative pain or acute perioperative pain;
- (b) The time of transition from acute to subacute pain; and
- (c) The time of transition from subacute to chronic pain.
- (4) For chronic pain management, the physician shall ensure a PMP query is performed at a minimum frequency determined by the patient's risk assessment, as follows:
- (a) For a high-risk patient, a PMP query shall be completed at least quarterly;
- (b) For a moderate-risk patient, a PMP query shall be completed at least semiannually; and
- (c) For a low-risk patient, a PMP query shall be completed at least annually.
- (5) The physician shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.
- (6) The physician shall ensure a PMP query is performed when providing episodic care to a patient who the physician knows to be receiving opioids for chronic pain, in accordance with WAC 246-919-965.
- (7) If the physician is using an electronic medical record (EMR) that integrates access to the PMP into the workflow of the EMR, the physician shall ensure a PMP query is performed for all prescriptions of opioids and medications listed in WAC 246-919-970.
- (8) For the purposes of this section, the requirement to consult the PMP does not apply when the PMP or the EMR cannot be accessed by the physician or their designee, as defined in WAC 246-470-050, due to a temporary technological or electrical failure.
- (9) Pertinent concerns discovered in the PMP shall be documented in the patient record.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-919-853 Patient evaluation.
- WAC 246-919-854 Treatment plan.
- WAC 246-919-855 Informed consent.
- WAC 246-919-856 Written agreement for treatment.
- WAC 246-919-857 Periodic review.
- WAC 246-919-858 Long-acting opioids, including methadone.
- WAC 246-919-859 Episodic care.
- WAC 246-919-860 Consultation—Recommendations and requirements.
- WAC 246-919-861 Consultation—Exemptions for exigent and special circumstances.
- WAC 246-919-862 Consultation—Exemptions for the physician.
- WAC 246-919-863 Pain management specialist.

#### **WSR 18-15-056**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed July 16, 2018, 11:03 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-140.

Title of Rule and Other Identifying Information: Chapter 246-817 WAC, the dental quality assurance commission (commission) proposes new sections and changes to existing rule that will establish requirements and standards for prescribing opioid drugs by dentists consistent with the directives of ESHB 1427.

Hearing Location(s): On September 7, 2018, at 9:35 a.m., at the Department of Health, Point Plaza East, 152/153, 310 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: September 7, 2018.

Submit Written Comments to: Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by August 31, 2018.

Assistance for Persons with Disabilities: Contact Jennifer Santiago, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email [jennifer.santiago@doh.wa.gov](mailto:jennifer.santiago@doh.wa.gov), by August 31, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing establishing new sections of rule to implement the provisions of ESHB 1427. The bill directed five boards and commissions to consider the agency medical directors' group and the centers for disease control guidelines, and to work in consultation with the department, the University of Washington, and the professional associations of each profession to develop requirements for prescribing opioid drugs. The commission is also proposing amendments to the current pain management rules to assure alignment with the [the] proposed opioid prescribing rules, increase consistent rule application, and reduce duplication between existing and new rules. The proposed rules implement section 3 of ESHB 1427 by creating new rules and amending and reorganizing existing pain management rules to reduce duplication and assure harmonization with the new opioid prescribing requirements.

Reasons Supporting Proposal: The proposed rules are necessary to establish and implement opioid prescribing requirements for dentists. The proposed rules provide a necessary framework and structure for safe, consistent opioid prescribing practice consistent with the directives of ESHB 1427. The proposed rules recognize instances where clinical judgement is appropriate by providing practice guidance without being overly prescriptive, and are designed to reduce the risks associated with opioid use in the management of pain, while increasing public health and safety. The goal is to reduce the number of people who inadvertently become addicted to opioids and, consequently, reduce the burden on opioid treatment programs.

Statutory Authority for Adoption: RCW 18.32.002, 18.32.0365, and 18.32.800.

Statute Being Implemented: ESHB 1427 (chapter 297, Laws of 2017), codified in part as RCW 18.32.800.

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

Name of Proponent: Washington state dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Santiago, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4893.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98501, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email [jennifer.santiago@doh.wa.gov](mailto:jennifer.santiago@doh.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules impact dental clinic businesses if the dentist(s) in the business prescribe opioids for pain management. The proposed rules do not apply to dentists who do not prescribe opioids. The following North American Industrial Classification System (NAICS) six-digit codes, total number of businesses in Washington state in 2013, total combined and average business payroll (rounded to the thousands), and minor cost thresholds have been applied to the proposal:

1. NAICS Code: 621210 Offices of Dentists  
Total establishments in Washington: 3,551  
Total combined annual payroll: \$1,212,689,000.00  
Average annual payroll (total payroll divided by total establishments): \$341,506  
Minor cost threshold (average payroll multiplied by .01): \$3,415

The commission has analyzed the anticipated costs of compliance for a business at \$29.40 for every patient encounter only when a dentist prescribes opioids, and only if the dentist performs all of the tasks required in the proposed rules. Many of the required tasks in the rules are often performed by other staff (such as dental assistants) at much lower costs. For example, regarding the following tasks required under the proposed rules at every patient encounter when an opioid is prescribed:

- Documenting patient history and physical condition
- Documenting/updating the patient health record
- Completing a prescription monitoring program (PMP) check

A dentist performing these tasks would cost the business an estimated \$20.16\*; or

A dental assistant could perform the same tasks for an estimated \$4.46\*.

Depending on the patient's phase of pain management, the business may incur the following additional cost:

- a. From \$0 per patient encounter for a patient whose pain level and function meet the expected course of recovery; up to
- b. An estimated \$5.88 per patient encounter when the dentist must reevaluate a patient transitioning to another pain phase.

Based on these anticipated costs, the commission has determined that the proposed rules would not impose more than minor costs for businesses that must comply.

\*Based on United States Department of Labor Statistics, Occupational Employment and Wages 2017 for 29-1021 Dentists, General, and 31-9091, Dental Assistants.

July 16, 2018  
John Liu, DDS  
Dental Quality Assurance  
Commission Chairperson

## ~~((PAIN MANAGEMENT))~~ OPIOID PRESCRIBING

### Opioid Prescribing—General Provisions

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-901** ~~((Pain management—))~~ Intent and scope. ~~((These rules))~~ WAC 246-817-901 through 246-817-980 govern the ((use)) prescribing of opioids in the treatment of ((patients for chronic noneancer)) pain.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-905 Exclusions.** ~~((The rules adopted under))~~ WAC 246-817-901 through ((246-817-965)) 246-817-980 do not apply to:

- (1) The treatment of patients with cancer-related pain;
- (2) The provision of palliative, hospice, or other end-of-life care; ((or
- (2) The management of acute pain caused by an injury or surgical procedure.))
- (3) The treatment of inpatient hospital patients. Inpatient means a person who has been admitted to the hospital for more than twenty-four hours; or
- (4) The provision of procedural medications.

### NEW SECTION

**WAC 246-817-906 Definitions.** The definitions in this section apply to WAC 246-817-901 through 246-817-980 unless the context clearly requires otherwise:

- (1) "Aberrant behavior" means behavior that indicates misuse, diversion or substance use disorder. This includes, but is not limited to, multiple early refills or renewals, or obtaining prescriptions for the same or similar drugs from more than one dentist or other health care practitioner.
- (2) "Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal, or mechanical stimulus and typically is associated with invasive procedures, trauma, and disease. Acute pain is considered to be six weeks or less in duration.
- (3) "Biological specimen test" or "biological specimen testing" means tests of urine, hair or other biological samples for various drugs and metabolites.
- (4) "Chronic pain" means a state in which pain persists beyond the usual course of an acute disease or healing of an injury, or that may or may not be associated with an acute or

chronic pathologic process, that causes continuous or intermittent pain over months or years. Chronic pain includes pain resulting from the treatment of cancer or the residual effects of a previous cancer tumor of a patient who has completed treatment, is cured or in full clinical remission with no current evidence of disease, or is under cancer surveillance only.

(5) "Comorbidities" means a preexisting or coexisting physical or psychiatric disease or condition.

(6) "High dose" means ninety milligram MED or more, per day.

(7) "High-risk" is a category of patient at increased risk of morbidity or mortality, such as from comorbidities, polypharmacy, history of substance use disorder or abuse, aberrant behavior, high dose opioid prescription, or the use of any central nervous system depressant.

(8) "Hospice" means a model of care that focuses on relieving symptoms and supporting patients with life expectancy of six months or less.

(9) "Hospital" means any institution, place, building, or agency licensed under chapter 70.41 or 71.12 RCW, or designated under chapter 72.23 RCW to provide accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(10) "Low-risk" means a category of patient at low risk of opioid induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, and dose of opioids of less than 50 MED.

(11) "Medication assisted treatment" or "MAT" means the use of pharmacologic therapy, often in combination with counseling and behavioral therapies, for the treatment of substance use disorders.

(12) "Moderate-risk" means a category of patient at moderate risk of opioid induced morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, past history of substance use disorder or abuse, aberrant behavior, and dose of opioids between 50-90 MED.

(13) "Morphine equivalent dose" or "MED" means a conversion of various opioids to a morphine equivalent dose by the use of accepted conversion tables.

(14) "Multidisciplinary pain clinic" means a facility that provides comprehensive pain management and includes care provided by multiple available disciplines, practitioners, or treatment modalities.

(15) "Nonoperative pain" means acute pain which does not occur as a result of surgery.

(16) "Opioid analgesic" or "opioid" means a drug that is used to alleviate moderate to severe pain that is either an opiate derived from the opium poppy or opiate-like that is a semi-synthetic or synthetic drug. Examples include morphine, codeine, hydrocodone, oxycodone, fentanyl, meperidine, and methadone.

(17) "Palliative care" means care that maintains or improves the quality of life of patients and their families facing serious, advanced, or life-threatening illness. With pallia-

tive care particular attention is given to the prevention, assessment, and treatment of pain and other symptoms, and to the provision of psychological, spiritual, and emotional support.

(18) "Pain" means an unpleasant sensory or emotional experience associated with actual or potential tissue damage, or described in terms of such damage.

(19) "Perioperative pain" means acute pain that occurs as the result of surgery.

(20) "Practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a dentist licensed under chapter 18.32 RCW, a physician licensed under chapter 18.71 or 18.57 RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or a podiatric physician licensed under chapter 18.22 RCW.

(21) "Prescription monitoring program" or "PMP" means the Washington state prescription monitoring program authorized under chapter 70.225 RCW.

(22) "Subacute pain" is considered to be a continuation of pain, of six to twelve weeks in duration.

(23) "Substance use disorder" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Substance use disorder is not the same as physical dependence or tolerance that are normal physiological consequences of extended opioid therapy for pain. It is characterized by behaviors that include, but are not limited to, impaired control over drug use, craving, compulsive use, or continued use despite harm.

#### NEW SECTION

**WAC 246-817-907 Patient notification, secure storage, and disposal.** (1) The dentist shall provide information to the patient educating them of risks associated with the use of opioids. The dentist shall document such notification in the patient record.

(2) Patient notification must occur, at a minimum, at the following points of treatment:

(a) The first issuance of a prescription for an opioid; and  
(b) The transition between phase of treatment, as follows:

(i) Acute nonoperative pain or acute perioperative pain to subacute pain; and

(ii) Subacute pain to chronic pain.

(3) Patient notification must include information regarding:

(a) The safe and secure storage of opioid prescriptions; and

(b) The proper disposal of unused opioid medication including, but not limited to, the availability of recognized drug take-back programs.

(4) This requirement may be satisfied with a document provided by the department of health.

#### NEW SECTION

**WAC 246-817-908 Use of alternative modalities for pain treatment.** The dentist shall consider multimodal pharmacologic and nonpharmacologic therapy for pain rather than defaulting to the use of opioid therapy alone whenever

reasonable, evidence-based, clinically appropriate alternatives exist.

#### NEW SECTION

**WAC 246-817-909 Continuing education requirements for opioid prescribing.** (1) In order to prescribe an opioid in Washington state, a dentist licensed to prescribe opioids shall complete a one-time continuing education requirement regarding best practices in the prescribing of opioids and the rules in this chapter. The continuing education must be at least three hours in length.

(2) The dentist shall complete the one-time continuing education requirement described in subsection (1) of this section by the end of the dentist's first full continuing education reporting period after January 1, 2019, or during the first full continuing education reporting period after initial licensure, whichever is later.

(3) The hours spent completing the training in opioid prescribing under this section count toward meeting applicable continuing education requirements for dentist license renewal.

#### NEW SECTION

**WAC 246-817-911 Diagnosis identified on prescription.** The practitioner shall include the diagnosis, indication for use, or the International Classification of Diseases (ICD) code on all opioid prescriptions.

#### **Opioid Prescribing—Acute Nonoperative Pain and Acute Perioperative Pain**

#### NEW SECTION

**WAC 246-817-912 Patient evaluation and patient record.** Prior to prescribing an opioid for acute nonoperative pain or acute perioperative pain, the dentist shall:

(1) Conduct and document an appropriate history and dental examination;

(2) Evaluate the nature and intensity of the pain or anticipated pain following surgery; and

(3) Inquire about any other medications the patient is prescribed or is taking, including date, type, dosage and quantity prescribed.

#### NEW SECTION

**WAC 246-817-913 Treatment plan—Acute nonoperative pain and acute perioperative pain.** The dentist shall comply with the requirements in this section when prescribing opioid analgesics for acute nonoperative pain or acute perioperative pain and shall document completion of these requirements in the patient record:

(1) The dentist shall consider prescribing nonopioid analgesics as the first line of pain control in patients in accordance with the provisions of WAC 246-817-908 unless not clinically appropriate.

(2) The dentist, or their designee, shall conduct queries of the PMP in accordance with the provisions of WAC 246-817-980 to identify any Schedule II-V medications or drugs

of concern received by the patient and document their review and any concerns in the patient record.

(3) If the dentist prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids.

(a) A three-day supply or less will often be sufficient;

(b) More than a seven-day supply will rarely be needed;

(c) The dentist shall not prescribe beyond a seven-day supply without clinical documentation in the patient record to justify the need for such a quantity. For more specific best practices, the dentist may refer to clinical practice guidelines including, but not limited to, those produced by the agency medical directors' group, the Centers for Disease Control and Prevention, or the Bree collaborative.

(4) The dentist shall reevaluate the patient who does not follow the normal course of recovery. If significant and documented improvement in function or pain control has not occurred, the dentist shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(5) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes, at a minimum:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations to investigate causes of continued acute nonoperative pain or acute perioperative pain or other treatments.

(6) Long-acting or extended release opioids are not indicated for acute nonoperative pain. Should a dentist need to prescribe a long-acting opioid for acute pain, the dentist shall document the reason in the patient record.

(7) A dentist shall not discontinue medication assisted treatment medications when treating acute pain, except as consistent with the provisions of WAC 246-817-976.

(8) If the dentist elects to prescribe a combination of opioids with a medication listed in WAC 246-817-975 or to a patient known to be receiving a medication listed in WAC 246-817-975 from another practitioner, such prescribing must be in accordance with WAC 246-817-975.

(9) If the dentist elects to treat a patient with opioids beyond the six-week time period of acute nonoperative pain or acute perioperative pain, the dentist shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-817-915 and 246-817-916 shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

#### **Opioid Prescribing—Subacute Pain**

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-915 Patient evaluation and patient record.** The dentist shall ~~((obtain, evaluate))~~ comply with the requirements in this section when prescribing opioid analge-

sics for subacute pain, and shall document completion of these requirements in the ((patient's health history and physical examination in the health record prior to treating for chronic noncancer pain:

- (1) The patient's health history shall include:
  - (a) Current and past treatments for pain;
  - (b) Comorbidities; and
  - (c) Any substance abuse.
- (2) The patient's health history should include:
  - (a) A review of any available prescription monitoring program or emergency department based information exchange; and
  - (b) Any relevant information from a pharmacist provided to the dentist.
- (3) The initial patient evaluation shall include:
  - (a) Physical examination;
  - (b) The nature and intensity of the pain;
  - (c) The effect of the pain on physical and psychological function;
  - (d) Medications including indication(s), date, type, dosage, and quantity prescribed;
  - (e) A risk screening of the patient for potential comorbidities and risk factors using an appropriate screening tool. The screening should address:
    - (i) History of addiction;
    - (ii) Abuse or aberrant behavior regarding opioid use;
    - (iii) Psychiatric conditions;
    - (iv) Regular concomitant use of benzodiazepines, alcohol, or other central nervous system medications;
    - (v) Poorly controlled depression or anxiety;
    - (vi) Evidence or risk of significant adverse events, including falls or fractures;
    - (vii) Receipt of opioids from more than one prescribing practitioner or practitioner group;
    - (viii) Repeated visits to emergency departments seeking opioids;
    - (ix) History of sleep apnea or other respiratory risk factors;
    - (x) Possible or current pregnancy; and
    - (xi) History of allergies or intolerances.
- (4) The initial patient evaluation should include:
  - (a) Any available diagnostic, therapeutic, and laboratory results; and
  - (b) Any available consultations.
- (5) The health record shall be maintained in an accessible manner, readily available for review, and should include:
  - (a) The diagnosis, treatment plan, and objectives;
  - (b) Documentation of the presence of one or more recognized indications for the use of pain medication;
  - (c) Documentation of any medication prescribed;
  - (d) Results of periodic reviews;
  - (e) Any written agreements for treatment between the patient and the dentist; and
  - (f) The dentist's instructions to the)) patient record:
    - (1) Prior to prescribing an opioid for subacute pain, the dentist shall:
      - (a) Conduct an appropriate history and physical examination or review and update the patient's existing history and examination taken during the acute nonoperative or acute perioperative phase;

(b) Evaluate the nature and intensity of the pain;

(c) Inquire about other medications the patient is prescribed or taking, including date, type, dosage, and quantity prescribed;

(d) Conduct, or cause their designee to conduct, a query of the PMP in accordance with the provisions of WAC 246-817-980 to identify any Schedule II-V medications or drugs of concern received by the patient and document in their review and any concerns;

(e) Obtain a biological specimen test if the patient's function is deteriorating or if pain is escalating; and

(f) Screen or refer the patient for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety.

(2) The dentist treating a patient for subacute pain with opioids shall ensure that, at a minimum, the following are documented in the patient record:

(a) The presence of one or more recognized diagnoses or indications for the use of opioid pain medication;

(b) The observed significant and documented improvement in function or pain control forming the basis to continue prescribing opioid analgesics beyond the acute pain episode;

(c) The result of any queries of the PMP and any concerns the dentist may have;

(d) All medications the patient is known to be prescribed or taking;

(e) An appropriate pain treatment plan, including the consideration of, or attempts to use, nonpharmacological modalities and nonopioid therapy;

(f) Results of any aberrant biological specimen testing results and the risk-benefit analysis if opioids are to be continued;

(g) Results of screening or referral for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety;

(h) Results of screening for the patient's level of risk for aberrant behavior and adverse events related to opioid therapy;

(i) The risk-benefit analysis of any combination of prescribed opioid and benzodiazepines or sedative-hypnotics, if applicable; and

(j) All other required components of the patient record, as established in statute or rule.

(3) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This includes at a minimum:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations or other treatments.

#### NEW SECTION

##### **WAC 246-817-916 Treatment plan—Subacute pain.**

(1) The dentist shall recognize the progression of a patient from the acute nonoperative or acute perioperative phase to the subacute phase and take into consideration the risks and benefits of continued opioid prescribing for the patient.

(2) If tapering has not begun prior to the six- to twelve-week subacute phase, the dentist shall reevaluate the patient who does not follow the normal course of recovery. If significant and documented improvement in function or pain control has not occurred, the dentist shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated. The dentist shall make reasonable attempts to discontinue the use of opioids prescribed for the acute pain event by no later than the twelve-week conclusion of the subacute phase.

(3) If the dentist prescribes opioids for effective pain control, such prescriptions must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. The dentist shall not prescribe beyond a fourteen-day supply of opioids without clinical documentation to justify the need for such a quantity during the subacute phase.

(4) If the dentist elects to prescribe a combination of opioids with a medication listed in WAC 246-817-975 or prescribes opioids to a patient known to be receiving a medication listed in WAC 246-817-975 from another practitioner, the dentist shall prescribe in accordance with WAC 246-817-975.

(5) If the dentist elects to treat a patient with opioids beyond the six- to twelve-week subacute phase, the dentist shall document in the patient record that the patient is transitioning from subacute pain to chronic pain. Rules governing the treatment of chronic pain in WAC 246-817-919 through 246-817-967, shall apply.

### Opioid Prescribing—Chronic Pain Management

#### NEW SECTION

**WAC 246-817-919 Patient evaluation and patient record.** The dentist shall evaluate and document the patient's health history and physical examination in the patient record prior to treating for chronic pain.

- (1) History. The patient's health history must include:
  - (a) The nature and intensity of the pain;
  - (b) The effect of pain on physical and psychosocial function;
  - (c) Current and past treatments for pain, including medications and their efficacy;
  - (d) Review of any significant comorbidities;
  - (e) Any current or historical substance use disorder;
  - (f) Current medications and, as related to treatment of the pain, the efficacy of medications tried; and
  - (g) Medication allergies.
- (2) Evaluation. The patient evaluation prior to opioid prescribing must include:
  - (a) Appropriate physical examination;
  - (b) Consideration of the risks and benefits of chronic pain treatment for the patient;
  - (c) Medications the patient is taking including indication(s), date, type, dosage, quantity prescribed, and, as related to treatment of the pain, efficacy of medications tried;
  - (d) Review of the PMP to identify any Schedule II-V medications or drugs of concern received by the patient in accordance with the provisions of WAC 246-817-980;

(e) Any available diagnostic, therapeutic, and laboratory results;

(f) Use of a risk assessment tool and assignment of the patient to a high, moderate or low-risk category;

(i) The dentist should use caution and shall monitor a patient more frequently when prescribing opioid analgesics to a patient identified as high-risk;

(ii) "Risk assessment tool" means professionally developed, clinically accepted questionnaires appropriate for identifying a patient's level of risk for substance abuse or misuse.

(g) Any available consultations, particularly as related to the patient's pain;

(h) Pain related diagnosis, including documentation of the presence of one or more recognized indications for the use of pain medication;

(i) Treatment plan and objectives including:

(i) Documentation of any medication prescribed;

(ii) Biologic specimen testing ordered; and

(iii) Any labs or imaging ordered.

(j) Written agreements, as described in WAC 246-817-930, for treatment between the patient and the dentist; and

(k) Patient counseling concerning risks, benefits, and alternatives to chronic opioid therapy.

(3) The health record must be maintained in an accessible manner, readily available for review, and contain documentation of requirements in subsections (1) and (2) of this section, as well as all other required components of the patient record, as set out in statute or rule.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-920 Treatment plan.** (1) ~~((The written))~~ When the patient enters the chronic pain phase, the dentist shall reevaluate the patient by treating the situation as a new disease.

(2) The chronic pain treatment plan ((shall)) must state the objectives that will be used to determine treatment success and ((shall)) must include, at a minimum:

(a) Any change in pain relief;

(b) Any change in physical and psychosocial function; and

(c) Additional diagnostic evaluations or other planned treatments.

~~((2)) (3) After treatment begins, the dentist ((should)) shall adjust drug therapy to the individual health needs of the patient. ((The dentist shall include indications for medication use on the prescription and require photo identification of the person picking up the prescription in order to fill. The dentist shall advise the patient that it is the patient's responsibility to safeguard all medications and keep them in a secure location.~~

~~(3) Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.)~~

(4) The dentist shall complete patient notification in accordance with the provisions of WAC 246-817-907.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-930 Written agreement for treatment.**

~~((Chronic noncancer pain patients should receive all chronic pain management prescriptions from one dentist and one pharmacy whenever possible. If the patient is at high risk for medication abuse, or has a history of substance abuse, or psychiatric comorbidities, the prescribing))~~ The dentist shall use a written agreement for treatment with the patient ((~~outlining patient~~)) who requires long-term opioid therapy for chronic pain that outlines the patient's responsibilities. This written agreement for treatment ~~((shall))~~ must include:

(1) The patient's agreement to provide biological samples for ~~((urine/serum medical level screening))~~ biological specimen testing when requested by the dentist;

(2) The patient's agreement to take medications at the dose and frequency prescribed with a specific protocol for lost prescriptions and early refills or renewals. "Refill" or "renewal" means a second or subsequent filling of a previously issued prescription that is authorized to be dispensed when the patient has exhausted their current supply. For the purposes of WAC 246-817-901 through 246-817-980, refills or renewals are subject to the same limitation and requirements as initial prescriptions;

(3) Reasons for which ~~((drug))~~ opioid therapy may be discontinued ~~((e.g.))~~ such as, but not limited to, violation of agreement~~((s))~~;

(4) The requirement that all chronic ~~((pain management))~~ opioid prescriptions are provided by a single prescriber, a single clinic, or multidisciplinary pain clinic ~~((and));~~

(5) The requirement that all chronic opioid prescriptions are to be dispensed by a single pharmacy or pharmacy system whenever possible;

~~((5))~~ (6) The patient's agreement to not abuse ((~~alcohol or use other medically unauthorized~~)) substances that can put the patient at risk for adverse outcomes;

~~((6))~~ (7) A written authorization for:

(a) The dentist to release the agreement for treatment to:

(i) Local emergency departments((;));

(ii) Urgent care facilities((;));

(iii) Other practitioners caring for the patient who might prescribe pain medications; and

(iv) Pharmacies((; and)).

(b) The dentist to release the agreement to other practitioners ((~~to~~)) so other practitioners can report violations of the agreement ((~~back~~)) to the dentist((-

(7) A written authorization that the dentist may notify the proper authorities if he or she has reason to believe the patient has engaged in illegal activity;

(8) Acknowledgment that a violation of the agreement may result in a tapering or discontinuation of the prescription;

~~((9))~~ treating the patient's chronic pain and to the PMP.

(8) Acknowledgment that it is the patient's responsibility to safeguard all medications and keep them in a secure location; and

~~((10))~~ (9) Acknowledgment that if the patient violates the terms of the agreement, the violation and the dentist's

response to the violation will be documented, as well as the rationale for changes in the treatment plan.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-935 Periodic review.** (1) The dentist shall periodically review the course of treatment for chronic ((noncancer pain, the patient's state of health, and any new information about the etiology of the pain. Generally, periodic reviews shall take place at least every six months. However, for treatment of stable patients with chronic noncancer pain involving non-escalating daily dosages of forty milligrams of a morphine equivalent dose (MED) or less, periodic reviews shall take place at least annually.

~~((1))~~ pain. The frequency of visits, biological testing, and PMP queries must be determined based on the patient's risk category:

(a) For a high-risk patient, at least quarterly;

(b) For a moderate-risk patient, at least semiannually;

(c) For a low-risk patient, at least annually;

(d) Immediately upon indication of concerning aberrant behavior; and

(e) More frequently at the dentist's discretion.

(2) During the periodic review, the dentist shall determine:

(a) The patient's compliance with any medication treatment plan;

(b) If pain, function, or quality of life have improved ((~~or~~)), diminished, or are maintained using objective evidence((- considering any available information from family members or other caregivers)); and

(c) If continuation or modification of medications for pain management treatment is necessary based on the dentist's evaluation of progress towards treatment objectives.

~~((2))~~ (3) Periodic patient evaluations must also include:

(a) History and physical examination related to the pain;

(b) Use of validated tools to document either maintenance of function and pain control or improvement in function and pain level; and

(c) Review of the Washington state PMP to identify any Schedule II-V medications or drugs of concern received by the patient at a frequency determined by the patient's risk category, and otherwise in accordance with the provisions of WAC 246-817-980 and subsection (1) of this section.

(4) The dentist shall assess the appropriateness of continued use of the current treatment plan if the patient's progress or compliance with current treatment plan is unsatisfactory. The dentist shall consider tapering, changing, or discontinuing treatment ((when:

(a) Function or pain does not improve after a trial period;

(b) There is evidence of significant adverse effects;

(c) Other treatment modalities are indicated; or

(d) There is evidence of misuse, addiction, or diversion.

~~((3))~~ The dentist should periodically review information from any available prescription monitoring program or emergency department-based information exchange.

~~((4))~~ The dentist should periodically review any relevant information from a pharmacist provided to the dentist)) in accordance with the provisions of WAC 246-817-966.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-950 Consultation—Recommendations and requirements.** (1) The dentist shall consider referring the patient for additional evaluation and treatment as needed to achieve treatment objectives. Special attention should be given to those chronic ~~((noneancer))~~ pain patients who are under eighteen years of age~~((;))~~ or who are ~~((at risk for medication misuse, abuse, or diversion))~~ potential high-risk patients. The management of pain in patients with a history of substance abuse or with comorbid psychiatric disorders may require extra care, monitoring, documentation, and consultation with, or referral to, an expert in the management of such patients.

(2) The mandatory consultation threshold ~~((for adults))~~ is one hundred twenty ~~((milligrams morphine equivalent dose (MED) (oral). In the event a))~~ MED. Unless the consultation is exempted under WAC 246-817-955 or 246-817-960, the dentist who prescribes a dosage amount that meets or exceeds the mandatory consultation threshold ((of one hundred twenty milligrams MED (orally) per day, a consultation with a)) shall comply with the pain management specialist ((as)) consultation requirements described in WAC 246-817-965 ((is required, unless the consultation is exempted under WAC 246-817-955 or 246-817-960. Great caution should be used when prescribing opioids to children with chronic noneancer pain and appropriate referrals to a specialist is encouraged.

~~((a))~~. The mandatory consultation ~~((shall))~~ must consist of at least one of the following:

~~((i))~~ (a) An office visit with the patient and the pain management specialist;

~~((ii))~~ (b) A ~~((telephone))~~ consultation between the pain management specialist and the dentist;

~~((iii))~~ An electronic consultation between the pain management specialist and the dentist; or

~~((iv))~~ (c) An audio-visual evaluation conducted by the pain management specialist remotely, where the patient is present with either the dentist or with a licensed health care practitioner designated by the dentist or the pain management specialist; or

(d) Other chronic pain evaluation services as approved by the dental quality assurance commission.

~~((b))~~ (3) A dentist shall document each ~~((mandatory))~~ consultation with the pain management specialist. The pain management specialist shall maintain any written record of ((the)) a consultation ((by the pain management specialist shall be maintained as a patient record by the specialist)). If the pain management specialist provides a written record of the consultation to the dentist, the dentist shall maintain it as part of the patient record.

~~((3))~~ Nothing in this chapter shall limit any person's ability to contractually require a consultation with a pain management specialist at any time. For the purposes of WAC 246-817-901 through 246-817-965, "person" means an individual, a trust or estate, a firm, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district. (4) The dentist shall use great caution when

prescribing opioids to children and adolescents with chronic pain, appropriate referral to a specialist is encouraged.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-955 Consultation—Exemptions for exigent and special circumstances.** A dentist is not required to consult with a pain management specialist as described in WAC 246-817-965 when ~~((he or she))~~ the dentist has documented adherence to all standards of practice as defined in WAC ~~((246-817-901 through 246-817-965))~~ 246-817-919 through 246-817-967 and when ~~((any))~~ one or more of the following conditions ~~((apply))~~ are met:

(1) The patient is following a tapering schedule;

(2) The patient requires treatment for acute pain, which may or may not include hospitalization, requiring a temporary escalation in opioid dosage~~((;))~~ with expected return to ~~((or below))~~ their baseline dosage level or below;

(3) The dentist documents reasonable attempts to obtain a consultation with a pain management specialist and the circumstances justifying prescribing above one hundred twenty milligrams ~~((morphine equivalent dose (MED))~~ per day without first obtaining a consultation; or

(4) The dentist documents the patient's pain and function is stable and the patient is on a ~~((non-escalating))~~ nonescalating dosage of opioids.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-960 Consultation—Exemptions for the dentist.** The dentist is exempt from the consultation requirement in WAC 246-817-950 if one or more of the following qualifications are met:

(1) The dentist is a pain management specialist ~~((as described in))~~ under WAC 246-817-965; ~~((or))~~

(2) The dentist has successfully completed~~((; within the last two))~~ every four years~~((;))~~ a minimum of twelve continuing education hours on chronic pain management ~~((approved by the profession's continuing education accrediting organization)),~~ with at least two of these hours dedicated ~~((to long-acting opioids, to include methadone))~~ substance use disorders; ~~((or))~~

(3) The dentist is a pain management practitioner working in a multidisciplinary chronic pain treatment center~~((;))~~ or a multidisciplinary academic research facility; or

(4) The dentist has a minimum three years of clinical experience in a chronic pain management setting, and at least thirty percent of ~~((his or her))~~ their current practice is the direct provision of pain management care.

AMENDATORY SECTION (Amending WSR 11-10-061, filed 5/2/11, effective 7/1/11)

**WAC 246-817-965 Pain management specialist.** A pain management specialist shall meet one or more of the following qualifications:

(1) ~~((If a))~~ An allopathic physician or osteopathic physician shall:

(a) Be board certified or board eligible by an American Board of Medical Specialties-approved board (ABMS) or by the American Osteopathic Association (AOA) in physical medicine and rehabilitation, rehabilitation medicine, neurology, rheumatology, or anesthesiology; ~~((e))~~

(b) ~~((Has))~~ Have a subspecialty certificate in pain medicine by an ABMS-approved board; or

(c) ~~((Has))~~ Have a certification of added qualification in pain management by the AOA; ~~((e))~~

(d) ~~((A minimum of three years of clinical experience in a chronic pain management care setting; and~~

~~((i))~~ Be credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for allopathic physician(s) or the Washington state board of osteopathic medicine and surgery for osteopathic physician(s); ~~and~~

~~((ii))~~; or

(e) Have a minimum of three years of clinical experience in a chronic pain management care setting, including:

(i) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years for an allopathic physician or three years for an osteopathic physician; and

~~((iii))~~ (ii) At least thirty percent of the physician's ~~((or osteopathic physician's))~~ current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.

(2) ~~((f-a))~~ An allopathic physician assistant or osteopathic physician assistant shall have a delegation agreement with a physician pain management specialist and meet all of the following educational and practice requirements:

(a) A minimum of three years of clinical experience in a chronic pain management care setting;

(b) Credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for an allopathic physician assistant or the Washington state board of osteopathic medicine and surgery for an osteopathic physician assistant;

(c) Successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and

(d) At least thirty percent of the physician assistant's current practice is the direct provision of pain management care or is in a multidisciplinary clinic.

(3) A dentist(s) shall be board certified or board eligible in oral medicine or orofacial pain by the American Board of Oral Medicine or the American Board of Orofacial Pain.

~~((3-H))~~ (4) An advanced registered nurse practitioner (ARNP) shall:

(a) Be credentialed in pain management by a Washington state nursing care quality assurance commission-approved certifying or credentialing entity; or

(b) Meet all of the following:

(i) Have a minimum of three years of clinical experience in a chronic pain management care setting;

~~((b))~~ Credentialed in pain management by a Washington state nursing care quality assurance commission-approved national professional association, pain association, or other credentialing entity;

~~((e))~~ (ii) Have successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years; and

~~((4))~~ (iii) Have at least thirty percent of the ARNP's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.

~~((4-H))~~ (5) A podiatric physician shall:

(a) Be board certified or board eligible in a specialty that includes a focus on pain management by the American Board of ~~((Podiatric))~~ Foot and Ankle Surgery or its predecessor, the American Board of Podiatric Medicine, the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, or other accredited certifying board as approved by the Washington state podiatric medical board; or

(b) Have a minimum of three years of clinical experience in a chronic pain management care setting; and

~~((e))~~ (i) Be credentialed in pain management by a Washington state podiatric medical board-approved national professional association, pain association, or other credentialing entity; and

~~((4))~~ (ii) Have successful completion of a minimum of at least eighteen hours of continuing education in pain management during the past two years; ~~(s);~~ and

(iii) Have at least thirty percent of the podiatric physician's current practice is the direct provision of pain management care.

#### NEW SECTION

**WAC 246-817-966 Tapering requirements.** (1) The dentist shall assess and document the appropriateness of continued use of the current treatment plan if the patient's response to or compliance with the current treatment plan is unsatisfactory.

(2) The dentist shall consider tapering, changing, discontinuing treatment, or referral for a substance use disorder evaluation when:

(a) The patient requests;

(b) The patient experiences deterioration in function or pain;

(c) The patient is noncompliant with the written agreement;

(d) Other treatment modalities are indicated;

(e) There is evidence of misuse, abuse, substance use disorder, or diversion;

(f) The patient experiences a severe adverse event or overdose;

(g) There is unauthorized escalation of doses; or

(h) The patient is receiving an escalation in opioid dosage with no improvement in pain, function, or quality of life.

#### NEW SECTION

**WAC 246-817-967 Patients with chronic pain, including those on high doses, establishing a relationship with a new dentist.** (1) When a patient receiving chronic opioid pain medications changes to a new dentist, it is normally appropriate for the new dentist to initially maintain the patient's current opioid doses. Over time, the dentist may evaluate if any tapering or other adjustments in the treatment plan can or should be done.

(2) A dentist's treatment of a new high dose chronic pain patient is exempt from the mandatory consultation requirements of WAC 246-817-950 and the tapering requirements of WAC 246-817-966 if:

(a) The patient was previously being treated with a dosage of opioids in excess of one hundred twenty milligram MED for chronic pain under an established written agreement for treatment of the same chronic condition or conditions;

(b) The patient's dose is stable and nonescalating;

(c) The patient has a demonstrated history in their record of compliance with treatment plans and written agreements as documented by medical records and PMP queries; and

(d) The patient has documented functional stability, pain control, or improvements in function or pain control, in excess of one hundred twenty milligram MED dose.

(3) With respect to the treatment of a new patient under subsection (1) or (2) of this section, this exemption applies for the first three months of newly established care, after which the requirements of WAC 246-817-950 and 246-817-966 shall apply.

### Opioid Prescribing—Special Populations

#### NEW SECTION

**WAC 246-817-970 Special populations—Patients twenty-four years of age or under, pregnant patients, and aging populations.** (1) Patients twenty-four years of age or under. In the treatment of pain for patients twenty-four years of age or under, the dentist shall treat pain in a manner equal with that of an adult but must account for the weight of the patient and adjust the dosage prescribed accordingly. Eight to twelve tablets supply will often be sufficient. The dentist shall not prescribe beyond twelve tablets without clinical documentation in the patient record to justify the need for such a quantity.

(2) Pregnant patients. A dentist shall not discontinue use of MAT opioids, such as methadone or buprenorphine, by a pregnant patient without oversight by the MAT prescribing practitioner. The dentist shall weigh carefully the risks and benefits of opioid detoxification during pregnancy.

(3) Aging populations. As people age, their tolerance and metabolizing of opioids may change. The dentist shall consider the distinctive needs of patients who are sixty-five years of age or older and who have been on chronic opioid therapy or who are initiating opioid treatment.

#### NEW SECTION

**WAC 246-817-971 Episodic care of chronic opioid patients.** (1) When providing episodic care for a patient who the dentist knows is being treated with opioids for chronic pain, such as for emergency or urgent care, the dentist shall review the PMP to identify any Schedule II-V or drugs of concern received by the patient and document in the patient record their review and any concerns.

(2) A dentist providing episodic care to a patient who the dentist knows is being treated with opioids for chronic pain should provide additional opioids to be equal to the severity of the acute pain. If opioids are provided, the dentist shall

limit the use of opioids to the minimum amount necessary to control the acute nonoperative pain, acute perioperative pain, or similar acute exacerbation of pain until the patient can receive care from the practitioner who is managing the patient's chronic pain treatment.

(3) The episodic care dentist shall report known violations of the patient's written agreement to the patient's treatment practitioner who provided the agreement for treatment.

(4) The episodic care dentist shall coordinate care with the patient's chronic pain treatment practitioner if that person is known to the episodic care dentist, when practicable.

(5) For the purpose of this section "episodic care" means medical or dental care provided by a practitioner other than the designated primary care practitioner in the acute care setting; for example, urgent care or emergency department.

### Opioid Prescribing—Coprescribing

#### NEW SECTION

**WAC 246-817-975 Coprescribing of opioids with certain medications.** (1) The dentist shall not knowingly prescribe opioids in combination with the following Schedule II-IV medications without documentation of clinical judgment and discussion of risks with patient:

(a) Benzodiazepines;

(b) Barbiturates;

(c) Sedatives;

(d) Carisoprodol; or

(e) Sleeping medications also known as Z drugs.

(2) If a patient receiving an opioid prescription is known to be concurrently prescribed one or more of the medications listed in subsection (1) of this section, the dentist prescribing opioids shall consult with the other prescriber(s) to establish a patient care plan for the use of the medications concurrently or consider whether one of the medications should be tapered.

#### NEW SECTION

**WAC 246-817-976 Coprescribing of opioids for patients receiving medication assisted treatment.** (1) Where practicable, the dentist providing acute nonoperative pain or acute perioperative pain treatment to a patient known to be receiving MAT shall prescribe opioids for pain relief either in consultation with the MAT prescribing practitioner or a pain specialist.

(2) A dentist shall not discontinue MAT medications when treating acute nonoperative pain or acute perioperative pain without documentation of the reason for doing so.

(3) A dentist shall not deny necessary operative intervention for use of these medications by a patient.

#### NEW SECTION

**WAC 246-817-977 Coprescribing of naloxone.** The dentist shall confirm or provide a current prescription for naloxone or refer the patient to a pharmacist for further counseling and evaluation when opioids are prescribed to a high-risk patient.

**Opioid Prescribing—Prescribing Monitoring Program**NEW SECTION**WAC 246-817-980 Prescription monitoring program—Required registration, queries, and documentation.**

(1) The dentist shall register to access the PMP or demonstrate proof of having registered to access the PMP if they prescribe opioids in Washington state.

(2) The dentist is permitted to delegate performance of a required PMP query to an authorized designee.

(3) The dentist shall ensure a PMP query is performed prior to every prescription of an opioid.

(4) The dentist shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.

(5) For the purposes of this section the requirement to consult the PMP does not apply when the PMP or the EMR cannot be accessed by the dentist or their designee due to a temporary technological or electrical failure.

(6) Pertinent concerns discovered in the PMP must be documented in the patient record.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-817-910 Definitions.

WAC 246-817-925 Informed consent.

WAC 246-817-940 Long-acting opioids, including methadone.

WAC 246-817-945 Episodic care.

**WSR 18-15-057****PROPOSED RULES****DEPARTMENT OF HEALTH**

[Filed July 16, 2018, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-06-044.

Title of Rule and Other Identifying Information: WAC 246-976-580 and 246-976-700, trauma designation process and service standards, the department of health (department) is proposing revising WAC 246-976-580 and 246-976-700 in order to align with current nationally recognized minimum standards of care.

Hearing Location(s): On August 29, 2018, at 10:00 a.m., at the Washington State Department of Health, Town Center 2, Conference Room 158, 111 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: September 14, 2018.

Submit Written Comments to: Anthony Bledsoe, P.O. Box 47853, Olympia, WA 98504-4853, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2830, by August 29, 2018.

Assistance for Persons with Disabilities: Contact Nicole Fernandez, phone 360-236-2802, fax 360-236-2830, TTY 360-833-6388 or 711, email [nicole.fernandus@doh.wa.gov](mailto:nicole.fernandus@doh.wa.gov), by August 22, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Nationally, the American College of Surgeons Committee on Trauma (ACS-COT) is widely considered the leading authority on trauma care and trauma care standards. The ACS-COT publishes their designation criteria in a book titled, Resources for optimal care for the injured patient. The newest version (referred to as the Orange Book), outlines the most current national minimum standards in the function and evaluation of trauma systems. In an effort to maintain current minimum standards and ensure the optimal care of the injured patient in Washington, it is important that the department look closely at the Orange Book to scrutinize and adopt these standards, when applicable.

Reasons Supporting Proposal: The current rules, WAC 246-976-700, have not been updated since 2009. Since then, the ACS-COT has made substantial changes to the criteria used in the verification of ACS-COT designated trauma centers. Through a stakeholder gap analysis, the department has determined that the existing rules need to be updated to more closely align with the Orange Book criteria. The updates will establish standards that will be used to evaluate trauma services to the most current and nationally recognized standards available.

The benefit of this proposal is it provides designated trauma centers with explicit, updated requirements that reflect current, nationally recognized minimum standards of care that will ensure trauma centers are providing optimal care to injured Washingtonians. The benefits to the public to ensure higher standards of care outweigh the potential costs associated with the proposed amendments.

Statutory Authority for Adoption: RCW 70.168.060.

Statute Being Implemented: RCW 70.168.070.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Anthony Bledsoe, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2871.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Anthony Bledsoe, P.O. Box 47853, Olympia, WA 98504-7853, phone 360-236-2871, fax 360-236-2830, TTY 360-833-6388 or 711, email [anthony.bledsoe@doh.wa.gov](mailto:anthony.bledsoe@doh.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. It was determined that a small business economic impact statement was not required. The North American Industry Classification System (NAICS) code for general medical and surgical hospitals was used for threshold analysis. In total, there are one hundred facilities with 1,603,748 paid employees. The total annual payroll is 6,566,100 (in 1,000s). Threshold Calcula-

tion:  $(6,566,100 * 1000 / 100) * (0.01) = \$656,610$ . The estimated costs of the proposed rule was determined to be between \$0-\$111,000, with an average expected fiscal impact of \$38,774, which falls below the NAICS threshold of \$656,610.

July 11, 2018  
John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 09-23-085, filed 11/16/09, effective 12/17/09)

**WAC 246-976-580 Trauma designation process.** The department designates health care facilities to provide adult and pediatric acute care trauma services ("trauma services") and adult and pediatric trauma rehabilitation services ("trauma rehabilitation services") as part of the statewide emergency medical services and trauma care ((~~EMS/TC~~) EMS&TC) system. This section describes the designation process.

(1) The department must:

(a) Provide written notification to all licensed hospitals and to other health care facilities that a new designation period is beginning. The written notification and the ((~~EMS/TC~~) EMS&TC) regional plans are posted on the department's web site;

(b) Provide a trauma designation application schedule outlining the steps and timeline requirements for a facility to apply for trauma service designation. The schedule must provide each facility at least ninety days to complete an application for trauma designation. The application schedule is posted on the department's web site;

(c) Provide an application for each level, type and combination of designation. Designation applications are released region by region, according to the established schedule;

(d) Conduct a site review for any hospital applying for level I, II, or III adult ((~~and/or~~) and) pediatric trauma service designation to determine compliance with required standards;

(e) Initiate a three-year contract with successful applicants to authorize participation in the trauma system.

(2) To apply for trauma service designation the health care facility must do the following according to the application schedule:

(a) Request an application;

(b) Submit a letter of intent to apply for trauma service designation indicating what level they are applying for;

(c) Submit a completed application(s);

(d) For health care facilities applying for level I, II, III adult ((~~and/or~~) and) pediatric trauma service designation, the facility must complete a site review arranged and conducted by the department according to the following process:

(i) The department will contract with trauma surgeons and trauma nurses to conduct the site review. The review team members must:

(A) Work outside the state of Washington, for level I and II site reviews;

(B) Work outside the applicant's EMS&TC region, for level III site reviews;

(C) Maintain the confidentiality of all documents examined, in accordance with RCW 70.41.200 and 70.168.070. This includes, but is not limited to, all trauma patient data, staff discussions, patient, provider, and facility care outcomes, and any reports resulting from the site review;

(D) Present their preliminary findings to the health care facility at the end of the site review visit;

(ii) The department will provide the applicant the names of review team members prior to the site review. Any objections must be sent to the department within ten days of receiving the department's notification of review team members;

(iii) A site review fee, as established in WAC 246-976-990, is charged and must be paid by the health care facility to the department prior to the site review. A standard fee schedule is posted on the department's web site. For facilities applying for more than one type of designation or for joint designation, fee rates can be obtained by contacting the department;

(iv) The applicant must provide the department and the site review team full access to the facility, facility staff, and all records and documents concerning trauma care including trauma patient data, education, training and credentialing documentation, standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement materials, receiving facility patient feedback, and other relevant documents;

(e) For health care facilities applying for level IV or V trauma service designation, level I((~~-II, or III~~) or II) trauma rehabilitation service designation or level I pediatric trauma rehabilitation service designation, the department may, at its discretion, conduct a site review as part of the application process to determine compliance with required standards. If a site review is conducted, the process will be the same as identified in (d) of this subsection, except a site review fee will not be charged.

(3) The department will designate the health care facilities it considers most qualified to provide trauma care services including when there is competition for trauma service designation within a region. There is competition for designation within a region when the number of applications for a level and type of designation is more than the maximum number of trauma services identified in the approved ((~~EMS/TC~~) EMS&TC) regional plan. The department will evaluate, at ((~~least~~) a minimum), the following in making its decisions:

(a) The quality of the health care facility's performance((~~s~~)) based on:

(i) The submitted application, attachments, and any other information the department requests from the facility to verify compliance, or the ability to comply with trauma standards;

(ii) Recommendations from the site review team;

(iii) Trauma patient outcomes during the previous designation period, if applicable;

(iv) Compliance with the contract during the previous designation period, if applicable;

(b) The health care facility's conformity with the ((~~EMS/TC~~) EMS&TC) regional and state plans, based on:

(i) The impact of the facility's designation on the effectiveness of the trauma system;

(ii) Patient volumes for the area;

(iii) The number, level, and distribution of trauma services identified in the state and approved regional plans;

(iv) The facility's ability to comply with state and regional ((EMS/TC)) EMS&TC plan goals.

(4) After trauma service designation decisions are made in a region, the department will:

(a) Notify each applicant in writing of the department's designation decision;

(b) Send each applicant a written report summarizing the department's findings, recommendations and additional requirements to maintain designation. If a site review was conducted as part of the application process, the review team findings and recommendations are also included in the written report. Reports are sent:

(i) Within sixty days of announcing designation decisions for level IV and V trauma services and trauma rehabilitation services;

(ii) Within one hundred twenty days of the site review for level I, II and III adult and pediatric trauma services and any other facility that received a site review as part of the application process;

(c) Notify the ((EMS/TC)) EMS&TC regional council of designation decisions within the region and all subsequent changes in designation status;

(d) Initiate a trauma designation contract with successful applicants. The contract will include:

(i) Authority from the department to participate in the state trauma system, receive trauma patients from EMS agencies, and provide trauma care services for a three-year period;

(ii) The contractual and financial requirements and responsibilities of the department and the trauma service;

(iii) A provision to allow the department to monitor compliance with trauma service standards;

(iv) A provision to allow the department to have full access to trauma patient data((;)), the facility, equipment, staff and their credentials, education, ((and)) training documentation, and all trauma care documents such as: Standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement documents, receiving facility patient feedback, and other relevant documents;

(v) The requirement to maintain confidentiality of information relating to individual patient's, provider's and facility's care outcomes under RCW 70.41.200 and 70.168.070;

(e) Notify the designated trauma service and other interested parties in the region of the next trauma designation application process at least one hundred fifty days before the contract expires.

(5) Designated trauma services may ask the department to conduct a site review for technical assistance at any time during the designation period. The department has the right to require reimbursement for the costs of conducting the site review.

(6) The department will not approve an application for trauma service designation if the applicant:

(a) Is not the most qualified, when there is competition for designation; or

(b) Does not meet the trauma care standards for the level applied for; or

(c) Does not meet the requirements of the approved ((EMS/TC)) EMS&TC regional plan; or

(d) Has made a false statement about a material fact in its designation application; or

(e) Refuses to permit the department to examine any part of the facility that relates to the delivery of trauma care services, including, but not limited to, records, documentation, or files.

(7) If the department denies an application, the department will send the facility a written notice to explain the reasons for denial and to explain the facility's right to appeal the department's decision in accordance with chapters 34.05 RCW and 246-10 WAC.

(8) To ensure adequate trauma care in the state, the department may:

(a) Provisionally designate health care facilities that are not able to meet all the requirements of this chapter. The provisional designation will not be for more than two years. A department-approved plan of correction must be prepared by the health care facility specifying steps necessary to bring the facility into compliance and an expected date of compliance. The department may conduct a site review to verify compliance with required standards. If a site review is conducted, the department has the right to require reimbursement for the cost of conducting the site review;

(b) Consider additional applications at any time, regardless of the established schedule, if necessary to attain the numbers and levels of trauma services identified in the approved ((EMS/TC)) EMS&TC regional and state plan;

(c) Consider applications from hospitals located and licensed in adjacent states. The department will evaluate an out-of-state application in the same manner as all other applications. However, if the out-of-state applicant is designated as a trauma service in an adjacent state with an established trauma system whose standards meet or exceed Washington's standards and there is no competition for designation at that level, then the department may use the administrative findings, conclusions, and decisions of the adjacent state's designation evaluation to make the decision to designate. Additional information may be requested by the department to make a final decision.

(9) The department may suspend or revoke a trauma designation if the facility or any owner, officer, director, or managing employee:

(a) Is substantially out of compliance with trauma care standards WAC 246-976-700 through 246-976-800 or chapter 70.168 RCW and has refused or is unwilling to comply after a reasonable period of time;

(b) Makes a false statement of a material fact in the designation application, or in any document required or requested by the department, or in a matter under investigation;

(c) Prevents, interferes with, or attempts to impede in any way, the work of a department representative in the lawful enforcement of chapter 246-976 WAC, 34.05 RCW, 246-10 WAC, or 70.168 RCW;

(d) Uses false, fraudulent, or misleading advertising, or makes any public claims regarding the facility's ability to

care for nontrauma patients based on its trauma designation status;

(e) Misrepresents or is fraudulent in any aspect of conducting business.

(10) The Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-10 WAC govern the suspension and revocation process. The department will use the following process to suspend or revoke a facility's trauma designation:

(a) The department will send the facility a written notice to explain the reasons it intends to suspend or revoke the designation and to explain the facility's right to a hearing to contest the department's intended action under WAC 246-10-201 through 246-10-205;

(b) The notice will be sent at least twenty-eight days before the department takes action, unless it is a summary suspension, as provided for in the Administrative Procedure Act, chapter 34.05 RCW and WAC 246-10-301 through 246-10-306;

(c) If a facility requests a hearing within twenty-eight days of the date the notice was mailed, a hearing before a health law judge will be scheduled. If the department does not receive the facility's request for a hearing within twenty-eight days of the date the notice was mailed, the facility will be considered in default under WAC 246-10-204;

(d) For nonsummary suspensions, in addition to its request for a hearing, the facility may submit a plan within twenty-eight days of receiving the notice of the department's intent to suspend, describing how it will correct deficiencies:

(i) The department will approve or disapprove the plan within thirty days of receipt;

(ii) If the department approves the plan, the facility must begin to implement it within thirty days;

(iii) The facility must notify the department when the problems are corrected;

(iv) If, prior to sixty days before the scheduled hearing, the facility is able to successfully demonstrate to the department that it is meeting the requirements of chapters 246-976 WAC and 70.168 RCW, which may require a site review at the facility's expense, the department will withdraw its notice of intent to suspend designation;

(e) The department will notify the regional EMS&TC council of the actions it has taken.

(11) A facility may seek judicial review of the department's final decision under the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

(12) A newly designated or upgraded trauma service must meet education requirements for all applicable personnel according to the following schedule:

(a) At the time of the new designation, twenty-five percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(b) At the end of the first year of designation, fifty percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(c) At the end of the second year of designation, seventy-five percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800;

(d) At the end of the third year of designation, and all subsequent designation periods, ninety percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800.

(13) All currently designated trauma services must have a written education plan with a process for tracking and assuring that new physicians and staff meet all trauma education requirements within the first eighteen months of employment.

AMENDATORY SECTION (Amending WSR 09-23-085, filed 11/16/09, effective 12/17/09)

**WAC 246-976-700 Trauma service standards.**

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(1) A written trauma scope of service outlining the trauma care resources and capabilities available twenty-four hours every day for:	X	X	X	X	X	X	X	X
(a) Adult and pediatric trauma patient care;	X	X	X	X	X			
(b) Pediatric trauma patient care.						X	X	X
(2) A trauma medical director responsible for the organization and direction of the trauma service((;)) who:	X	X	X	X	X	<u>X</u>	<u>X</u>	<u>X</u>
<del>(a)</del> <u>Is currently certified in advanced trauma life support (ATLS);</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<del>((a))</del> <u>(b) Is a board-certified general surgeon;</u>	X	X						
<del>((b))</del> <u>(c) Is a board-certified general surgeon((;)) or ((a)) general surgeon trained in advanced cardiac life support (ACLS) ((trained with current certification in advanced trauma life support (ATLS)));</u>			X					
<del>((c))</del> <u>(d) Is a board-certified general surgeon ((or)), emergency physician, ((or)) a general surgeon ACLS trained with current certification in advanced trauma life support (ATLS) or a physician ACLS trained ((with)) and current certification in ATLS;</u>				X				

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<del>((d))</del> (e) Is a board-certified general surgeon <del>((e))</del> , emergency physician, <del>((e))</del> a physician ACLS trained with current certification in ATLS, or a physician assistant or advanced registered nurse practitioner ACLS trained <del>((and))</del> who <del>((audits))</del> <u>is currently certified in ATLS (every four years)</u> ;					X			
<del>((e))</del> (f) Is a board-certified pediatric surgeon <del>((:))</del> or a board-certified general surgeon <del>((:))</del> with special competence in the care of pediatric patients;						X	X	
<del>((f))</del> (g) Is a board-certified general surgeon <del>((:))</del> with special competence in the care of pediatric patients <del>((:))</del> or a general surgeon ACLS trained <del>((, with current certification in ATLS))</del> and with special competence in the care of pediatric patients;								X
(h) <u>Must complete thirty-six hours in three years of verifiable, external, trauma-related continuing medical education (CME)</u> ;	X	X				X	X	
<del>((g))</del> (i) Meets the pediatric education requirement (PER) as defined in subsection (27) of this section <del>((:))</del> ;	X	X	X	X	X	X	X	X
(j) <u>Must have responsibility and authority for determining each general surgeon's ability to participate on the trauma call panel based on an annual review, conducted in conjunction with medical staffing and with authority through the trauma quality improvement program and hospital policy</u> ;	X	X	X			X	X	X
<u>(k) Is a member of and actively participates in a regional or national trauma organizations.</u>	X	X				X	X	
(3) A trauma program manager or trauma service coordinator responsible for the overall operation of trauma service <del>((:))</del> who:	X	X	X	X	X	X	X	X
(a) Is a registered nurse;	X	X	X	X	X	X	X	X
(b) Has taken ACLS;	X	X	X	X	X	X	X	X
(c) Has successfully completed a trauma nursing core course (TNCC) or a department approved equivalent course, and <del>((thereafter completes twelve hours of trauma-related education every three-year designation period))</del> <u>successfully completes thirty-six hours of trauma-related education every three years in either external continuing education or in an internal education process conducted by the trauma program</u> . The trauma education must include, but is not limited to, the following topics:	X	X	X	X	X	X	X	X
(i) Mechanism of injury;	X	X	X	X	X	X	X	X
(ii) Shock and fluid resuscitation;	X	X	X	X	X	X	X	X
(iii) Initial assessment;	X	X	X	X	X	X	X	X
(iv) Stabilization and transport <del>((:))</del> ;	X	X	X	X	X	X	X	X
(d) Has taken pediatric advanced life support (PALS) or emergency nursing pediatric course (ENPC), and thereafter meets the PER contact hours as defined in subsection (27) of this section;	X	X	X	X	X			
(e) Has current PALS or ENPC certification;						X	X	X
(f) Has attended a trauma program manager orientation course provided by the department or a department approved equivalent, within the first eighteen months in the role <del>((:))</del> ;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>(g) Must be employed in a full-time position dedicated to the trauma service if annual trauma registry volume is greater than five hundred trauma patients admissions and less than seven hundred fifty trauma patients admissions annually;</u>	X	X	X	X	X	X	X	X
<u>(h) Is responsible for the overall supervision of the trauma registry and the quality of data submitted to the registry.</u>	X	X	X	X	X	X	X	X
(4) A multidisciplinary trauma quality improvement program that must:	X	X	X	X	X	X	X	X
(a) Be <del>((lead))</del> <u>led</u> by the multidisciplinary trauma service committee <del>((with the trauma medical director as chair of the committee;))</del> ;	X	X	X	X	X	X	X	X
<u>(i) The trauma medical director serves as chair of the multidisciplinary trauma service committee;</u>	X	X	X	X	X	X	X	X
<u>(ii) The trauma medical director must attend a minimum of fifty percent of the peer review committee meetings;</u>	X	X	X	X	X	X	X	X
<u>(iii) The trauma medical director and trauma program manager must have the authority and be empowered by the hospital governing body to lead the program to ensure compliance with trauma service standards.</u>	X	X	X	X	X	X	X	X
(b) Demonstrate a continuous quality improvement process supported by a reliable method of data collection that consistently obtains the information necessary to identify opportunities for improvement;	X	X	X	X	X	X	X	X
(c) Have membership representation and participation that reflects the facility's trauma scope of service;	X	X	X	X	X	X	X	X
(d) Have an organizational structure that facilitates the process of quality improvement <del>((:))</del> with a reporting relationship to the hospital's administrative team and medical executive committee <u>that ensures adequate evaluation of all aspects of trauma care;</u>	X	X	X	X	X	X	X	X
(e) Have authority to establish trauma care standards and implement patient care policies, procedures, guidelines, and protocols throughout the hospital <u>and the trauma service must use clinical practice guidelines, protocols, and algorithms derived from evidence-based validated resources;</u>	X	X	X	X	X	X	X	X
<u>(f) Have a current trauma quality improvement plan that outlines the trauma service's quality improvement process;</u>	X	X	X	X	X	X	X	X
<del>((#))</del> <u>(g) Have a process to monitor and track compliance with the trauma care standards using audit filters and benchmarks;</u>	X	X	X	X	X	X	X	X
<del>((#))</del> <u>(h) Have a process to evaluate the care provided to trauma patients and to resolve identified prehospital, physician, nursing, or system issues;</u>	X	X	X	X	X	X	X	X
<u>(i) Have a process in which outcome measures are documented within the trauma quality improvement program's written plan which must be reviewed and updated at least annually. Outcome measures will include, at a minimum:</u>								
<u>(i) Mortality (with and without opportunities for improvement);</u>								
<u>(ii) Trauma surgeon response time (level I-III);</u>								
<u>(iii) Undertriage rate;</u>	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>(iv) Emergency department length of stay greater than three hours for patients transferred out;</u>								
<u>(v) Missed injuries;</u>								
<u>(vi) Complications.</u>								
<del>((h))</del> <u>(j) Have a process for correcting problems or deficiencies;</u>	X	X	X	X	X	X	X	X
<del>((+))</del> <u>(k) Have a process <del>((to analyze, evaluate, and measure the effect of corrective actions to determine whether issue resolution was achieved))</del> for problem resolution, outcome improvements, and assurance of safety. This process must be readily identifiable through methods of monitoring, reevaluation, benchmarking, and documentation;</u>	X	X	X	X	X	X	X	X
<del>((+))</del> <u>(l) Have a process to continuously evaluate compliance with full and modified (if used) trauma team activation criteria<del>((s))</del>as follows:</u>	X	X	X	X	X	X	X	X
<u>(i) The attending surgeon's arrival within fifteen minutes for level II and thirty minutes for level III services for patients with appropriate activation criteria must be monitored by the hospital's trauma quality improvement program;</u>	X	X	X			X	X	X
<u>(ii) All trauma team activations must be categorized by the level of response activation and quantified by number and percentage;</u>	X	X	X	X	X	X	X	X
<u>(iii) Trauma surgeon response time to full activations and for back-up call response must be determined and monitored. Variances should be documented and reviewed for reason for delay, opportunities for improvement, and corrective actions; and</u>	X	X	X			X	X	X
<u>(iv) Rates of undertriage must be monitored and reviewed quarterly.</u>	X	X	X	X	X	X	X	X
<del>((*)</del> <u>(m) Have assurance from other hospital quality improvement committees, including peer review if conducted separately from the multidisciplinary trauma service committee, that resolution was achieved on trauma-related issues<del>((s))</del>. The following requirements must also be satisfied:</u>	X	X	X	X	X	X	X	X
<u>(i) Peer review must occur at regular intervals to ensure that the volume of cases is reviewed in a timely fashion;</u>	X	X	X	X	X	X	X	X
<u>(ii) A process must be in place to ensure that the trauma program manager receives feedback from peer review for trauma-related issues;</u>	X	X	X	X	X	X	X	X
<u>(iii) All trauma-related mortalities must be systematically reviewed and those mortalities with opportunities for improvement identified for peer review;</u>	X	X	X	X	X	X	X	X
<u>(iv) This effort must involve the participation and leadership of the trauma medical director and any departments, such as: General surgery, emergency medicine, orthopedics, neurosurgery, anesthesia, critical care, lab and radiology; and</u>	X	X	X	X	X	X	X	X
<u>(v) The multidisciplinary trauma peer review committee must systematically review significant complications and process variances associated with unanticipated outcomes and determine opportunities for improvement.</u>	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<del>((#))</del> (n) Have a process to ensure the confidentiality of patient and provider information, in accordance with RCW 70.41.200 and 70.168.090;	X	X	X	X	X	X	X	X
<del>((#))</del> (o) Have a process to communicate with <del>((#))</del> and provide feedback to <del>((#))</del> referring trauma services and trauma care providers;	X	X	X	X	X	X	X	X
<del>((n))</del> Have a current trauma quality improvement plan that outlines the trauma service's quality improvement process, as defined in this subsection;	X	X	X	X	X	X	X	X
(o) For level III, IV, V trauma services or level III pediatric trauma services with a total annual trauma volume of less than one hundred patients, the trauma service may)) (p) Be able to integrate trauma quality improvement into the hospital's quality improvement program for level III, IV, V trauma services or level III pediatric trauma services with a total annual trauma volume of less than one hundred patients; however, trauma care must be formally addressed in accordance with the quality improvement requirements in this subsection. In that case, the trauma medical director is not required to serve as chair <del>((#))</del> ;			X	X	X			X
(q) Have a pediatric-specific trauma quality improvement program for a trauma service admitting at least one hundred pediatric trauma patients annually. For a trauma service admitting less than one hundred pediatric trauma patients annually, or that is transferring trauma patients, the trauma service must review each case for timeliness and appropriateness of care;	X	X	X	X	X	X	X	X
(r) Be a multidisciplinary trauma quality improvement program that transcends normal department hierarchies and includes:	X	X	X	X	X	X	X	X
<u>Identified medical staff representatives or their designees from departments of general surgery, emergency medicine, orthopedics, neurosurgery, anesthesiology, critical care, and radiology who must participate actively in the multidisciplinary trauma quality improvement program with at least fifty percent attendance at peer review committee meetings.</u>	X	X	X			X	X	X
(s) Use risk-adjusted data for benchmarking and performance improvement:	X	X	X	X	X	X	X	X
(i) The risk-adjusted benchmarking system to measure performance must be the American College of Surgeons Trauma Quality Improvement Program (TQIP);	X	X				X	X	
(ii) Data must be collected in compliance with the National Trauma Data Standard (NTDS) and submitted to the National Trauma Data Bank® (NTDB®) every year in a timely fashion so that data can be aggregated and analyzed at the national level;	X	X				X	X	
(iii) Use risk-adjusted data provided by the state for the purposes of benchmarking and performance improvement.			X	X	X			X
(5) Written trauma service standards of care to ensure appropriate care throughout the facility for:	X	X	X	X	X	X	X	X
(a) Adult and pediatric trauma patients;	X	X	X	X	X			
(b) Pediatric trauma patients.						X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(6) Participation in the regional quality improvement program as defined in WAC 246-976-910.	X	X	X	X	X	X	X	X
(7) Participation in the Washington state trauma registry as defined in WAC 246-976-430.	X	X	X	X	X	X	X	X
(8) Written transfer-in guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries the facility can safely accept, admit, and provide with definitive care.	X	X	X	X	X	X	X	X
(9) Written transfer-out guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries that exceed the resources and capabilities of the trauma service.	X	X	X	X	X	X	X	X
<u>(a) Collaborative treatment and transfer guidelines reflecting facilities' capabilities must be developed and regularly reviewed, with input from higher-level trauma services that receive these patients;</u>			X	X	X			
<u>(b) The decision to transfer an injured patient to a specialty care facility in an acute situation must be based solely on the needs of the patient and not on the requirements of the patient's specific provider network, health maintenance organization, a preferred provider organization, or the patient's ability to pay;</u>	X	X	X	X	X	X	X	X
<u>(c) Acute transfers out must be subjected to individual case review to determine the rationale for transfer, appropriateness of care, and opportunities for improvement. Follow-up from the center to which the patient was transferred should be obtained as part of the case review; and</u>	X	X	X	X	X	X	X	X
<u>(d) Trauma patients must not be admitted or transferred by a primary care physician without the knowledge and consent of the trauma service. The quality improvement program should monitor adherence to this guideline.</u>	X	X	X			X	X	X
(10) Written interfacility transfer agreements with all trauma services that receive the facility's trauma patients. Agreements must <del>(have)</del> <u>include</u> a process to identify medical control during the interfacility transfer, and address the responsibilities of the trauma service, the receiving hospital, and the verified prehospital transport agency. All trauma patients must be transported by a trauma verified prehospital transport agency.	X	X	X	X	X	X	X	X
(11) An air medical transport plan addressing the receipt or transfer of trauma patients with a heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer trauma patients by fixed-wing or rotary-wing aircraft.	X	X	X	X	X	X	X	X
(12) A written diversion protocol for the emergency department to divert trauma patients from the field to another trauma service when resources are temporarily unavailable. The process must include:	X	X	X	X	X	X	X	X
(a) Trauma service and patient criteria used to decide when diversion is necessary;	X	X	X	X	X	X	X	X
(b) How the divert status will be communicated to the nearby trauma services and prehospital agencies;	X	X	X	X	X	X	X	X
(c) How the diversion will be coordinated with the appropriate pre-hospital agency;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(d) A method of documenting/tracking when the trauma service is on trauma divert, including the date, time, duration, reason, and decision maker(-):	X	X	X	X	X	X	X	X
(e) Assurance that the decision to divert patients from the emergency department is communicated to the trauma surgeon on-call:	X	X	X			X	X	X
(f) Involvement of the trauma surgeon in the decision regarding diversion each time the center goes on bypass:	X	X				X	X	
(g) Routine monitoring, documenting and reporting of trauma center diversion hours, including the reason for initiating the diversion policy. Trauma center diversion must not exceed five percent of the time.	X	X	X			X	X	X
(13) A trauma team activation protocol consistent with the facility's trauma scope of service. The protocol must:	X	X	X	X	X	X	X	X
(a) Define the physiologic, anatomic, and mechanism of injury criteria used to activate the full and modified (if used) trauma teams;	X	X	X	X	X	X	X	X
(b) Identify members of the full and modified (if used) trauma teams consistent with the provider requirements of this chapter;	X	X	X	X	X	X	X	X
(c) Define the process to activate the trauma team. The process must:	X	X	X	X	X	X	X	X
(i) Consistently apply the trauma service's established criteria;	X	X	X	X	X	X	X	X
(ii) Use information obtained from prehospital providers or an emergency department assessment for patients not delivered by a prehospital agency;	X	X	X	X	X	X	X	X
(iii) Be applied regardless of time post injury or previous care, whether delivered by prehospital or other means and whether transported from the scene or transferred from another facility;	X	X	X	X	X	X	X	X
(iv) Include a method to upgrade a modified activation to a full activation when newly acquired information warrants additional capabilities and resources;	X	X	X	X	X	X	X	X
(v) <del>((For full trauma team activations,))</del> Include the mandatory presence of a general surgeon <u>for full trauma team activations</u> . The general surgeon assumes leadership and overall care <del>((-))</del> using professional judgment regarding the need for surgery <del>((and/or))</del> <u>or</u> transfer;	X	X	X			X	X	X
(vi) <del>((For full trauma team activations,))</del> Include the mandatory presence of a general surgeon if general surgery services are included in the facility's trauma scope of service. The general surgeon assumes leadership and overall care <del>((-))</del> using professional judgment regarding the need for surgery <del>((and/or))</del> <u>or</u> transfer;					X			
(vii) For trauma team activations in pediatric designated trauma services (within five minutes for level I, twenty minutes for level II or thirty minutes for level III), one of the following pediatric physician specialists must respond:						X	X	X
<del>((•))</del> <u>(A)</u> A pediatric surgeon;								
<del>((•))</del> <u>(B)</u> A pediatric emergency medicine physician;								
<del>((•))</del> <u>(C)</u> A pediatric intensivist;								
<del>((•))</del> <u>(D)</u> A pediatrician;								
<del>((•))</del> <u>(E)</u> A postgraduate year two or higher pediatric resident.								

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>(viii) Require multisystem injured patients to be admitted to or evaluated by an identifiable surgical service staffed by credentialed trauma providers.</u>	X	X	X					
(14) Emergency care services available twenty-four hours every day((;)) with:								
(a) An emergency department (except for level V clinics);	X	X	X	X	X	X	X	X
(b) The ability to resuscitate and stabilize adult and pediatric trauma patients in a designated resuscitation area;	X	X	X	X	X			
(c) The ability to resuscitate and stabilize pediatric trauma patients in a designated resuscitation area;						X	X	X
(d) A medical director, who:	X	X	X			X	X	X
(i) Is board-certified in emergency medicine ((✚)), board-certified in general surgery, or is board-certified in another relevant specialty practicing emergency medicine as their primary practice;	X	X	X					
(ii) Is board-certified in pediatric emergency medicine, ((✚)) board-certified in emergency medicine with special competence in the care of pediatric patients ((✚)), board-certified in general surgery with special competence in the care of pediatric patients, or board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients((;)).						X	X	X
(e) Emergency physicians who:	X	X	X	X	X	X	X	X
(i) Are board-certified in emergency medicine or board-certified in a relevant specialty practicing emergency medicine as their primary practice. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival to provide leadership and care until arrival of the general surgeon;	X	X						
(ii) Are board-certified in pediatric emergency medicine, ((✚)) <u>are</u> board-certified in emergency medicine with special competence in the care of pediatric patients, <u>or are</u> board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident with special competence in the care of pediatric trauma patients and working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival((;)) to provide leadership and care until arrival of the general surgeon;						X	X	
(iii) Are board-certified in emergency medicine or another relevant specialty practicing emergency medicine as their primary practice((;)) <u>or</u> physicians practicing emergency medicine as their primary practice with current certification in ACLS and ATLS;			X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(iv) Are board-certified <u>in</u> pediatric emergency medicine, <del>((or))</del> <u>are</u> board-certified in emergency medicine or surgery, with special competence in the care of pediatric patients, <del>((or))</del> <u>are</u> board-certified in a relevant specialty practicing emergency medicine as their primary practice, with special competence in the care of pediatric patients, <u>or are</u> physicians with current certification in ATLS <del>(s))</del> <u>who are</u> practicing emergency medicine as their primary practice <del>(s))</del> with special competence in the care of pediatric patients;								X
(v) Are board-certified in emergency medicine or another relevant specialty and practicing emergency medicine as their primary practice <del>(s))</del> <u>or</u> physicians with current certification in ACLS and ATLS. A physician assistant ( <u>PA</u> ) or advanced registered nurse practitioner ( <u>ARNP</u> ) current in ACLS and <del>((who audits))</del> ATLS <del>((every four years))</del> may initiate evaluation and treatment upon the patient's arrival in the emergency department until the arrival of the physician;				X				
(vi) Are board-certified or qualified in emergency medicine, surgery, or other relevant specialty and practicing emergency medicine as their primary practice <del>(s))</del> <u>or are</u> physicians with current certification in ACLS and ATLS, <u>or</u> <del>((physician assistants (PAs), or advanced registered nurse practitioners (ARNPs)))</del> <u>are PAs or ARNPs</u> with current certification in ACLS and <del>((who audit))</del> ATLS <del>((every four years))</del> ;					X			
(vii) Are available within five minutes of notification of the patient's arrival in the emergency department;	X	X	X			X	X	X
(viii) Are on-call and available within twenty minutes of notification of the patient's arrival in the emergency department;				X	X			
(ix) Are currently certified in ACLS and ATLS. This requirement applies to all emergency physicians and residents who care for trauma patients in the emergency department except this requirement does not apply to physicians who are board-certified in emergency medicine <u>or</u> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;	X	X	X	X	X			
(x) Are currently certified in ATLS. This requirement applies to all emergency physicians and residents who care for pediatric patients in the emergency department except this requirement does not apply to physicians who are board-certified in pediatric emergency medicine <del>((or))</del> , board-certified in emergency medicine, <u>or</u> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;						X	X	X
(xi) Meet the PER as defined in subsection (27) of this section;	X	X	X	X	X	X	X	X
<u>(xii) If the liaison or designee from emergency medicine, must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>(xiii) If they are emergency physicians who participate on the trauma team, they must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(xiv) Nonboard-certified emergency physicians and advanced practitioners who participate in the initial care or evaluation of trauma activated patients in the emergency department must have current ATLS certification;</u>	X	X	X	X	X	X	X	X
<u>(xv) Must be able to provide initial resuscitative care to known trauma activated patients;</u>	X	X	X			X	X	X
<u>(xvi) Have completed appropriate orientation, credentialing, initial ED management/evaluation processes, and skill maintenance for advanced practitioners who participate in the initial assessment of trauma patients.</u>	X	X	X	X	X	X	X	X
(f) Emergency care registered nurses (RNs)(;) who:	X	X	X	X	X	X	X	X
(i) Are in the emergency department and available within five minutes of notification of patient's arrival;	X	X	X			X	X	X
(ii) Are in-house(;) and available within five minutes of notification of the patient's arrival <del>((except for level V clinics))</del> ;				X	X			
(iii) Have current certification in ACLS;	X	X	X	X	X			
(iv) Have successfully completed <del>((a trauma nurse core course-))</del> TNCC(;) or a department approved equivalent course;	X	X	X	X	X	X	X	X
(v) Have completed twelve hours of trauma related education every designation period. The trauma education must include, but is not limited to, the following topics:								
<del>((•))</del> (A) Mechanism of injury;	X	X	X	X		X	X	X
<del>((•))</del> (B) Shock and fluid resuscitation;								
<del>((•))</del> (C) Initial assessment;								
<del>((•))</del> (D) Stabilization and transport(;);								
(vi) Meet the PER as defined in subsection (27) of this section.	X	X	X	X	X	X	X	X
(g) Standard emergency equipment for the resuscitation and life support of adult and pediatric trauma patients, including:	X	X	X	X	X	X	X	X
(i) Immobilization devices:	X	X	X	X	X	X	X	X
<del>((■))</del> (A) Back board;	X	X	X	X	X	X	X	X
<del>((■))</del> (B) Cervical injury;	X	X	X	X	X	X	X	X
<del>((■))</del> (C) Long-bone(;);	X	X	X	X	X	X	X	X
(ii)(A) Infusion control device:	X	X	X	X	X	X	X	X
<del>((■))</del> (B) Rapid infusion capability(;);	X	X	X			X	X	X
(iii) Intraosseous <del>((needles))</del> devices;	X	X	X	X	X	X	X	X
(iv) Sterile surgical sets:	X	X	X	X	X	X	X	X
<del>((■-Chest tubes))</del> (A) Thoracostomy with closed drainage devices;	X	X	X	X	X	X	X	X
<del>((■))</del> (B) Emergency transcutaneous airway;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<del>((■) Peritoneal lavage)) (C) Bedside ultrasound;</del>	X	X	X	X		X	X	X
<del>((■) (D) Thoracotomy;</del>	X	X	X			X	X	X
(v) Thermal control equipment:	X	X	X	X	X	X	X	X
<del>((■) (A) Blood and fluid warming;</del>	X	X	X	X	X	X	X	X
<del>((■) Devices for assuring warmth during transport;</del>	✗	✗	✗	✗	✗	✗	✗	✗
<del>■ Expanded seal)) (B) Thermometer capable of detecting hypothermia;</del>	X	X	X	X	X	X	X	X
<del>((■) (C) Patient warming and cooling((:));</del>	X	X	X	X	X	X	X	X
(vi) Other equipment:	X	X	X	X	X	X	X	X
<del>((■) (A) Medication chart, tape, or other system to assure ready access to information on proper doses-per-kilogram for resuscitation drugs and equipment sizes for pediatric patients;</del>	X	X	X	X	X	X	X	X
<del>((■) (B) Pediatric emergency airway equipment readily available or transported in-house with the pediatric patient for evaluation, treatment or diagnostics, including((: <ul style="list-style-type: none"> <li>• Bag-valve masks;</li> <li>• Face masks;</li> <li>• Oral/nasal airways)) bag-valve masks, face masks, and oral/nasal airways.</li></ul></del>	X	X	X	X	X	X	X	X
(15) Respiratory therapy services, with a respiratory care practitioner available within five minutes of notification of patient's arrival.	X	X	X			X	X	X
(16) Diagnostic imaging services (except for level V clinics)((:)) with:	X	X	X	X	X	X	X	X
(a) A radiologist in person or by teleradiology, who is:	X	X	X			X	X	X
(i) On-call and available within twenty minutes of the trauma team leader's request;	X	X				X	X	
(ii) On-call and available within thirty minutes of the trauma team leader's request;			X					X
<u>(iii) Board certified or eligible for certification by an appropriate radiology board according to current requirements for licensed radiologists who take trauma call.</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(b) Personnel able to perform routine radiological capabilities((:)) who are:	X	X	X	X	X	X	X	X
(i) Available within five minutes of notification of the patient's arrival;	X	X				X	X	
(ii) On-call and available within twenty minutes of notification of the patient's arrival((:));			X	X	X			X
(c) A technologist able to perform computerized tomography((:)) who is:	X	X	X			X	X	X
(i) Available within five minutes of the trauma team leader's request;	X					X		
(ii) On-call and available within twenty minutes of the trauma team leader's request((:));		X	X				X	X
<u>(d) A radiologic peer review process that reviews routine interpretations of images for accuracy. Determinations related to trauma patients must be communicated to the trauma program quality com</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>mittee;</u>								
<del>((d))</del> (e) Angiography with a technologist on-call and available within thirty minutes of the trauma team leader's request;	X	X				X	X	
<del>((e))</del> (f) Magnetic resonance imaging <del>((r))</del> with a technologist on-call and available within sixty minutes of the trauma team leader's request;	X	X				X	X	
<del>((f))</del> (g) Sonography with a technologist on-call and available within thirty minutes of the trauma team leader's request;	X	X				X	X	
<del>((g))</del> (h) Interventional radiology services on-call and available within thirty minutes of the trauma team leader's request <del>((r))</del> ;	X	X				X	X	
(i) Radiologists who are involved, at a minimum, in protocol development and trend analysis that relate to diagnostic imaging;	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
(j) Facilities that have a mechanism in place to view radiographic imaging from referring hospitals that are within their catchment area.	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(17) Clinical laboratory services (except for level V clinics), with:	X	X	X	X	X	X	X	X
(a) Lab services available within five minutes of notification of the patient's arrival;	X	X	X			X	X	X
(b) Lab services on-call and available within twenty minutes of notification of the patient's arrival;				X	X			
(c) Blood gases and pH determination;	X	X	X	X		X	X	X
(d) Coagulation studies;	X	X	X	X	X	X	X	X
(e) Drug or toxicology measurements;	X	X	X	X	X	X	X	X
(f) Microbiology;	X	X	X	X	X	X	X	X
(g) Serum alcohol determination;	X	X	X	X	X	X	X	X
(h) Serum and urine osmolality;	X	X				X	X	
(i) Standard analysis of blood, urine, and other body fluids.	X	X	X	X	X	X	X	X
(18) Blood and blood-component services (except for level V clinics) <del>((r))</del> with:	X	X	X	X	X	X	X	X
(a) Ability to obtain blood typing and crossmatching;	X	X	X	X	X	X	X	X
(b) Autotransfusion;	X	X	X			X	X	X
(c) Blood and blood components available from in-house or through community services, to meet patient needs;	X	X	X	X	X	X	X	X
(d) Blood storage capability;	X	X	X	X		X	X	X
(e) Noncrossmatched blood available on patient arrival in the emergency department;	X	X	X	X	X	X	X	X
(f) Policies and procedures for massive transfusion.	X	X	X	X		X	X	X
(19) General surgery services <del>((r))</del> with:	X	X	X			X	X	X
(a) Surgeons who <u>meet the following requirements</u> :	X	X	X			X	X	X
(i) Are board-certified in general surgery and available within <del>((five))</del> <u>fifteen</u> minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon. In this	X							

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
case the general surgeon must be available within ( <del>twenty</del> ) <u>fifteen</u> minutes of notification of patient's arrival;								
(ii) Are board-certified in pediatric surgery or board-certified in general surgery with special competence in the care of pediatric patients and are available within ( <del>five</del> ) <u>fifteen</u> minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a post graduate year four or higher pediatric surgery resident or a general surgery resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon. In this case the pediatric or general surgeon must be available within ( <del>twenty</del> ) <u>fifteen</u> minutes of notification of patient's arrival;						X		
(iii) Are board-certified in general surgery. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is ( <del>twenty</del> ) <u>fifteen</u> minutes or more. Otherwise the surgeon must be in the emergency department within ( <del>twenty</del> ) <u>fifteen</u> minutes of notification of patient's arrival. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon;		X						
(iv) Are board-certified in pediatric surgery <b>or</b> board-certified in general surgery with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is ( <del>twenty</del> ) <u>fifteen</u> minutes or more. Otherwise the surgeon must be in the emergency department within ( <del>twenty</del> ) <u>fifteen</u> minutes of notification of patient's arrival. This requirement can be met by a postgraduate year four or higher pediatric surgery resident or a general surgical resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon;							X	
(v) Are board-certified or trained in ACLS and currently certified in ATLS. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the surgeon must be in the emergency department within thirty minutes of notification of patient's arrival;			X					
(vi) Are board-certified or board-qualified( <del>(s)</del> ) with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the surgeon must be in the emergency department within thirty minutes of notification of patient's arrival;								X
(vii) Are trained in ACLS and currently certified in ATLS. This requirement applies to all surgeons and residents caring for trauma patients except this requirement does not apply to surgeons who are board certified in general surgery;	X	X	X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(viii) Are currently certified in ATLS. This requirement applies to all surgeons and residents caring for pediatric trauma patients except this requirement does not apply to surgeons who are board certified in pediatric or general surgery;						X	X	X
(ix) Meet the PER as defined in subsection (27) of this section;	X	X	X			X	X	X
<u>(x) Have privileges in general surgery;</u>	<u>X</u>	<u>X</u>	<u>X</u>					
<u>(xi) Maintain at least eighty percent attendance at activations with a mechanism for documenting this attendance record, as required for full trauma activations. The expectation is for one hundred percent attendance at activations;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xii) The attending surgeon is expected to be present in the operating room for all operations. A mechanism for documenting this presence is required;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xiii) A surgeon from the trauma call panel must participate in the hospital's disaster planning process;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xiv) Each member of the group of general surgeons must attend at least fifty percent of the peer review committee meetings;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
<u>(xv) If at least fifty percent of the general surgeons did not attend the peer review committee meetings, then the trauma service must be able to demonstrate that there is a formal process for communicating information from the committee meetings to the group of general surgeons.</u>			<u>X</u>					<u>X</u>
(b) <u>A published schedule for first call with a written plan for ((general)) surgery coverage((:)) if the ((general)) surgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma service's total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. <u>Diversion or transfer to definitive care should be the last option.</u> The plan must be monitored through the trauma service's trauma quality improvement program((:)). <u>In addition:</u></u>	X	X	X			X	X	X
<u>(i) Surgical commitment is required for a properly functioning trauma center;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(ii) The trauma surgeon on call must be dedicated to a single trauma center while on duty;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
<u>(iii) The liaison from general surgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
<u>(iv) Other general surgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal.</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(c) <del>((For level IV;))</del> <u>General surgery services that meet all level III general surgery service standards if the facility's trauma scope of service includes general surgery services twenty-four hours every day((;)) or transfer trauma patients who need general surgery services to a designated trauma service with general surgery services available.</u>				X				
(20) <u>Neurosurgery services with neurosurgeons((;)) who <del>((are))</del> meet the following requirements:</u>	X	X				X	X	
(a) <u>Are board-certified, and((;)) available within five minutes of the trauma team leader's request;</u>	X					X		
<del>((i)) Available within five minutes of the trauma team leader's request;</del>								
<del>((ii))</del> <u>This requirement can be met by a postgraduate year four or higher neurosurgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the neurosurgeon. In this case the neurosurgeon must be available within thirty minutes of the trauma team leader's request((;)).</u>	<u>X</u>					<u>X</u>		
(b) <u>Are board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request;</u>		X					X	
(c) <del>((For level III and IV;))</del> <u>Are board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request if the facility's trauma scope of service includes neurosurgery services twenty-four hours every day or transfer trauma patients who need neurosurgery services to a designated trauma service with neurosurgery services available((;)).</u>			X	X				X
(d) <u>The liaison from neurosurgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(e) <u>Other neurosurgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(f) <u>The facility must have a predefined and thoroughly developed neurotrauma diversion plan that is implemented when the neurosurgeon on call becomes encumbered. A neurotrauma diversion plan must include the following:</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(i) <u>Emergency medical services notification of neurosurgery advisory status/divert;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(ii) <u>A thorough review of each instance by the quality improvement program; and</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>(iii) Monitoring of the efficacy of the process by the quality improvement program.</u>	X	X				X	X	
<u>(g) A published schedule for first call with a written plan for neurosurgery coverage is required, for when the neurosurgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality improvement program;</u>	X	X				X	X	
<u>(h) If one neurosurgeon covers two trauma services within the same limited geographic area, there must be a contingency plan.</u>	X	X				X	X	
(21) Surgical services on-call and available within thirty minutes of the trauma team leader's request for:	X	X	X			X	X	X
(a) Cardiac surgery;	X					X		
(b) Microsurgery;	X					X		
(c) Obstetric surgery <b>or</b> for level III trauma services, a plan to manage the pregnant trauma patient;	X	X	X			X	X	X
(d) Orthopedic surgery(=) <u>including the following:</u>	X	X	X			X	X	X
<u>(i) Orthopedic team members must have dedicated call at their institution or have an effective backup call system;</u>	X	X				X	X	
<u>(ii) If the on-call orthopedic surgeon is unable to respond promptly, a backup consultant on-call surgeon must be available;</u>	X	X				X	X	
<u>(iii) If the orthopedic surgeon is not dedicated to a single facility while on call, then a published backup schedule is required;</u>			X					X
<u>(iv) A published schedule for first call with a written plan for orthopedic surgery coverage is required for when the orthopedic surgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality;</u>	X	X	X			X	X	X
<u>(v) The liaison from orthopedic surgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(vi) Other orthopedic surgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal.</u>	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(e) <del>(For level IV,)</del> Orthopedic surgery services on-call and available within thirty minutes of the trauma team leader's request if the facility's trauma scope of service includes orthopedic surgery services twenty-four hours every day <del>(;)</del> or transfer trauma patients who need orthopedic surgery services to a designated trauma service with orthopedic surgery services available;				X				
(f) Thoracic surgery;	X	X				X	X	
(g) Urologic surgery;	X	X				X	X	
(h) Vascular surgery.	X	X				X	X	
(22) Surgical services on-call for patient consultation or management at the trauma team leader's request for:	X	X				X	X	
(a) Cranial facial surgery;	X	X				X	X	
(b) Gynecologic surgery;	X	X				X	X	
(c) Ophthalmic surgery;	X	X				X	X	
(d) Plastic surgery.	X	X				X	X	
(23) Anesthesiology services <del>(;)</del> with board-certified anesthesiologists or certified registered nurse anesthetists (CRNAs) <del>(;)</del> who <u>meet the following requirements:</u>	X	X	X			X	X	X
(a) Are available within five minutes of the trauma team leader's request;	X					X		
(b) Are on-call and available within twenty minutes of the trauma team leader's request;		X					X	
(c) Are on-call and available within thirty minutes of the trauma team leader's request;			X					X
(d) Are ACLS trained except this requirement does not apply to physicians board-certified in anesthesiology;	X	X	X			X	X	X
(e) <u>Are highly experienced and committed to the care of injured patients; who organize and supervise the anesthetic care of injured patients; and who serve as the designated liaison to the trauma program;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(f) <u>When anesthesiology senior residents or CRNAs are used to fulfill availability requirements, the attending anesthesiologist on call must be advised, available within thirty minutes at all times, and present for all operations;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(g) <u>A published schedule for first call, with a written plan for anesthesia coverage is required for when the anesthesia provider on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality improvement program;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<del>((e))</del> (h) Meet the PER as defined in subsection (27) of this section <del>(;)</del> ;	X	X	X			X	X	X
<del>((f))</del> <del>(For level IV,)</del> (i) Meet all level III anesthesiology service standards <del>(;)</del> if the facility's trauma scope of service includes surgery services twenty-four hours every day <b>or</b> transfer trauma patients				X				

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
who need surgery services to a designated trauma service with surgery services available.								
(24) Operating room services(;) with:	X	X	X			X	X	X
(a) Hospital staff responsible for opening and preparing the operating room available within five minutes of notification;	X	X	X			X	X	X
(b) Operating room staff on-call and available within <del>((twenty))</del> <u>fifteen</u> minutes of notification;	X	X				X	X	
(c) Operating room staff on-call and available within thirty minutes of notification;			X					X
(d) A written plan to mobilize additional surgical team members for trauma patient surgery;	X	X	X			X	X	X
<u>(e) Delays in operating room availability routinely monitored. Any case that is associated with a significant delay or adverse outcome must be reviewed for reasons for delay and opportunity for improvement;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<del>((e))</del> (f) Standard surgery instruments and equipment needed to perform operations on adult and pediatric patients, including:	X	X	X			X	X	X
(i) <del>((Autologous))</del> <u>Blood recovery and transfusion;</u>	X	X	X			X	X	X
(ii) <del>((Bronchoscope capability))</del> <u>Bronchoscopy equipment;</u>	X	X	X			X	X	X
(iii) Cardiopulmonary bypass;	X	X				X	X	
(iv) Craniotomy set;	X	X				X	X	
(v) <del>((Endoscopes))</del> <u>Endoscopy equipment;</u>	X	X	X			X	X	X
(vi) Rapid infusion capability;	X	X	X			X	X	X
(vii) Thermal control equipment;	X	X	X			X	X	X
<del>((■))</del> (A) <u>Blood and fluid warming;</u>	X	X	X			X	X	X
<del>((■))</del> (B) <u>Patient warming and cooling(;).</u>	X	X	X			X	X	X
<del>((f))</del> <del>For level IV,</del> (g) <u>Operating room services that meet all level III operating room service standards if the facility's trauma scope of care includes surgery services twenty-four hours every day or transfer trauma patients who need surgery services to a designated trauma service with surgery services available.</u>					X			
(25) Post anesthesia care (PACU) services with:	X	X	X			X	X	X
(a) At least one registered nurse available twenty-four hours every day;	X					X		
(b) At least one registered nurse on-call and available twenty-four hours every day;		X	X				X	X
(c) Registered nurses who are ACLS trained;	X	X	X			X	X	X
<u>(d) PACU equipment to monitor and resuscitate patients, including:</u>								
<u>(i) Pulse oximetry;</u>								
<u>(ii) End-tidal carbon dioxide detection;</u>	X	X	X			X	X	X
<u>(iii) Arterial pressure monitoring;</u>								
<u>(iv) Patient rewarming.</u>								
<del>((d))</del> <del>For level IV,</del> (e) <u>Post anesthesia care services that meet all level III post anesthesia care service standards if the facility's trauma scope of care includes general surgery services twenty-four</u>					X			

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
hours every day <b>or</b> transfer trauma patients who need surgery services to a designated trauma service with surgery services available.								
(26) Critical care services((?)) with:	X	X	X			X	X	
(a) A critical care medical director((?)) who is:	X	X	X			X	X	
(i) Board-certified in:	X							
(A) Surgery and critical care;	X							
(B) Pediatric critical care((?)) <sub>2</sub>						X		
(ii) Board-certified in critical care <b>or</b> board-certified in surgery, internal medicine <sub>2</sub> or anesthesiology with special competence in critical care;		X	X					
(iii) Board-certified in critical care((?)) with special competence in pediatric critical care <b>or</b> is board-certified in surgery, internal medicine <sub>2</sub> or anesthesiology((?)) with special competence in pediatric critical care;							X	
(iv) Responsible for coordinating with the attending physician for trauma patient care((?)) <sub>2</sub>	X	X	X			X	X	
<u>(b) Physician coverage of critically ill trauma patients in the intensive care unit (ICU) by appropriately trained physicians who meet the following requirements:</u>	X	X	X			X	X	X
<u>(i) Must be available in-house within fifteen minutes, twenty-four hours per day;</u>	X					X		
<u>(ii) Must be available within fifteen minutes, twenty-four hours per day;</u>		X					X	
<u>(iii) Must be available within thirty minutes with a formal plan in place for emergency coverage.</u>			X					X
<u>(c) For all levels of trauma service, the quality improvement program must ensure timely and appropriate ICU coverage is provided;</u>	X	X	X			X	X	X
<u>(d) The timely response of credentialed providers to the ICU must be continuously monitored as part of the quality improvement program;</u>	X	X	X			X	X	X
<u>(e) A designated ICU physician liaison or designee to the trauma service. This liaison must attend at least fifty percent of the multidisciplinary peer review meetings with documentation by the trauma quality improvement program;</u>	X	X	X			X	X	X
<u>(f) The physician liaison or designee from the ICU must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(g) Other ICU physicians who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certifica</u>	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<u>tion of a member board of the American Board of Medical Specialties at the time of renewal;</u>								
<del>((b))</del> <u>(h)</u> Critical care registered nurses <del>((;))</del> who:	X	X	X			X	X	
(i) Are ACLS trained;	X	X	X					
(ii) Have special competence in pediatric critical care;						X	X	
(iii) Have completed a minimum of six contact hours of trauma specific education every three-year designation period;	X	X				X	X	
(iv) Have completed a minimum of three contact hours of trauma specific education every three-year designation period <del>((;))</del> ;			X					
<del>((e))</del> <u>(i)</u> A physician directed code team;	X	X	X			X	X	
<del>((d))</del> <u>(j)</u> Pediatric patient isolation capacity;						X	X	
<del>((e))</del> <u>(k)</u> General surgery consults for critical care trauma patients <b>or</b> if intensivists are the primary admitting nonsurgical physician caring for trauma patients, the intensivists must complete a minimum of twelve hours of <u>external or internal</u> trauma critical care specific <del>((continuing medical education-))</del> CME <del>((;))</del> every three-year designation period;	X	X	X			X	X	X
<del>((f))</del> <u>(l)</u> Standard critical care equipment for adult and pediatric trauma patients, including:	X	X	X			X	X	
(i) Cardiac devices:	X	X	X			X	X	
<del>((a))</del> <u>(A)</u> Cardiac pacing capabilities;	X	X	X			X	X	
<del>((a))</del> <u>(B)</u> Cardiac monitor with at least two pressure monitoring modules (cardiac output and hard copy recording), with the capability to continuously monitor heart rate, respiratory rate, and temperature <del>((;))</del> ;	X	X	X			X	X	
(ii) Intracranial pressure monitoring devices;	X	X				X	X	
(iii) Intravenous supplies:	X	X	X			X	X	
<del>((a))</del> <u>(A)</u> Infusion control device;	X	X	X			X	X	
<del>((a))</del> <u>(B)</u> Rapid infusion capability <del>((;))</del> ;	X	X	X			X	X	
(iv) Sterile surgical sets:	X	X	X			X	X	
<del>((a-Chest tubes))</del> <u>(A)</u> Thoracostomy;	X	X	X			X	X	
<del>((a))</del> <u>(B)</u> Emergency surgical airway;	X	X	X			X	X	
<del>((a-Peritoneal lavage))</del> <u>(C)</u> Bedside ultrasound;	X	X	X			X	X	
<del>((a))</del> <u>(D)</u> Thoracotomy <del>((;))</del> ;	X	X	X			X	X	
(v) Thermal control equipment:	X	X	X			X	X	
<del>((a))</del> <u>(A)</u> Blood and fluid warming;	X	X	X			X	X	
<del>((a))</del> <u>(B)</u> Devices for assuring warmth during transport;	X	X	X			X	X	
<del>((a))</del> <u>(C)</u> Expanded scale thermometer capable of detecting hypothermia;	X	X	X			X	X	
<del>((a))</del> <u>(D)</u> Patient warming and cooling <del>((;))</del> ;	X	X	X			X	X	
<del>((g))</del> <u>(m)</u> A written policy to transfer all pediatric trauma patients who need critical care services to a pediatric designated trauma service with critical care services available;	X	X	X					
<u>(n)</u> Surgical collaboration to set and implement policies and administrative decisions impacting trauma patients admitted to the ICU;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
<del>((h))</del> <u>(o)</u> Critical care services that meet all level III critical care service standards, if the facility's trauma scope of service includes critical care services for trauma patients twenty-four hours every day <b>or</b> transfer trauma patients who need critical care services to a designated trauma service with critical care services available;				X				
<del>((i))</del> <u>(p)</u> Critical care services that meet all level II pediatric critical care service standards if the facility's trauma scope of care includes pediatric critical care services for trauma patients twenty-four hours every day <b>or</b> transfer pediatric trauma patients who need critical care services to a designated pediatric trauma service, with pediatric critical care services available.								X
(27) Pediatric education requirement (PER):	X	X	X	X	X	X	X	X
<u>(a) The pediatric trauma medical director and the liaisons from neurosurgery, orthopedic surgery, emergency medicine, and critical care medicine must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>						X	X	
<del>((a))</del> <u>(b)</u> PER must be met by the following providers who are directly involved in the initial resuscitation and stabilization of pediatric trauma patients:	X	X	X	X	X	X	X	X
(i) Emergency department physicians;	X	X	X	X	X	X	X	X
(ii) Emergency department registered nurses;	X	X	X	X	X	X	X	X
<del>(iii) Physician assistants or ARNPs who ((initiate evaluation and treatment prior to the arrival of the physician in the emergency department))</del> <u>participate in the initial care or evaluation of trauma activated patients in the emergency department;</u>	X	X	X	X	X	X	X	X
(iv) Emergency medicine or surgical residents who initiate care prior to the arrival of the emergency physician;	X	X				X	X	
(v) General surgeons;	X	X	X			X	X	X
(vi) Surgical residents who initiate care prior to the arrival of the general surgeon;	X	X				X	X	
(vii) Anesthesiologists and CRNAs;	X	X	X			X	X	X
(viii) General surgeons, anesthesiologists, and CRNAs if the facility's trauma scope of service includes general surgery services twenty-four hours every day;				X				
(ix) Intensivists involved in the resuscitation, stabilization and in-patient care of pediatric trauma patients <del>((;))</del> ;						X	X	X
<del>((b))</del> <u>(c)</u> PER must be met by completing pediatric specific contact hours as defined below:	X	X	X	X	X	X	X	X
(i) Five contact hours per provider during each three-year designation period;	X	X	X	X	X			
(ii) Seven contact hours per provider during each three-year designation period;						X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(iii) Contact hours should include, but are not limited to, the following topics:	X	X	X	X	X	X	X	X
((*) (A) Initial stabilization and transfer of pediatric trauma;	X	X	X	X	X	X	X	X
((*) (B) Assessment and management of pediatric airway and breathing;	X	X	X	X	X	X	X	X
((*) (C) Assessment and management of pediatric shock, including vascular access;	X	X	X	X	X	X	X	X
((*) (D) Assessment and management of pediatric head injuries;	X	X	X	X	X	X	X	X
((*) (E) Assessment and management of pediatric blunt abdominal trauma((:));	X	X	X	X	X	X	X	X
(iv) Contact hours may be accomplished through one or more, but not limited to, the following methods:	X	X	X	X	X	X	X	X
((*) (A) Review and discussion of individual pediatric trauma cases within the trauma quality improvement program;	X	X	X	X	X	X	X	X
((*) (B) Staff meetings;	X	X	X	X	X	X	X	X
((*) (C) Classes, formal or informal;	X	X	X	X	X	X	X	X
((*) (D) Web-based learning;	X	X	X	X	X	X	X	X
((*) (E) Certification in ATLS, PALS, APLS, ENPC, or other department approved equivalents;	X	X	X	X	X	X	X	X
((*) (F) Other methods of learning which appropriately communicates the required topics listed in this section.	X	X	X	X	X	X	X	X
(28) Acute dialysis services((:)) or must transfer trauma patients needing dialysis.	X	X	X	X	X	X	X	X
(29) A burn center, in accordance with the American Burn Association, to care for burn patients((:)) or must transfer burn patients to a burn center, in accordance with the American Burn Association transfer guidelines.	X	X	X	X	X	X	X	X
(30) Services on-call for consultation or patient management:	X	X	X			X	X	X
(a) Cardiology;	X	X				X	X	
(b) Gastroenterology;	X	X				X	X	
(c) Hematology;	X	X				X	X	
(d) Infectious disease specialists;	X	X				X	X	
(e) Internal medicine;	X	X	X					
(f) Nephrology;	X	X				X	X	
(g) Neurology;	X	X				X	X	
(h) Pediatric neurology;						X	X	
(i) Pathology;	X	X	X			X	X	X
(j) Pediatrician;	X	X				X	X	X
(k) Pulmonology;	X	X				X	X	
(l) Psychiatry <b>or</b> a plan for management of the psychiatric trauma patient.	X	X				X	X	
(31) Ancillary services available for trauma patient care:	X	X	X	X	X	X	X	X
(a) Adult protective services;	X	X	X	X	X			
(b) Child protective services;	X	X	X	X	X	X	X	X
(c) Chemical dependency services;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(d) Nutritionist services;	X	X	X	X		X	X	X
(e) Occupational therapy services;	X	X	X			X	X	X
(f) Pastoral or spiritual care;	X	X	X	X	X	X	X	X
(g) Pediatric therapeutic recreation/child life specialist;						X	X	
(h) Pharmacy services, with an in-house pharmacist;	X					X		
(i) Pharmacy services;		X	X	X	X		X	X
(j) Physical therapy services;	X	X	X	X		X	X	X
(k) Psychological services;	X	X	X			X	X	X
(l) Social services;	X	X	X	X		X	X	X
(m) Speech therapy services.	X	X	X			X	X	X
(32) A trauma care outreach program, including:	X	X				X	X	
(a) Telephone consultations with physicians of the community and outlying areas;	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(b) On-site consultations with physicians of the community and outlying areas.	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(33) Injury prevention, including:	X	X	X	X	X	X	X	X
(a) A public injury prevention education program((;)) <u>to include:</u>	X	X	X			X	X	X
(i) <u>An employee in a leadership position that has injury prevention as part of their job description;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(ii) <u>Registry data used to identify injury prevention priorities that are appropriate for local implementation;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(iii) <u>Trauma centers that have an organized and effective approach to injury prevention and prioritize those efforts based on local trauma registry and epidemiologic data.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(b) <u>Participation in community or regional injury prevention activities that include partnerships with other community organizations;</u>	X	X	X	X	X	X	X	X
(c) <u>A written plan for drug and alcohol screening and brief intervention and referral((-) for treatment;</u>	X	X	X	X	X	X	X	X
(d) <u>Screening and brief intervention for drug and alcohol use. All patients who have screened positive must receive an intervention by appropriately trained staff and this intervention must be documented.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(34) A formal trauma education training program((;)) for:	X	X				X	X	
(a) Allied health care professional;	X	X				X	X	
(b) Community physicians;	X	X				X	X	
(c) Nurses;	X	X				X	X	
(d) Prehospital personnel;	X	X				X	X	
(e) Staff physicians.	X	X				X	X	
(35) Provisions to allow for initial and maintenance training of invasive manipulative skills for prehospital personnel.	X	X	X	X		X	X	X
(36) Residency programs <u>that must:</u>	X					X		
(a) <u>Be accredited by the Accreditation Council of Graduate Medical Education;</u>	<u>X</u>					<u>X</u>		
(b) <u>((With a commitment)) Be committed to training physicians in trauma management.</u>	<u>X</u>					<u>X</u>		

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(37) A trauma research program ( <del>(with))</del> <u>conducting</u> research applicable to the adult and pediatric trauma patient population((-)), <u>including:</u>	X					X		
<u>(a) At a minimum, a trauma research program that publishes twenty peer-reviewed articles in journals included in Index Medicus or PubMed within a three-year period;</u>	X					X		
<u>(b) These publications must result from work related to the trauma center or the trauma system in which the trauma center participates;</u>	X					X		
<u>(c) Of the twenty articles, at least one must be authored or co-authored by members of the general surgery trauma team;</u>	X					X		
<u>(d) At least one article each from three of the following disciplines is required: Basic sciences, neurosurgery, emergency medicine, orthopedics, radiology, anesthesia, vascular surgery, plastics/maxillofacial surgery, critical care, cardiothoracic surgery, rehabilitation, and nursing;</u>	X					X		
<u>(e) In combined level I adult and pediatric centers, half of the required research must be pediatric research;</u>	X					X		
<u>(f) The administration of a level I trauma center must demonstrate support for the research program by including the provision of basic laboratory space, sophisticated research equipment, advanced information systems, biostatistical support, salary support for basic and translational scientists, or seed grants for less experienced faculty.</u>	X					X		
(38) For joint trauma service designation (when two or more hospitals apply to share a single trauma designation):	X	X	X			X	X	X
(a) A single, joint multidisciplinary trauma quality improvement program in accordance with the trauma quality improvement standards defined in subsection (4) of this section;	X	X	X			X	X	X
(b) A set of common policies and procedures adhered to by all hospitals and providers in the joint trauma service;	X	X	X			X	X	X
(c) A predetermined, published hospital rotation schedule for trauma care.	X	X	X			X	X	X
(39) Trauma centers must meet the disaster-related requirements of the facility's accrediting agency.	X	X	X	X	X	X	X	X
(40) Organ procurement activities, including:	X	X	X			X	X	X
<u>(a) An established relationship with a recognized organ procurement organization (OPO);</u>	X	X	X			X	X	X
<u>(b) A written policy in place for notification of the regional OPO;</u>	X	X	X			X	X	X
<u>(c) The trauma center must review its organ donation rate annually;</u>	X	X	X			X	X	X
<u>(d) Written protocols defining the clinical criteria and confirmatory tests for the diagnosis of brain death.</u>	X	X	X			X	X	X

**WSR 18-15-062**  
**PROPOSED RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed July 16, 2018, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-09-028.

Title of Rule and Other Identifying Information: Amending chapter 82-75 WAC, related to the statewide all-payer health care claims database (WA-APCD). Specifically, the rules will address activities related to ensuring that there is compliance with the following requirements: Submission, release of data, use of data and destruction of data.

Hearing Location(s): On August 21, 2018, at 9:30 a.m., at 302 Sid Snyder Avenue S.W., Fourth Floor, Room 440, Olympia, WA 98501.

Date of Intended Adoption: September 15, 2018.

Submit Written Comments to: Thea Mounts, 106 11th Avenue S.W., P.O. Box 43124, Olympia, WA 98504, email [apcd@ofm.wa.gov](mailto:apcd@ofm.wa.gov), by August 21, 2018.

Assistance for Persons with Disabilities: Contact office of financial management (OFM), phone 360-902-3092, TTY 360-753-4107, email [hayden.mackley@ofm.wa.gov](mailto:hayden.mackley@ofm.wa.gov), by August 17, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to establish a clear and fair process to ensure that statutory requirements related to the submission of data into the WA-APCD, release of data out of the WA-APCD, use of the data released from the WA-APCD and destruction of data once the use has been fulfilled.

Reasons Supporting Proposal: Chapter 43.371 RCW directs OFM to establish WA-APCD to support transparent public reporting of health care information. The chapter requires specified providers to submit claims data pursuant to the schedule developed by OFM and the data submission guide. There are also strict requirements regarding the release, use and destruction of the data from WA-APCD. In order to ensure that the statutory and regulatory provisions are being followed, it is imperative that OFM develop an audit program.

Statutory Authority for Adoption: RCW 43.371.070.

Statute Being Implemented: Chapter 43.371 RCW.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, Insurance Building, Olympia, Washington, 360-902-0434; Implementation and Enforcement: Thea Mounts, Helen Sommers Building, Olympia, Washington, 360-902-0552.

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

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

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

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

July 16, 2018

Roselyn Marcus  
Assistant Director for  
Legal and Legislative Affairs

## AUDITS

### NEW SECTION

**WAC 82-75-700 Purpose of audits.** There are two primary areas for which audits may be performed to ensure compliance with laws and rules related to the WA-APCD.

(1) Audits may be performed to determine if data suppliers are in compliance with the requirements for the submission of data to the WA-APCD including, but not limited to:

(a) Compliance with the data submission guide including, but not limited to, accuracy of financial fields;

(b) Data integrity, as opposed to data quality checks that the data vendor performs using thresholds and variances;

(c) Finding data that is missing or being withheld from submission into the WA-APCD; and

(d) Documenting the process for determining the number of Washington covered persons for each line of business in order to ensure that data suppliers are not artificially creating lines of business with small numbers of covered lives in order to meet the minimum threshold for exclusion to report.

(2) Audits can be performed to determine whether requestors who receive data from the WA-APCD are in compliance with the data release requirements or agreements, whether provided datasets or licenses to the data enclave including, but not limited to:

(a) For physical datasets, compliance with data use agreements, confidentiality agreements, compliance with collecting, storing, analyzing, and destroying the data; and

(b) For data enclave licenses, compliance with data use agreements, confidentiality agreements, compliance with analyzing, storing, destroying, and user license access to the data.

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

(a) "Data quality checks" means the extent to which data is missing or the data conforms with the data format requirements; and

(b) "Data integrity checks" means the completeness and validity of the submitted data, whether the submitted values are consistent with the instructions and intent of the data submission guide.

### NEW SECTION

**WAC 82-75-705 When an audit may be commenced.**

(1) The office may initiate a random audit to ensure compliance with data submission requirements or data release requirements. A data supplier or data requestor may not be subject to a random audit more frequently than once every three years.

(2) The office may initiate an audit including, but not limited to, occurrence of the following events:

(a) Reports from the data vendor that there is a material change, without justification or a reasonable basis for the change provided by the data supplier, in the number of claims submitted from a data supplier. Before submitting a report under this subsection, the data vendor should have worked with the data supplier to cure any inadvertent data submission issues.

(b) Reports from the data vendor that certain types of claims are missing for a data supplier.

(c) Notice that the data user is publishing data in reports that are not compliant with data use agreements. Violations of the data use agreements are subject to penalties in accordance with the process set forth in chapter 82-75 WAC.

(d) Notice that the data user is publishing PFI or PHI not in compliance with state or federal requirements.

#### NEW SECTION

**WAC 82-75-710 Audit process.** (1) Once the office determines an audit will be conducted, either as a random audit or based on a triggering event set forth in WAC 82-75-705, the office shall provide written notice to the subject of the audit at least thirty days before the start of the audit. The notice must include the name of the company or individuals who will be conducting the audit and the subject of the audit, including the time period for which the audit covers. If the audit is the result of a triggering event, the notice will include information regarding the triggering event. The notice will also include information regarding the audit entrance conference that has been scheduled to take place within fourteen days before the audit will begin. The notice will include the location, date and time and contact person for the entrance conference and such other information as required. The office will work with the subject of the audit to ensure sufficient time is provided between providing the written notice, the date of the entrance conference, and the start of the audit.

(2) The subject of the audit is required to cooperate with the auditor, providing the information as requested. If there is a dispute during the audit, the issue should be brought to the attention of the WA-APCD program director, who will resolve the dispute. Both the auditor and the subject of the audit will be provided an opportunity to present its issues regarding the dispute, either in writing or in person. The WA-APCD program director may engage a mediator to help resolve the dispute.

(3) The auditor will be required to prepare an audit report. A draft of the audit report shall be provided to the subject of the audit for review and comments. The subject of the audit should be provided no less than thirty days to provide comment to the draft report.

(4) After receiving and reviewing any comments, and revising the draft audit report as deemed necessary, the auditor shall schedule an exit conference with the subject of the audit to review the audit and final audit report. The subject of the audit shall be provided an opportunity to submit comments or responses to the findings in the audit. The auditor shall provide a deadline, not less than thirty days after the exit conference for submission of any response to the audit.

(5) The auditor shall issue a final audit report no later than thirty days after the deadline for submission of any response. The report shall be provided to the lead organization, the office, and the subject of the audit. The office shall publish the report on the agency web site.

(6) The auditor shall be required to sign a confidentiality/nondisclosure agreement if the auditor will have access to any confidential or proprietary information.

#### NEW SECTION

**WAC 82-75-715 Audit guide.** (1) The office shall develop the audit guide with input from the data vendor and stakeholders. The lead organization shall develop a process to allow for stakeholder review and comment on drafts of the audit guide and all subsequent changes to the guide. The office shall have final approval authority over the audit guide and all subsequent changes.

(2) The office shall notify data suppliers before changes to the audit guide are final. Notification shall occur no less than one hundred twenty calendar days prior to the effective date of any change.

(3) The version of the audit guide that is in effect must be posted on the OFM web site. Notice should be given through the office listserv when a new audit guide is posted.

#### NEW SECTION

**WAC 82-75-720 Audit findings of a violation.** (1) If the audit finds that any person has violated laws, rules or data use agreements, the WA-APCD program director shall require an investigation be conducted in accordance with WAC 82-75-615. If the investigation determines that a violation or violations have occurred, the office will take appropriate action as set forth in chapter 82-75 WAC.

(2) In addition to any other penalties authorized by law or rule, the audited party may be required to pay the cost of the audit if a violation is found. The subject of the audit may contest the requirement to pay the cost of the audit or the amount requested using the appeal process set forth in chapter 82-75 WAC for the appeal of penalties.

### **WSR 18-15-063**

#### **PROPOSED RULES**

#### **OFFICE OF**

#### **FINANCIAL MANAGEMENT**

[Filed July 16, 2018, 1:29 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 18-09-030.

Title of Rule and Other Identifying Information: Amending WAC 82-75-030 Additional definitions authorized by chapter 43.371 RCW, a rule related to the statewide all-payer health care claims database (WA-APCD). Specifically, the rules will make changes to and add definitions in accordance with the WA-APCD operations.

Hearing Location(s): On August 21, 2018, at 9:30 a.m., at 302 Sid Snyder Avenue S.W., Fourth Floor, Room 440, Olympia, WA 98501.

Date of Intended Adoption: September 15, 2018.

Submit Written Comments to: Thea Mounts, 106 11th Avenue S.W., P.O. Box 43124, Olympia, WA 98504, email [apcd@ofm.wa.gov](mailto:apcd@ofm.wa.gov), by August 21, 2018.

Assistance for Persons with Disabilities: Contact office of financial management (OFM), phone 360-902-3092, TTY 360-753-4107, email [hayden.mackley@ofm.wa.gov](mailto:hayden.mackley@ofm.wa.gov), by August 17, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The subject of this rule making relates to WA-APCD. WAC 82-75-030 provides additional definitions for terms used in the chapter that establishes and regulates WA-APCD. This rule making is to revise definitions that have been enacted and add definitions for other terms that have not previously been defined in statute or rule.

Reasons Supporting Proposal: Chapter 43.371 RCW directs OFM to establish a WA-APCD to support transparent public reporting of health care information. To accomplish this requirement, OFM is directed to establish rules necessary to implement this chapter, and to establish rules that specifically define claim and data files that suppliers must submit. OFM enacted additional definitions in WAC 82-75-030 and has added definitions as needed. Based on stakeholder feedback and experience since WA-APCD has been implemented, there are definitions that need to be amended (such as "member," "DUA" and "WA covered persons" and other terms that need to be defined (such as "claimant"). Through the rule-making process, other definitions may need to be added or amended.

Statutory Authority for Adoption: RCW 43.371.010(3) and 43.371.070.

Statute Being Implemented: Chapter 43.371 RCW.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, Insurance Building, Olympia, Washington, 360-902-0434; Implementation and Enforcement: Thea Mounts, Helen Sommers Building, Olympia, Washington, 360-902-0552.

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

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

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

July 16, 2018  
Roselyn Marcus  
Assistant Director for  
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 18-15-002, filed 7/5/18, effective 8/5/18)

**WAC 82-75-030 Additional definitions authorized by chapter 43.371 RCW.** The following additional definitions apply throughout this chapter unless the context clearly indicates another meaning.

"Capitation payment" means a payment model where providers receive a payment on a per "covered person" basis, for specified calendar periods, for the coverage of specified health care services regardless of whether the patient obtains care. Capitation payments include, but are not limited to, global capitation arrangements that cover a comprehensive set of health care services, partial capitation arrangements for subsets of services, and care management payments.

"Claim" means a request or demand on a carrier, third-party administrator, or the state labor and industries program for payment of a benefit.

"Claimant" means a person who files a workers compensation claim with the Washington State Department of Labor and Industries.

"Coinsurance" means the percentage or amount an enrolled member pays towards the cost of a covered service.

"Copayment" means the fixed dollar amount a member pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

"Data management plan" or "DMP" means a formal document that outlines how a data requestor will handle the WA-APCD data to ensure privacy and security both during and after the project.

"Data policy committee" or "DPC" is the advisory committee required by RCW 43.371.020 (5)(h) to provide advice related to data policy development.

"Data release committee" or "DRC" is the advisory committee required by RCW 43.371.020 (5)(h) to establish a data release process and to provide advice regarding formal data release requests.

"Data submission guide" means the document that contains data submission requirements including, but not limited to, required fields, file layouts, file components, edit specifications, instructions and other technical specifications.

"Data use agreement" or "DUA" means the legally binding document signed by either the lead organization and the data requestor, or the office and the data requestor, or the office and a Washington state agency, that defines the terms and conditions under which access to and use of the WA-APCD data is authorized, how the data will be secured and protected, and how the data will be destroyed at the end of the agreement term.

"Days" means calendar days.

"Deductible" means the total dollar amount an enrolled member pays on an incurred claim toward the cost of specified covered services designated by the policy or plan over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

"Director" means the director of the office of financial management.

"Fee-for-service equivalent" means the amount that would have been paid by the payer for a specified service if

the service had not been capitated or paid under an alternative payment formula like treatment episodes, or the fee amount reflected in the payer's internal fee schedule(s) for services that are not paid on a fee-for-service basis.

"Fee-for-service payment" means a payment model where providers receive a negotiated or payer-specified rate for a specific health care service provided to a patient.

"Health benefits plan" or "health plan" has the same meaning as in RCW 48.43.005.

"Health care" means care, services, or supplies related to the prevention, cure or treatment of illness, injury or disease of an individual, which includes medical, pharmaceutical or dental care. Health care includes, but is not limited to:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

"Lead organization" means the entity selected by the office of financial management to coordinate and manage the database as provided in chapter 43.371 RCW.

"Malicious intent" means the person acted willfully or intentionally to cause harm, without legal justification.

"Member" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

"Office" means the Washington state office of financial management.

"Person" means an individual; group of individuals however organized; public or private corporation, including profit and nonprofit corporations; a partnership; joint venture; public and private institution of higher education; a state, local, and federal agency; and a local or tribal government.

"PFI" means the proprietary financial information as defined in RCW 43.371.010(12).

"PHI" means protected health information as defined in the Health Insurance Portability and Accountability Act (HIPAA). Incorporating this definition from HIPAA, does not, in any manner, intend or incorporate any other HIPAA rule not otherwise applicable to the WA-APCD.

"Subscriber" means the insured individual who pays the premium or whose employment makes him or her eligible for coverage under an insurance policy or member of a health benefit plan.

"WA-APCD" means the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"WA-APCD program director" means the individual designated by the office as responsible for the oversight and management of the operations of the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"Washington covered person" means any eligible member and all covered dependents where the covered person is a Washington state resident, and the state of Washington has primary jurisdiction, and whose laws, rules and regulations govern the members' and dependents' insurance policy or health benefit plan.

**WSR 18-15-064**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Podiatric Medical Board)  
[Filed July 16, 2018, 2:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-147.

Title of Rule and Other Identifying Information: Chapter 246-922 WAC, the podiatric medical board (board) proposes new sections and changes to existing rule that will establish requirements and standards for prescribing opioid drugs by podiatric physicians consistent with the directives of ESHB 1427.

Hearing Location(s): On September 6, 2018, at 9:00 a.m., at the Red Lion, Spruce Room, One South Grady Way, Renton, WA 98057.

Date of Intended Adoption: September 6, 2018.

Submit Written Comments to: Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by August 31, 2018.

Assistance for Persons with Disabilities: Contact Susan Gragg, phone 360-236-4941, TTY 360-833-6388 or 711, email [susan.gragg@doh.wa.gov](mailto:susan.gragg@doh.wa.gov), by August 31, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing to establish new sections of rule to implement the provisions of ESHB 1427. The bill directed five boards and commissions to consider the agency medical directors' group and the centers for disease control guidelines, and to work in consultation with the department of health, the University of Washington, and the professional associations of each profession to develop requirements for prescribing opioid drugs. The board is also proposing amendments to the current pain management rules to ensure alignment with the proposed opioid prescribing rules, increase consistent rule application, and reduce duplication between existing and new rules.

Reasons Supporting Proposal: The proposed rules are necessary to establish and implement opioid prescribing requirements for podiatric physicians. The proposed rules provide a necessary framework and structure for safe, consistent opioid prescribing practice consistent with the directives of ESHB 1427. The goal is to reduce the number of people who inadvertently become addicted to opioids and, consequently, reduce the burden on opioid treatment programs.

Statutory Authority for Adoption: RCW 18.22.005, 18.22.015, and 18.22.800.

Statute Being Implemented: ESHB 1427 (chapter 297, Laws of 2017), codified in part as RCW 18.22.800.

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

Name of Proponent: Washington state podiatric medical board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Gragg, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4941.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 360-833-6388 or 711, email susan.gragg@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules impact clinics and hospitals where podiatric physicians practice if the podiatric physician(s) in the business prescribes opioids for pain management. The proposed rules do not apply to podiatric physicians who do not prescribe opioids. The following North American Industrial Classification System (NAICS) six-digit codes, total number of businesses in Washington state in 2013, total combined and average business payroll (rounded to the thousands), and minor cost thresholds have been applied to the proposal:

1. NAICS Code: 621391 Offices of Podiatrists

Total establishments in Washington: 136

Total combined annual payroll: \$26,957,000.00

Average annual payroll (total payroll divided by total establishments): \$193,213.23

Minor cost threshold (average payroll multiplied by .01): \$1,983.21

2. NAICS Code: 621391 [622110] General Medical and Surgical Hospitals

Total establishments in Washington: 100

Total combined annual payroll: \$6,566,100,000.00

Average annual payroll (total payroll divided by total establishments): \$656,610,000

Minor cost threshold (average payroll multiplied by .01): \$656,610

The board has analyzed the anticipated costs of compliance for a business at \$65.87 for every patient encounter only when a podiatric physician prescribes opioids, and only if the podiatric physician performs all of the tasks required in the proposed rules. Many of the required tasks in the rules are often performed by other staff (such as medical assistants or licensed practical nurses) at much lower costs. For example, regarding the following tasks:

- Documenting patient history and physical condition.
- Documenting/updating the patient health record.
- Completing a prescription monitoring program (PMP) check.

A podiatric physician performing these tasks would cost the business an estimated \$\*43.01; or a medical assistant-certified could perform the same tasks for an estimated \$6.87\*.

Depending on the patient's phase of pain management, the business may incur the following additional cost:

a. From \$0 per patient encounter for a patient whose pain level and function meet the expected course of recovery; up to

b. An estimated \$77.06 per patient encounter when a practitioner must seek a consultation with another practitioner regarding specific coprescribed controlled drugs, or

coprescribing opioids to a patient receiving medication assisted treatment.

Based on these anticipated costs, the board has determined that the proposed rules would not impose more-than-minor costs for businesses that must comply.

\*Based on United States Department of Labor Statistics, Occupational Employment and Wages 2017 for 29-1069 Physicians and Surgeons, and 31-9092 Medical Assistants.

July 16, 2018

Blake T. Maresh

Executive Director

## ~~((PAIN MANAGEMENT)) OPIOID PRESCRIBING—~~ GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 11-10-063, filed 5/2/11, effective 7/1/11)

WAC 246-922-660 ~~((Pain management—))Intent and scope.~~ ~~((These rules))~~ WAC 246-922-660 through 246-922-790 govern the ~~((use))~~ prescribing of opioids in the treatment of ~~((patients for chronic noncancer))~~ pain.

AMENDATORY SECTION (Amending WSR 11-10-063, filed 5/2/11, effective 7/1/11)

WAC 246-922-661 Exclusions. ~~((The rules adopted under))~~ WAC 246-922-660 through ~~((246-922-673))~~ 246-922-790 do not apply to:

- (1) The treatment of patients with cancer-related pain;
- (2) The provision of palliative, hospice, or other end-of-life care; ~~((or~~
- (2) The management of acute pain caused by an injury or surgical procedure-))
- (3) The provision of procedural premedications; or
- (4) The treatment of inpatient hospital patients. As used in this section, "inpatient" means a person who has been admitted to a hospital for more than twenty-four hours.

AMENDATORY SECTION (Amending WSR 11-10-063, filed 5/2/11, effective 7/1/11)

WAC 246-922-662 Definitions. The definitions in this section apply ~~((in))~~ to WAC ~~((246-922-600 through 246-922-673))~~ 246-922-660 through 246-922-790 unless the context clearly requires otherwise.

(1) "Aberrant behavior" means behavior that indicates misuse, diversion, unauthorized use of alcohol or other controlled substances, or active opioid use disorder. This includes, but is not limited to: Multiple early refills or renewals or obtaining prescriptions for the same or similar drugs from more than one practitioner or other health care practitioner.

(2) "Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal, or mechanical stimulus and typically is associated with invasive procedures, trauma, and disease. ~~((It is generally time limited, often less than three months in duration, and usually less than six months.~~

(2) "Addiction" means a primary, chronic, neurobiologic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include:

- (a) Impaired control over drug use;
- (b) Craving;
- (c) Compulsive use; or
- (d) Continued use despite harm.

Acute pain is considered to be six weeks or less in duration.

(3) "Biological specimen test" or "biological specimen testing" means tests of urine, hair, or other biological samples for various drugs and metabolites.

(4) "Chronic ((~~noncancer~~) pain)" means a state in which ((~~noncancer~~) pain persists beyond the usual course of an acute disease or healing of an injury, or that may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain ((~~over months or years~~)) more than twelve weeks in duration. Chronic pain includes pain resulting from cancer or treatment of cancer in a patient who is two years post-completion of curative anti-cancer treatment with no current evidence of disease.

((4)) (5) "Comorbidity" means a preexisting or coexisting physical or psychiatric disease or condition.

((5)) (6) "Episodic care" means medical care provided by a ((~~provider~~)) practitioner other than the designated primary ((~~provider~~)) practitioner in the acute care setting, for example, urgent care or emergency department.

((6)) (7) "High dose" means ninety milligrams morphine equivalent dose, or more, per day.

(8) "High-risk" is a category of patient at increased risk of morbidity or mortality, based on factors and combinations of factors such as medical and behavioral comorbidities, polypharmacy, history of substance use disorder or abuse, aberrant behavior, high dose opioid prescription, or the use of any central nervous system depressant.

(9) "Hospice" means a model of care that focuses on relieving symptoms and supporting patients with a life expectancy of six months or less. ((~~Hospice involves an interdisciplinary approach to provide health care, pain management, and emotional and spiritual support. The emphasis is on comfort, quality of life and patient and family support. Hospice can be provided in the patient's home as well as freestanding hospice facilities, hospitals, nursing homes, or other long-term care facilities.~~)

((7)) (10) "Hospital" means any institution, place, building, or agency licensed under chapter 70.41 or 71.12 RCW, or designated under chapter 72.23 RCW to provide accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(11) "Medication assisted treatment" or "MAT" means the use of pharmacologic therapy, often in combination with counseling and behavioral therapies, for the treatment of substance use disorders.

(12) "Morphine equivalent dose" or "MED" means a conversion of various opioids to a morphine equivalent dose by the use of accepted conversion tables.

((8)) (13) "Multidisciplinary pain clinic" means a ((~~clinic or office~~)) facility that provides comprehensive pain management and includes care provided by multiple available disciplines, practitioners, or treatment modalities((~~for example, physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, advanced registered nurse practitioners, physician therapy, occupational therapy, or other complementary therapies~~)).

((9)) (14) "Opioid analgesic" or "opioid" means a drug that is either an opiate derived from the opium poppy or opiate-like that is a semisynthetic or synthetic drug. Examples include morphine, codeine, hydrocodone, oxycodone, fentanyl, meperidine, tramadol, buprenorphine, and methadone.

(15) "Palliative care" means care that maintains or improves the quality of life of patients and their families facing serious, advanced, or life-threatening illness((~~. With palliative care particular attention is given to the prevention, assessment, and treatment of pain and other symptoms, and to the provision of psychological, spiritual, and emotional support~~)).

(16) "Pain" means an unpleasant sensory or emotional experience associated with actual or potential tissue damage, or described in terms of such damage.

(17) "Pain management clinic" means a facility in which a majority of patients are receiving chronic pain treatment.

(18) "Perioperative pain" means acute pain that occurs surrounding the performance of surgery.

(19) "Prescription monitoring program" or "PMP" means the Washington state prescription monitoring program authorized under chapter 70.225 RCW.

(20) "Practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a dentist licensed under chapter 18.32 RCW, a physician licensed under chapter 18.71 or 18.57 RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or a podiatric physician licensed under chapter 18.22 RCW.

(21) "Refill" or "renewal" means a second or subsequent filling of a previously issued prescription that is authorized to be dispensed when the patient has exhausted their current supply. For the purposes of WAC 246-922-660 through 246-922-790, refills or renewals are subject to the same limitations and requirements as initial prescriptions.

(22) "Subacute pain" means a continuation of pain, of six weeks to twelve weeks in duration.

(23) "Substance use disorder" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Substance use disorder is not the same as physical dependence or tolerance that are normal physiological consequences of extended opioid therapy for pain. It is characterized by behaviors that include, but are not limited to, impaired control over drug use, craving, compulsive use, or continued use despite harm.

NEW SECTION

**WAC 246-922-675 Patient notification, secure storage, and disposal.** (1) The podiatric physician shall provide information to the patient educating them of risks associated with the use of opioids as appropriate to the medical condition, the type of patient, and the phase of treatment. The podiatric physician shall document such notification in the patient record.

(2) Patient notification must occur, at a minimum, at the following points of treatment:

(a) The first issuance of a prescription for an opioid; and  
 (b) The transition between phases of treatment, as follows:

(i) Acute nonoperative pain or acute perioperative pain to subacute pain; and

(ii) Subacute pain to chronic pain.

(3) Patient notification must include information regarding:

(a) The safe and secure storage of opioid prescriptions; and

(b) The proper disposal of unused opioid medications including, but not limited to, the availability of recognized drug take-back programs.

(4) The patient notification requirements in this section shall be deemed fulfilled by providing board-approved patient education information.

NEW SECTION

**WAC 246-922-680 Use of alternative modalities for pain treatment.** Podiatric physicians shall exercise professional judgment in selecting appropriate treatment modalities for acute, subacute, or perioperative pain, including the use of nonopioid multimodal pharmacologic and nonpharmacologic therapy as an alternative to opioids whenever reasonable, clinically appropriate, evidence-based alternatives exist. Nonopioid pain management modalities may include, but are not limited to, antidepressants, anticonvulsants, anti-inflammatory medications, acetaminophen, interventional procedures, or any nonpharmacological pain treatments, or any combination of the above modalities.

NEW SECTION

**WAC 246-922-685 Continuing education requirements for opioid prescribing.** (1) In order to prescribe an opioid in Washington state, a podiatric physician licensed to prescribe opioids shall complete a one-time continuing education regarding best practices in the prescribing of opioids and the rules in this chapter on opioid prescribing. The continuing education must be at least one hour in length.

(2) The podiatric physician shall complete the one-time continuing education described in subsection (1) of this section by the end of the podiatric physician's first full continuing education reporting period after January 1, 2019, or during the first full continuing education reporting period after initial licensure, whichever is later.

(3) The continuing education required under this section counts toward meeting any applicable Category 1 continuing education requirements.

**OPIOID PRESCRIBING—ACUTE NONOPERATIVE PAIN AND ACUTE PERIOPERATIVE PAIN**NEW SECTION

**WAC 246-922-690 Patient evaluation and patient record.** Prior to prescribing opioids for acute nonoperative pain or acute perioperative pain, the podiatric physician shall:

(1) Conduct and document an appropriate history and physical examination, including screening for risk factors for overdose and severe postoperative pain;

(2) Evaluate the nature and intensity of the pain or anticipated pain following surgery; and

(3) Inquire about any other medications the patient is prescribed or is taking, including type, dosage, and quantity prescribed.

NEW SECTION

**WAC 246-922-695 Acute nonoperative pain.** The podiatric physician shall comply with the requirements in this section when prescribing opioid analgesics for acute nonoperative pain and shall document completion of these requirements in the patient record:

(1) The podiatric physician, or his or her authorized designee, shall conduct queries of the PMP in accordance with the provisions of WAC 246-922-790 and document their review and any concerns in the patient record.

(2) If the podiatric physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. The podiatric physician shall not prescribe beyond a seven day supply without clinical documentation in the patient record to justify the need for such a quantity.

(3) The podiatric physician shall reevaluate the patient who does not follow the expected course of recovery. If documented improvement in function or pain control has not occurred, the podiatric physician shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(4) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

(a) Change in pain level;

(b) Change in physical function;

(c) Change in psychosocial function; and

(d) Additional planned diagnostic evaluations to investigate causes of continued acute nonoperative pain or other treatments.

(5) Long-acting or extended release opioids are not typically indicated for acute nonoperative pain. Should a podiatric physician need to use a long-acting or extended release opioid for acute pain, the podiatric physician shall document the reason in the patient record.

(6) A podiatric physician shall not discontinue medication assisted treatment medications when treating acute pain, except when consistent with the provisions of WAC 246-922-780.

(7) If the podiatric physician elects to treat a patient with opioids beyond the six-week time period of acute nonoperative pain, the podiatric physician shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-922-705 and 246-922-710 shall apply.

#### NEW SECTION

**WAC 246-922-700 Acute perioperative pain.** The podiatric physician shall comply with the requirements in this section when prescribing opioid analgesics for perioperative pain and shall document completion of these requirements in the patient record:

(1) The podiatric physician, or his or her authorized designee, shall conduct queries of the PMP in accordance with the provisions of WAC 246-922-790 and document their review and any concerns in the patient record.

(2) If the podiatric physician prescribes opioids for effective pain control, such prescription must not be in a greater quantity than needed for the expected duration of pain severe enough to require opioids. The podiatric physician shall not prescribe beyond a fourteen-day supply from the time of discharge without clinical documentation in the patient record to justify the need for such a quantity.

(3) The podiatric physician shall reevaluate the patient who does not follow the expected course of recovery. If documented improvement in function or pain control has not occurred, the podiatric physician shall reconsider the continued use of opioids or whether tapering or discontinuing opioids is clinically indicated.

(4) Follow-up visits for pain control should include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional planned diagnostic evaluations or other treatments.

(5) If the podiatric physician elects to prescribe a combination of opioids with a Schedule II-V medication listed in WAC 246-922-775 or prescribes opioids to a patient known to be receiving a medication listed in WAC 246-922-775 from another practitioner, such prescribing must be in accordance with WAC 246-922-775.

(6) If the podiatric physician elects to treat a patient with opioids beyond the six-week time period of acute perioperative pain, the podiatric physician shall document in the patient record that the patient is transitioning from acute pain to subacute pain. Rules governing the treatment of subacute pain in WAC 246-922-705 and 246-922-710 shall apply unless there is documented improvement in function or pain control and there is a documented plan and timing for discontinuation of all opioid medications.

#### **OPIOID PRESCRIBING FOR SUBACUTE PAIN**

#### NEW SECTION

**WAC 246-922-705 Patient evaluation and patient record.** The podiatric physician shall comply with the

requirements in this section when prescribing opioid analgesics for subacute pain and shall document completion of these requirements in the patient record:

(1) Prior to prescribing an opioid for subacute pain, the podiatric physician shall:

(a) Conduct an appropriate history and physical examination or review and update the patient's existing history and examination taken during the acute nonoperative or acute perioperative phase;

(b) Evaluate the nature and intensity of the pain;

(c) Inquire about other medications the patient is prescribed or taking, including type, dosage, and quantity prescribed;

(d) Conduct, or cause his or her authorized designee to conduct, a query of the PMP in accordance with provisions of WAC 246-922-790 and document their review and any concerns in the patient record;

(e) Screen and document the patient's potential for high-risk behavior and adverse events related to opioid therapy. If the podiatric physician determines the patient is high-risk, consider lower dose therapy, shorter intervals between prescriptions, more frequent visits, increased biological specimen testing, and prescribing rescue naloxone;

(f) Obtain a biological specimen test if the patient's function is deteriorating or if pain is escalating;

(g) Screen or refer the patient for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety.

(2) The podiatric physician treating a patient for subacute pain with opioids shall ensure that, at a minimum, the following are documented in the patient record:

(a) The presence of one or more recognized diagnoses or indications for the use of opioid pain medication;

(b) The observed documented improvement in function or pain control forming the basis to continue prescribing opioid analgesics beyond the acute pain episode;

(c) The result of any queries of the PMP and any concerns the podiatric physician may have;

(d) All medications the patient is known to be prescribed or taking;

(e) An appropriate pain treatment plan, including the consideration of, or attempts to use, nonpharmacological modalities and nonopioid therapy;

(f) Results of any aberrant biological specimen testing results and the risk-benefit analysis if opioids are to be continued;

(g) Results of screening or referral for further consultation for psychosocial factors which may be impairing recovery including, but not limited to, depression or anxiety;

(h) Results of screening for the patient's level of risk for aberrant behavior and adverse events related to opioid therapy;

(i) The risk-benefit analysis of any combination of prescribed opioid and benzodiazepines or sedative-hypnotics, if applicable; and

(j) All other required components of the patient record, as established in statute or rule.

(3) Follow-up visits for pain control must include objectives or metrics to be used to determine treatment success if opioids are to be continued. This may include:

- (a) Change in pain level;
- (b) Change in physical function;
- (c) Change in psychosocial function; and
- (d) Additional planned diagnostic evaluations or other treatments.

#### NEW SECTION

**WAC 246-922-710 Subacute pain.** (1) The podiatric physician shall recognize the progression of a patient from the acute nonoperative or acute perioperative phase to the subacute phase and take into consideration the risks and benefits of continued opioid prescribing for the patient.

(2) If tapering has not begun prior to the six- to twelve-week subacute phase, the podiatric physician shall reevaluate the patient who does not follow the expected course of recovery. If documented improvement in function or pain control has not occurred, the podiatric physician shall reconsider the continued use of opioids or whether tapering or discontinuing the use of opioids is clinically indicated. The podiatric physician shall make reasonable attempts to discontinue the use of opioids prescribed for the acute pain event by no later than the twelve-week conclusion of the subacute phase.

(3) If the podiatric physician prescribes opioids for effective pain control, such prescription shall be in no greater quantity than needed for the expected duration of pain severe enough to require opioids. The podiatric physician shall not prescribe beyond a fourteen-day supply of opioids without clinical documentation to justify the need for such a quantity during the subacute phase.

(4) If the podiatric physician elects to prescribe a combination of opioids with a medication listed in WAC 246-922-775 or prescribes opioids to a patient known to be receiving a medication listed in WAC 246-922-775 from another practitioner, the podiatric physician shall prescribe in accordance with WAC 246-922-775.

(5) If the podiatric physician elects to treat a patient with opioids beyond the six- to twelve-week subacute phase, the podiatric physician shall document in the patient record that the patient is transitioning from subacute pain to chronic pain. Rules governing the treatment of chronic pain in WAC 246-922-715 through 246-922-760 shall apply.

### **OPIOID PRESCRIBING—CHRONIC PAIN MANAGEMENT**

#### NEW SECTION

**WAC 246-922-715 Patient evaluation and patient record.** (1) For the purpose of this section, "risk assessment tool" means validated tools or questionnaires appropriate for identifying a patient's level of risk for substance abuse or misuse.

(2) The podiatric physician shall evaluate and document the patient's health history and physical examination in the patient record prior to treating for chronic pain.

(a) History. The patient's health history must include:

- (i) The nature and intensity of the pain;
- (ii) The effect of pain on physical and psychosocial function;

- (iii) Current and past treatments for pain, including medications and their efficacy;
- (iv) Review of any significant comorbidities;
- (v) Any current or historical substance use disorder;
- (vi) Current medications and, as related to treatment of the pain, the efficacy of medications tried; and
- (vii) Medication allergies.

(b) Evaluation. The patient evaluation prior to opioid prescribing must include:

- (i) Appropriate physical examination;
- (ii) Consideration of the risks and benefits of chronic pain treatment for the patient;

(iii) Medications the patient is taking including indication(s), type, dosage, quantity prescribed, and, as related to treatment of pain, efficacy of medications tried;

(iv) Review of the PMP in accordance with the provisions of WAC 246-922-790;

(v) Any available diagnostic, therapeutic, and laboratory results;

(vi) Use of a risk assessment tool and assignment of the patient to a high-, moderate-, or low-risk category. The podiatric physician should use caution and shall monitor a patient more frequently when prescribing opioid analgesics to a patient identified as high-risk;

(vii) Any available consultations, particularly as related to the patient's pain;

(viii) Pain related diagnosis, including documentation of the presence of one or more recognized indications for the use of pain medication;

(ix) Treatment plan and objectives including:

(A) Documentation of any medication prescribed;

(B) Biologic specimen testing ordered; and

(C) Any labs or imaging ordered.

(x) Written agreements, also known as a "pain contract," for treatment between the patient and the practitioner; and

(xi) Patient counseling concerning risks, benefits, and alternatives to chronic opioid therapy.

(c) The health record must be maintained in an accessible manner, readily available for review, and contain documentation of requirements in this subsection, as well as all other required components of the patient record, as established in statute or rule.

#### NEW SECTION

**WAC 246-922-720 Treatment plan.** (1) When the patient enters the chronic pain phase, the podiatric physician shall reevaluate the patient by treating the situation as a new disease.

(2) The chronic pain treatment plan must state the objectives that will be used to determine treatment success and must include:

(a) Any change in pain relief;

(b) Any change in physical and psychosocial function; and

(c) Additional diagnostic evaluations or other planned treatments.

(3) After treatment begins, the practitioner shall adjust drug therapy to the individual health needs of the patient.

(4) The podiatric physician shall complete patient notification in accordance with the provisions of WAC 246-922-675.

#### NEW SECTION

##### **WAC 246-922-725 Written agreement for treatment.**

The podiatric physician shall use a written agreement for treatment with the patient who requires long-term opioid therapy for chronic pain. The written agreement shall outline the patient's responsibilities and must include:

(1) The patient's agreement to provide biological samples for biological specimen testing when requested by the practitioner;

(2) The patient's agreement to take medications at the dose and frequency prescribed with a specific protocol for lost prescriptions and early refills;

(3) Reasons for which opioid therapy may be discontinued, such as violation of a written agreement;

(4) The requirement that all chronic opioid prescriptions are provided by a single prescriber, a single clinic, or a multidisciplinary pain clinic;

(5) The requirement that all chronic opioid prescriptions are to be dispensed by a single pharmacy or pharmacy system whenever possible;

(6) The patient's agreement to not abuse substances that can put the patient at risk for adverse outcomes;

(7) A written authorization for:

(a) The podiatric physician to release the agreement for treatment to:

(i) Local emergency departments;

(ii) Urgent care facilities;

(iii) Other practitioners caring for the patient who might prescribe pain medications; and

(iv) Pharmacies.

(b) The podiatric physician to report known violations of the agreement to the practitioner treating the patient's chronic pain and to the PMP.

(8) Acknowledgment that it is the patient's responsibility to safeguard all medications and keep them in a secure location; and

(9) Acknowledgment that if the patient violates the terms of the agreement, the violation and the podiatric physician's response to the violation will be documented, as well as the rationale for changes in the treatment plan.

#### NEW SECTION

##### **WAC 246-922-730 Periodic review.**

(1) The podiatric physician shall periodically review the course of treatment for chronic pain. The frequency of visits, biological testing, and PMP queries in accordance with the provisions of WAC 246-922-790 must be determined based on the patient's risk category:

(a) For a high-risk patient, at least quarterly;

(b) For a moderate-risk patient, at least semiannually;

(c) For a low-risk patient, at least annually;

(d) Immediately upon indication of concerning aberrant behavior; and

(e) More frequently at the podiatric physician's discretion.

(2) During the periodic review, the podiatric physician shall determine:

(a) The patient's compliance with any medication treatment plan;

(b) If pain, function, or quality of life have improved, diminished, or are maintained using objective evidence; and

(c) If continuation or modification of medications for pain management treatment is necessary based on the podiatric physician's evaluation of progress toward treatment objectives.

(3) Periodic patient evaluations must also include:

(a) History and physical examination related to the pain;

(b) Use of validated tools to document either maintenance of function and pain control or improvement in function and pain level; and

(c) Review of the PMP to identify any Schedule II-V medications or drugs of concern received by the patient at a frequency determined by the patient's risk category, and otherwise in accordance with the provisions of WAC 246-922-790 and subsection (1) of this section.

(4) The podiatric physician shall assess the appropriateness of continued use of the current treatment plan if the patient's progress or compliance with the current treatment plan is unsatisfactory. The podiatric physician shall consider tapering, changing, or discontinuing treatment in accordance with the provisions of WAC 246-922-755.

#### NEW SECTION

##### **WAC 246-922-735 Consultation—Recommendations and requirements.**

(1) The podiatric physician shall consider referring the chronic pain patient for additional evaluation and treatment as needed to achieve treatment objectives. Special attention should be given to those chronic pain patients who are under eighteen years of age or who are potential high-risk patients. The management of chronic pain in patients with a history of substance abuse or with comorbid psychiatric disorders may require extra care, monitoring, documentation, and consultation with, or referral to, an expert in the management of such patients.

(2) The mandatory consultation threshold is one hundred twenty milligrams MED. Unless the consultation is exempt under WAC 246-922-740 or 246-922-745, a podiatric physician who prescribes a dosage amount at or above the mandatory consultation threshold must comply with the pain management specialist consultation requirements described in WAC 246-922-750. The mandatory consultation must consist of at least one of the following:

(a) An office visit with the patient and the pain management specialist;

(b) A consultation between the pain management specialist and the podiatric physician;

(c) An audio-visual evaluation conducted by the pain management specialist remotely, where the patient is present with either the podiatric physician or with a licensed health care practitioner designated by the podiatric physician or the pain management specialist; or

(d) Other chronic pain evaluation services as approved by the board.

(3) The podiatric physician shall document each consultation with the pain management specialist. Any written record of the consultation by the pain management specialist shall be maintained as a patient record by the specialist. If the pain management specialist provides a written record of the consultation to the podiatric physician, the podiatric physician shall maintain it as part of the patient record.

(4) The podiatric physician shall use great caution when prescribing opioids to children and adolescents with chronic pain; appropriate referral to a specialist is encouraged.

#### NEW SECTION

**WAC 246-922-740 Consultation—Exemptions for exigent and special circumstances.** A podiatric physician is not required to consult with a pain management specialist as defined in WAC 246-922-750 when they have documented adherence to all standards of practice as defined in WAC 246-922-715 through 246-922-760 and when one or more of the following conditions are met:

- (1) The patient is following a tapering schedule;
- (2) The patient requires treatment for acute pain, which may or may not include hospitalization, requiring a temporary escalation in opioid dosage with expected return to their baseline dosage level or below;
- (3) The podiatric physician documents reasonable attempts to obtain a consultation with a pain management specialist and the circumstances justifying prescribing at or above one hundred twenty MED per day without first obtaining a consultation; or
- (4) The podiatric physician documents the patient's pain and function is stable and the patient is on a nonescalating dosage of opioids.

#### NEW SECTION

**WAC 246-922-745 Consultation—Exemptions for the podiatric physician.** A podiatric physician is not required to consult with a pain management specialist as defined in WAC 246-922-735 if one or more of the following qualifications are met:

- (1) The podiatric physician is a pain management specialist under WAC 246-922-750;
- (2) The podiatric physician has successfully completed, every four years, a minimum of twelve continuing education hours on chronic pain management in accordance with WAC 246-922-310. At least two of these hours must be in substance use disorders;
- (3) The podiatric physician is a pain management practitioner working in a multidisciplinary chronic pain clinic or a multidisciplinary academic research facility; or
- (4) The podiatric physician has a minimum of three years of clinical experience in a chronic pain clinic, and at least thirty percent of their current practice is the direct provision of pain management care.

#### NEW SECTION

**WAC 246-922-750 Pain management specialist.** A pain management specialist shall meet one or more of the following qualifications:

- (1) An allopathic physician or osteopathic physician:
  - (a) Be board certified or board eligible by an American Board of Medical Specialties-approved board (ABMS) or by the American Osteopathic Association (AOA) in physical medicine and rehabilitation, rehabilitation medicine, neurology, rheumatology, or anesthesiology;
  - (b) Have a subspecialty certificate in pain medicine by an ABMS-approved board;
  - (c) Have a certification of added qualification in pain management by the AOA;
  - (d) Be credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for an allopathic physician or the Washington state board of osteopathic medicine and surgery for an osteopathic physician; or
    - (e) Have a minimum of three years of clinical experience in a chronic pain management care setting, including:
      - (i) Has successful completion of a minimum of at least eighteen continuing education hours in pain management during the past two years for an allopathic physician or three years for an osteopathic physician; and
      - (ii) Has at least thirty percent of the allopathic physician's or osteopathic physician's current practice in the direct provision of pain management care or is in a multidisciplinary pain clinic.
  - (2) An allopathic physician assistant or osteopathic physician assistant shall have a delegation agreement with an allopathic physician or osteopathic physician pain management specialist and meet all of the following educational and practice requirements:
    - (a) A minimum of three years of clinical experience in a chronic pain management care setting;
    - (b) Is credentialed in pain management by an entity approved by the Washington state medical quality assurance commission for an allopathic physician assistant or the Washington state board of osteopathic medicine and surgery for an osteopathic physician assistant;
    - (c) Has successfully completed a minimum of at least eighteen continuing education hours in pain management during the past two years; and
    - (d) At least thirty percent of the allopathic physician assistant's or osteopathic physician assistant's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.
  - (3) A dentist must be board certified or board eligible in oral medicine or orofacial pain by the American Board of Oral Medicine or the American Board of Orofacial Pain.
  - (4) An advanced registered nurse practitioner (ARNP) must:
    - (a) Be credentialed in pain management by a Washington state nursing care quality assurance commission-approved certifying or credentialing entity; or
    - (b) Meet all of the following:
      - (i) Have a minimum of three years of clinical experience in a chronic pain management care setting; or
      - (ii) Successfully completed a minimum of at least eighteen continuing education hours in pain management during the past two years; and

(iii) At least thirty percent of the ARNP's current practice is the direct provision of pain management care or is in a multidisciplinary pain clinic.

(5) A podiatric physician must:

(a) Be board certified or board eligible by a specialty that includes a focus on pain management by the American Board of Foot and Ankle Surgery or its predecessor, the American Board of Podiatric Medicine, the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, or other accredited certifying board as approved by the Washington state podiatric medical board; or

(b) Have a minimum of three years of clinical experience in a chronic pain management care clinic;

(c) Be credentialed in pain management by a Washington state podiatric medical board-approved national professional association, pain association, or other credentialing entity;

(d) Have successfully completed a minimum of at least eighteen continuing education hours in pain management during the past two years; and

(e) At least thirty percent of the podiatric physician's current practice is the direct provision of pain management care.

#### NEW SECTION

**WAC 246-922-755 Tapering requirements.** (1) The podiatric physician shall assess and document the appropriateness of continued use of the current treatment plan if the patient's response to or compliance with the current treatment plan is unsatisfactory.

(2) The podiatric physician shall consider tapering, changing, discontinuing treatment, or referral for a substance use disorder evaluation when:

(a) The patient requests tapering, changing, discontinuing treatment, or referral for a substance use disorder;

(b) The patient experiences a deterioration in function or pain;

(c) The patient is noncompliant with the written agreement;

(d) Other treatment modalities are indicated;

(e) There is evidence of misuse, abuse, substance use disorder, or diversion;

(f) The patient experiences a severe adverse event or overdose;

(g) There is unauthorized escalation of doses; or

(h) When the patient is receiving an escalation in opioid dosage with no improvement in pain, function, or quality of life.

#### NEW SECTION

**WAC 246-922-760 Patients with chronic pain, including those on high doses—Establishing a relationship with a new practitioner.** (1) When a patient receiving chronic opioid pain medications changes to a new podiatric physician, it is normally appropriate for the podiatric physician to initially maintain the patient's current opioid doses. Over time, the podiatric physician may evaluate if any tapering or other adjustments in the treatment plan can or should be done.

(2) A podiatric physician's treatment of a new high-dose chronic pain patient is exempt from the mandatory consultation requirements of WAC 246-922-735 and the tapering requirements of WAC 246-922-755 for the first three months of newly established care if:

(a) The patient was previously being treated with a dosage of opioids at or above one hundred twenty milligrams MED for chronic pain under an established written agreement for treatment of the same chronic condition or conditions;

(b) The patient's dose is stable and nonescalating;

(c) The patient has a demonstrated history in their record of compliance with treatment plans and written agreements as documented by medical records and PMP queries; and

(d) The patient has documented functional stability, pain control, or improvements in function or pain control, at the presenting dose.

### **OPIOID PRESCRIBING—SPECIAL POPULATIONS**

#### NEW SECTION

**WAC 246-922-765 Special populations—Patients twenty-five years of age or under, pregnant patients, and aging populations.** (1) Patients twenty-five years of age or under. In the treatment of pain for patients twenty-five years of age or under, the podiatric physician shall treat pain in a manner equal to that of an adult but must account for the weight of the patient and adjust the dosage prescribed accordingly.

(2) Pregnant patients. Use of MAT opioids, such as methadone or buprenorphine, by a pregnant patient shall not be discontinued without oversight by the MAT prescribing practitioner. The podiatric physician shall weigh carefully the risks and benefits of opioid detoxification during pregnancy.

(3) Aging populations. As people age, their tolerance and metabolizing of opioids may change. The podiatric physician shall treat pain in a manner commensurate with the distinctive needs of patients who are sixty-five years of age or older and who have been on chronic opioid therapy or who are initiating opioid treatment.

#### NEW SECTION

**WAC 246-922-770 Episodic care of chronic opioid patients.** (1) When providing episodic care for a patient who the podiatric physician knows is being treated with opioids for chronic pain, such as for emergency or urgent care, the podiatric physician shall review the PMP and document their review and any concerns in the patient record.

(2) A podiatric physician providing episodic care to a patient who the podiatric physician knows is being treated with opioids for chronic pain should provide additional opioids equal to the severity of the acute pain. If opioids are provided, the podiatric physician shall limit the use of opioids to the minimum amount necessary to control the acute nonoperative pain, acute perioperative pain, or similar acute exacerbation of pain until the patient can receive care from the practitioner who is managing the patient's chronic pain treatment.

(3) The episodic care podiatric physician shall report known violations of the patient's written agreement to the

patient's treatment practitioner who provided the agreement for treatment.

(4) The episodic care podiatric physician shall coordinate care with the patient's chronic pain treatment practitioner if that person is known to the episodic care podiatric physician, when practicable.

### OPIOID PRESCRIBING—COPRESCRIBING

#### NEW SECTION

**WAC 246-922-775 Coprescribing of opioids with certain medications.** (1) The podiatric physician shall not knowingly prescribe opioids in combination with the following Schedule II-IV medications without documentation of clinical judgment:

- (a) Benzodiazepines;
- (b) Barbiturates;
- (c) Sedatives;
- (d) Carisoprodol; or
- (e) Sleeping medications, also known as Z drugs.

(2) If a patient receiving an opioid prescription is known to be concurrently prescribed one or more of the medications listed in subsection (1) of this section, the podiatric physician prescribing opioids shall consult, or make a reasonable effort to consult, with the other prescriber(s) to establish a patient care plan for the use of the medications concurrently or consider whether one of the medications should be tapered.

#### NEW SECTION

**WAC 246-922-780 Coprescribing of opioids for patients receiving medication assistant treatment.** (1) Where practicable, the podiatric physician providing acute nonoperative pain or acute perioperative pain treatment to a patient known to be receiving MAT shall prescribe opioids for pain relief either in consultation with the MAT prescribing practitioner or a pain specialist.

(2) The podiatric physician shall not discontinue MAT medications when treating acute nonoperative pain or acute perioperative pain without documentation of the reason for doing so, nor shall these medications be used to deny necessary operative intervention.

#### NEW SECTION

**WAC 246-922-785 Coprescribing of naloxone.** (1) The podiatric physician shall confirm or provide a current prescription for naloxone when high-dose opioids are prescribed to a high-risk patient.

(2) The podiatric physician should counsel and provide an option for a current prescription for naloxone to patients being prescribed opioids as clinically indicated.

### OPIOID PRESCRIBING—PRESCRIPTION MONITORING PROGRAM

#### NEW SECTION

**WAC 246-922-790 Prescription monitoring program—Required registration, queries, and documentation.** (1)

The podiatric physician shall register to access the PMP or demonstrate proof of having registered to access the PMP if the podiatric physician prescribes opioids in Washington state.

(2) The podiatric physician is permitted to delegate performance of a required PMP query to an authorized designee.

(3) At a minimum, the podiatric physician shall ensure a PMP query is performed prior to the prescription of an opioid at the following times:

(a) Upon the second refill or renewal of an opioid prescription for acute nonoperative pain or acute perioperative pain;

(b) The time of transition from acute to subacute pain; and

(c) The time of transition from subacute to chronic pain.

(4) For chronic pain management, the podiatric physician shall ensure a PMP query is performed at a minimum frequency determined by the patient's risk assessment, as follows:

(a) For a high-risk patient, a PMP query shall be completed at least quarterly.

(b) For a moderate-risk patient, a PMP query shall be completed at least semiannually.

(c) For a low-risk patient, a PMP query shall be completed at least annually.

(5) The podiatric physician shall ensure a PMP query is performed for any chronic pain patient immediately upon identification of aberrant behavior.

(6) The podiatric physician shall ensure a PMP query is performed when providing episodic care to a patient who the podiatric physician knows to be receiving opioids for chronic pain, in accordance with WAC 246-922-770.

(7) For the purposes of this section, the requirement to consult the PMP does not apply when the PMP or the electronic medical record (EMR) cannot be accessed by the podiatric physician due to a temporary technological or electrical failure.

(8) If the podiatric physician is working in a practice, group, or institution that integrates access to the PMP into the workflow of the EMR, the podiatric physician shall ensure a PMP query is performed for all prescriptions of opioids and sedative hypnotics for acute pain.

(9) Pertinent concerns discovered in the PMP must be documented in the patient record.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-922-663 Patient evaluation.

WAC 246-922-664 Treatment plan.

WAC 246-922-665 Informed consent.

WAC 246-922-666 Written agreement for treatment.

WAC 246-922-667 Periodic review.

WAC 246-922-668 Long-acting opioids, including methadone.

WAC 246-922-669 Episodic care.

- WAC 246-922-670 Consultation—Recommendations and requirements.
- WAC 246-922-671 Consultation—Exemptions for exigent and special circumstances.
- WAC 246-922-672 Consultations—Exemptions for the podiatric physician.
- WAC 246-922-673 Pain management specialist.

**WSR 18-15-069**  
**PROPOSED RULES**  
**BELLEVUE COLLEGE**

[Filed July 17, 2018, 8:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-10-041.

Title of Rule and Other Identifying Information: Repeal chapter 132H-125 WAC, Student conduct code of Bellevue College, and replace it with chapter 132H-126 WAC.

Hearing Location(s): On October 2, 2018, at 1:30 p.m., at Bellevue College, Room N201, 3000 Landerholm Circle S.E., Bellevue, WA 98007.

Date of Intended Adoption: November 7, 2018.

Submit Written Comments to: Megan Kaptik, 3000 Landerholm Circle S.E., Bellevue, WA 98007, email [megan.kaptik@bellevuecollege.edu](mailto:megan.kaptik@bellevuecollege.edu), phone 425-564-2757, by October 2, 2018.

Assistance for Persons with Disabilities: Contact Katelynn Creeley, phone 425-564-4159, TTY 425-564-6189, email [Katelynn.creeley@bellevuecollege.edu](mailto:Katelynn.creeley@bellevuecollege.edu), by October 2, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Bellevue College will open on campus student housing during fall quarter 2018. The college has revised its student conduct code to ensure that the code adequately addresses new student conduct issues that may arise with the introduction of a residential population on campus. The revised code will clarify misconduct definitions and streamline student conduct procedures.

Reasons Supporting Proposal: The current student conduct code was developed when Bellevue College was a commuter school. With the advent of student housing on campus, the college anticipates that new student conduct issues may arise and is updating the student code and related procedures to address these changes.

In an effort to make the code more student friendly, the college will be incorporating supplemental procedures applicable to allegations of sexual misconduct currently found at WAC 132H-125-330 through 132H-125-350 into the college's standard student conduct procedures. These changes will ensure that all of the procedures applicable to student conduct proceedings are codified in a single set of procedural rules and eliminate the need to refer to supplemental procedures when a discipline case involves allegations of sexual misconduct. Because of the extensive amount of revisions,

the college will repeal chapter 132H-125 WAC and replace it with chapter 132H-126 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13), chapter 34.05 RCW.

Statute Being Implemented: RCW 28B.50.140(13); Violence Against Women Reauthorization Act of 2013/Campus SaVE Act, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*

Rule is necessary because of federal law, Violence Against Women Reauthorization Act of 2013/Campus SaVE Act, 20 U.S.C. § 1092(f) and 34 C.F.R. § 668.46 (k)(2)(i).

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Megan Kaptik, Bellevue College, B233A, 3000 Landerholm Circle S.E., Bellevue, WA 98007, 425-564-2757.

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

A cost-benefit analysis is not required under RCW 34.05.328. Bellevue College is not one of the enumerated agencies required to conduct cost-benefit analyses under RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

D. L. Sullivan  
Executive Assistant  
to the President

**Chapter 132H-126 WAC**

**STUDENT CONDUCT CODE OF BELLEVUE  
COLLEGE**

NEW SECTION

**WAC 132H-126-010 Authority.** The board of trustees, acting pursuant to RCW 28B.50.140, delegates to the president of Bellevue College the authority to administer student disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice president of student affairs and/or the designated student conduct officer. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

NEW SECTION

**WAC 132H-126-020 Statement of student rights.** As members of the academic community, students are encour-

aged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and student affairs, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation that is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment that is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

#### NEW SECTION

##### **WAC 132H-126-030 Statement of jurisdiction. (1)**

The student conduct code shall apply to student conduct that occurs:

(a) On college premises;

(b) At or in connection with college-sponsored activities; or

(c) Off-campus, if in the judgment of the college the conduct adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the Bellevue College's associated student government, athletic events, training internships, cooperative and distance education, online education, internships, practicums, supervised work experiences, or any other college-sanctioned social or club activities.

(3) The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off campus.

(4) Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(5) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(6) In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

#### NEW SECTION

**WAC 132H-126-040 Definitions.** The following definitions shall apply for the purposes of this student conduct code:

(1) "**Business day**" means a weekday, excluding weekends and college holidays.

(2) "**College official**" is an employee of the college performing assigned administrative, security, professional, or paraprofessional duties.

(3) "**College premises**" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, other property owned, used, or controlled by the college, study abroad program, retreat, and conference sites, and college-sponsored and/or college-hosted online platforms.

(4) "**Conduct review officer**" is the vice president of student affairs or other college administrator designated by the president to be responsible for receiving and reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(5) "**Disciplinary action**" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(6) "**Disciplinary appeal**" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or a dismissal are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings (BAP).

(7) "**Filing**" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by email and first class mail to the specified college official's college email and office address.

(8) "**Impacted party**" is a student or another member of the college community directly affected by an alleged violation of this student conduct code. The impacted party may be the reporting party, but not necessarily; witnesses or other third parties may report concerns. In any case involving an allegation of sexual misconduct as defined in this student conduct code, an impacted party is afforded certain rights under this student conduct code including, but not limited to:

(a) The right to be informed of all orders issued in the disciplinary case in which this person is an impacted party;

(b) The right to appeal a disciplinary decision; and

(c) The right to be accompanied by a process advisor.

(9) "**Process advisor**" is a person selected by a responding party or an impacted party to provide support and guidance during disciplinary proceedings under this student conduct code.

(10) "**Responding party**" is a student against whom disciplinary action is initiated. Each responding party is afforded certain rights including, but not limited to:

(a) The right to be informed of all orders issued in the responding party's disciplinary case;

(b) The right to appeal a disciplinary decision; and

(c) The right to be accompanied by a process advisor.

(11) "**Service**" is the process by which a document is officially delivered to a party. Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email and by certified mail or first class mail to the party's last known address.

(12) "**Sexual misconduct**" includes prohibited sexual- or gender-based conduct by a student including, but not limited to, sexual harassment, sexual violence, sexual exploitation, indecent exposure, or relationship violence.

(13) "**Student**" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw, graduate, or complete courses after the date of an alleged violation, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(14) "**Student conduct officer**" is a college administrator designated by the president or vice president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(15) "**The president**" is the president of the college. The president is authorized to delegate any and all of their responsibilities, as set forth in this chapter, as may be reasonably necessary.

## NEW SECTION

**WAC 132H-126-100 Prohibited student conduct.** The college may impose disciplinary sanctions against a student who commits or attempts to commit, or aids, abets, incites, encourages, or assists another person to commit the following acts of misconduct:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) **Cheating.** Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) **Plagiarism.** Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. May also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Falsifying data, information, or citations in completing an academic assignment. Fabrication also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) **Multiple submissions.** Submitting the same work in separate courses without the express permission of the instructor(s).

(e) **Deliberate damage.** Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(3) **Acts of dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the reasonable request or requirement of a college official or employee.

(4) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(5) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, text messaging, social media sites, or applications (apps), to harass, abuse, bully, or engage in other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's electronic communications or computer activities directly or through spyware, sending threatening emails or texts, disrupting electronic communications with spam or by sending a computer virus,

or sending false emails or texts to third parties using another's identity (spoofing).

**(6) Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

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

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; honorably discharged veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

**(7) Disorderly conduct.** Conduct that is disorderly, lewd, or indecent; disturbing the peace; or assisting or encouraging another person to disturb the peace.

**(8) Disruption or obstruction.** Disruption or obstruction of any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity, or any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

**(9) Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

**(10) Failure to comply with directive.** Failure to comply with the reasonable direction of a college official or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

**(11) Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media and electronic communications unless otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise pro-

TECTED BY LAW WHEN A REASONABLE PERSON WOULD FEEL HUMILIATED, HARMED, OR INTIMIDATED.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, or duration of the comments or actions.

**(12) Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student.

**(13) Indecent exposure.** The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

**(14) Marijuana or other drugs.**

(a) **Marijuana.** The use, possession, growing, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, or the possession of marijuana paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(b) **Drugs.** The use, possession, production, delivery, sale, or being under the influence of any prescription drug or possession of drug paraphernalia, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

**(15) Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of computer time or resources to interfere with someone else's work;

(e) Use of computer time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of computer time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of computer time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

**(16) Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism of, or other

nonaccidental damaging or destruction of college property or the property of another person. Property, for purposes of this subsection, also includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(17) **Relationship violence.** The infliction of physical harm, bodily injury, assault, psychological harm, or the fear of imminent physical harm, bodily injury, or assault committed by:

- (a) The impacted party's current or former spouse;
- (b) Current or former cohabitant;
- (c) A person with whom the person shares a child in common; or
- (d) A person who has been in a romantic or intimate relationship with the impacted party. Whether such a relationship exists will be gauged by the length, type, and frequency of interaction.

(18) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(19) **Safety violations.** Safety violations include committing any reckless or unsafe act that endangers others, failing to follow established safety procedures (e.g., failing to evacuate during a fire alarm), or interfering with or otherwise compromising any college equipment relating to the safety and security of the campus community including, but not limited to, tampering with fire safety or first-aid equipment, or triggering false alarms or other emergency response systems.

(20) **Sexual exploitation.** Taking nonconsensual or abusive sexual advantage of another for the responding party's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

- (a) Invading another person's sexual privacy;
- (b) Prostituting another person;
- (c) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
- (d) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;
- (e) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;
- (f) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or
- (g) Causing the nonconsensual indecent exposure of another person, as defined by subsection (13) of this section.

(21) **Sexual harassment.** Unwelcome sexual- or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual- or gender-based nature that is sufficiently severe, persistent or pervasive as to:

- (a) Deny or limit the ability of a student to participate in or benefit from the college's educational program;
- (b) Alter the terms or conditions of employment; or
- (c) Create an intimidating, hostile, or offensive environment for other campus community members.

(22) **Sexual violence.** A type of sexual harassment that includes nonconsensual intercourse, nonconsensual sexual contact, and sexual coercion.

(a) Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity.

(i) Effective consent cannot result from force, or threat of physical force, coercion, dishonesty, or intimidation.

(ii) Physical force means someone is physically exerting control of another person through violence. Physical force includes, but is not limited to, hitting, kicking, and restraining.

(iii) Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not have consented.

(iv) Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(v) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

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

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

(d) **Sexual coercion.** Unreasonably pressuring another for sexual contact. When an impacted party makes it clear through words or actions that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond

that point is presumptively unreasonable and coercive. Other examples of coercion may include using blackmail or extortion, or administering drugs and/or alcohol to overcome resistance or gain consent to sexual activity. Sexual contact that is the result of coercion is nonconsensual.

(23) **Stalking.** Intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(24) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased, or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. Related products include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(25) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.

(26) **Unauthorized recording.** The following conduct is prohibited:

(a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy (e.g., restroom or residence hall room).

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

(27) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including on-campus housing policies and college traffic and parking rules.

(28) **Weapons.**

(a) Possessing, holding, wearing, transporting, storing, or exhibiting any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(i) Commissioned law enforcement personnel; or

(ii) Legally authorized military personnel while in performance of their official duties.

(b) Students with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9.41.050 on campus provided the vehicle is locked and the weapon is concealed from view.

(c) The president or delegate may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to any terms or conditions incorporated therein.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

NEW SECTION

**WAC 132H-126-110 Disciplinary sanctions—Terms and conditions.** (1) The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code:

(a) **Disciplinary warning.** A verbal statement to a student that they are violating or have violated the student conduct code and that continuation of the same or similar behavior may result in more severe discipline.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of the student conduct code and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance, depending upon the seriousness of the violation, which may include a deferred disciplinary sanction.

(i) Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(ii) If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation.

(d) **Disciplinary suspension.** Separation from the college and from the student status for a stated period of time.

(i) There will be no refund of tuition or fees for the quarter in which the action is taken.

(ii) Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the final order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions.

(iii) The college may put a conduct hold in place during the suspension period.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or college-controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

(b) **Loss of privileges.** Denial of specified privileges for a designated period of time.

(c) **No contact order.** A prohibition of direct or indirect physical, verbal, electronic, and/or written contact with another individual or group.

(d) **Not in good standing.** A student found to be "not in good standing" with the college shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(e) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional.

(i) The student may choose the professional within the scope of practice and with the professional credentials as defined by the college.

(ii) The student will sign all necessary releases to allow the college access to any such evaluation.

(iii) The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(f) **Residence hall suspension.** Separation of the student from a residence hall or halls for a definite period of time, after which the student may be eligible to return. Conditions for reacceptance may be specified.

(g) **Residence hall dismissal.** Permanent separation of the student from a residence hall or halls.

(h) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(i) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

## NEW SECTION

### **WAC 132H-126-120 Initiation of disciplinary action.**

(1) Any member of the college community may file a complaint against a student for possible violations of the student conduct code.

(2) Upon receipt, a student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **Student on student sexual misconduct.** The college's Title IX coordinator or designee shall investigate com-

plaints or other reports of alleged sexual misconduct by a student against a student.

(b) **Sexual misconduct involving an employee.** The college's human resource office or designee shall investigate complaints or other reports of sexual misconduct in which an employee is either the impacted or responding party.

(c) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for student disciplinary action.

(d) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done in compliance with federal and state laws and without unreasonably risking the health, safety, and welfare of the impacted party or other members of the college community.

(3) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the responding party or through alternative dispute resolution proceedings involving the impacted party and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the impacted party and the responding party.

(b) If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time.

(4) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or alternative dispute resolution, the student conduct officer may initiate disciplinary action against the responding party.

(a) Both the responding party and the impacted party in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

(b) The student conduct officer, prior to initiating disciplinary action in cases involving allegations of sexual misconduct, will make a reasonable effort to contact the impacted party to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the responding party if the allegations of sexual misconduct are found to have merit.

(5) All disciplinary actions will be initiated by a student conduct officer. If that officer is the subject of a complaint initiated by the responding party or the impacted party, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities.

(6) A student conduct officer shall initiate disciplinary action by serving the responding party with written notice directing them to attend a disciplinary meeting.

(a) The notice shall briefly describe the factual allegations, the provision(s) of the student conduct code the responding party is alleged to have violated, the range of possible sanctions for the alleged violation(s), and it will specify the time and location of the meeting.

(b) At the disciplinary meeting, the student conduct officer will present the allegations to the responding party, and

the responding party shall be afforded an opportunity to explain what occurred.

(c) If the responding party fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(7) Within ten days of the initial disciplinary meeting and after considering the evidence in the case, including any facts or argument presented by the responding party, the student conduct officer shall serve the responding party with a written decision setting forth the facts and conclusions supporting the decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended if the student conduct officer, based on information presented at the disciplinary meeting, concludes that additional investigation is necessary. If the period is extended, the student conduct officer will notify the responding party, and the impacted party in cases involving allegations of sexual misconduct, of this extension, the reason(s), and the anticipated extension time frame.

(8) A student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the responding party and terminate the proceedings.

(b) Impose a disciplinary sanction(s), with or without condition(s), as described in WAC 132H-126-110.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the responding party.

(9) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the responding party, will serve a written notice informing the impacted party of the decision, the reasons for the decision, and any disciplinary sanctions and/or conditions that may have been imposed upon the responding party, including disciplinary suspension or dismissal of the responding party. The notice will also inform the impacted party of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the impacted party to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

#### NEW SECTION

**WAC 132H-126-130 Appeal from disciplinary action.** (1) The responding party may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the responding party is seeking review.

(3) The parties to an appeal shall be the responding party and the student conduct officer. If a case involves allegations of sexual misconduct, an impacted party also has a right to

appeal a disciplinary decision or to intervene in the responding party's appeal of a disciplinary decision to the extent the disciplinary decision, sanctions or conditions relate to allegations of sexual misconduct against the responding party.

(4) A responding party, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless the responding party has been summarily suspended.

(7) The student conduct committee shall hear appeals regarding:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Residence hall dismissals;

(b) Residence hall suspensions;

(c) Suspensions of ten instructional days or less;

(d) Disciplinary probation;

(e) Written reprimands;

(f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions; and

(g) Appeals by an impacted party in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:

(i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

(ii) Issues a verbal warning to the responding party.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary complaints are final actions and are not subject to appeal.

(10) In cases involving allegations of sexual misconduct, the impacted party has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the responding party:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a responding party for a sexual misconduct violation, including a disciplinary warning.

(11) If the responding party timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the impacted party of the appeal and provide the impacted party an opportunity to intervene as a party to the appeal.

(12) Except as otherwise specified in this chapter, an impacted party who timely appeals a disciplinary decision or who intervenes as a party to responding party's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the responding party.

NEW SECTION

**WAC 132H-126-140 Conduct hold on student records.** (1) A student conduct officer or other designated college official may place a conduct hold on the student's record if the student is the responding party in a pending complaint of prohibited conduct, a pending conduct proceeding under this code, or in conjunction with a disciplinary sanction or condition under this code.

(2) A conduct hold may restrict the student from registering for classes, requesting an official transcript, or receiving a degree from the college until the hold has been removed.

(3) If the conduct hold is placed pending or during a conduct proceeding, the student will be notified of the hold and be advised how to raise an objection about the hold or request that it be made less restrictive. The hold will remain in place until lifted by the student conduct officer or other designated college official with authority to do so.

(4) Implementation of any conduct hold prior to disciplinary action does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code.

NEW SECTION

**WAC 132H-126-150 Amnesty policy.** (1) Bellevue College values the health, safety and wellness of those in our college community. Students are encouraged to report crimes, share concerns, and seek medical attention for themselves or others in need.

(2) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of helping another person seek medical or other emergency assistance, admits to a possible policy violation under this student conduct code, provided that any such violations did not and do not place the health or safety of any other person at risk.

(3) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of reporting violence, sexual misconduct, or a crime in progress, admits to personal consumption of alcohol or drugs at or near the time of the incident, provided that any such use did not place the health or safety of any other person at risk.

(4) While policy violations cannot be overlooked, the college may elect to offer educational options or referrals, rather than initiating disciplinary action against students who report crimes, serve as witnesses, or seek medical attention as described in this section.

(5) This amnesty policy may not apply to students who repeatedly violate college policies in regards to alcohol, drugs, or other prohibited conduct.

NEW SECTION

**WAC 132H-126-160 Interim measures.** (1) After receiving a report of alleged sexual misconduct or other serious student misconduct, a student conduct officer or designee may implement interim measures which may include, but are not limited to:

(a) A no-contact order prohibiting direct or indirect contact, by any means, with an impacted party, a responding

party, a reporting party, other specified persons, and/or a specific student organization;

(b) Reassignment of on-campus housing;

(c) Changes to class schedules, assignments, or test schedules;

(d) Modified on-campus employment schedule or location;

(e) Restrictions on access to portions of campus including, but not limited to, on-campus housing; or

(f) Alternative safety arrangements such as campus safety escorts.

(2) If an interim measure is put in place pending or during a conduct proceeding, the student will be notified of the interim measure and be advised how to raise an objection about the interim measure or request that it be made less restrictive. The student conduct officer may adjust or modify interim measures as students' situations and schedules change and evolve over time. Interim measures will remain in place until the student receives notice they have been lifted or modified from the student conduct officer.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this student conduct code.

NEW SECTION

**WAC 132H-126-170 Summary suspension.** (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a responding party might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is reasonable basis to believe that the responding party:

(a) Has violated a provision of the student conduct code; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any responding party who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the responding party within two business days of the oral notice.

(4) The written notice shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the responding party must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the responding party may physically access the campus or communicate with members of the campus community. If the responding party has been trespassed from the campus, a notice against tres-

pass shall be included that warns the student that their privilege to enter or remain on college premises has been withdrawn and that the responding party shall be considered to be trespassing and subject to arrest for criminal trespass if the responding party enters the college campus. The responding student may be authorized to access college premises for the limited purpose of meeting with the student conduct officer, the conduct review officer, or to attend a disciplinary hearing. All such meetings and hearings shall be confirmed in writing in advance and the responding party entering college premises shall be required to produce the written permission to a college official on request.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The responding party shall be afforded an opportunity to explain why the summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the responding party fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving allegations of sexual misconduct, the impacted party shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the responding party. The college will also provide the impacted party with timely notice of any subsequent changes to the summary suspension order.

#### NEW SECTION

**WAC 132H-126-180 Records.** (1) Student conduct code records are maintained in accordance with the college's records retention schedule.

(2) The disciplinary record is confidential, and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

#### NEW SECTION

**WAC 132H-126-200 Brief adjudicative proceedings—Initial hearing.** (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which they are an impacted party or witness, or in

which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the parties within ten business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the matter is an appeal by the responding party, or the impacted party in the case of sexual misconduct, the conduct review officer may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanctions or conditions as authorized herein. If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(5) In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the responding party, will serve a written notice upon the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party. The notice will also inform the impacted party of their appeal rights.

#### NEW SECTION

**WAC 132H-126-210 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president, provided the responding party files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which they are an impacted party or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to determine whether the findings or sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing, include a brief statement of the reasons for the decision and typically must be served on the parties within twenty days of the request for review. The decision on review will contain a notice that judicial review may be available. A request for

review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted without a response from the president.

(5) If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the responding party, will serve a written notice upon the impacted party informing the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party. The notice will also inform the impacted party of their appeal rights.

#### NEW SECTION

##### **WAC 132H-126-300 Student conduct committee.** (1)

The student conduct committee shall consist of six members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president;

(c) Two administrative staff members, other than an administrator serving as a student conduct or conduct review officer, appointed by the president prior to the beginning of the academic year for alternating two-year terms.

(2) One of the administrative staff members shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The administrative staff members shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee, so long as one faculty member, one student, and one administrative staff member are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they:

(a) Are an impacted party or witness;

(b) Have direct or personal interest, prejudice, or bias; or

(c) Have acted previously in an advisory capacity.

(5) Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

#### NEW SECTION

**WAC 132H-126-310 Student conduct committee—Prehearing.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The

chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct pre-hearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request, filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of: (a) The conduct officer's notice of discipline, or referral to the committee; and (b) the notice of appeal, or any response to referral, by the responding party or, in a case involving allegations of sexual misconduct, the impacted party. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the responding party and impacted party in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate. Any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) All parties may be accompanied at the hearing by a nonattorney process advisor of their choice.

(10) The responding party, in all appeals before the committee, and the impacted party, in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own expense. The responding and/or impacted party will be deemed to have waived the right to be represented by an attorney unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer.

(11) The committee will ordinarily be advised by an assistant attorney general. If the responding party and/or the impacted party is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened, assistant attorney general.

NEW SECTION

**WAC 132H-126-320 Student conduct committee—Presentation of evidence.** (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of sexual misconduct, the responding and the impacted parties shall not directly question or cross-examine one another. Attorneys for the responding and impacted parties are also prohibited from directly questioning opposing parties absent express permission from the committee chair. Subject to this exception, all cross-examination questions by the responding and impacted parties shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf. All cross-examination questions submitted to the chair in this manner shall be memorialized in writing and maintained as part of the hearing record.

NEW SECTION

**WAC 132H-126-330 Student conduct committee—Initial decision.** (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the conclusion of the hearing or the committee's receipt of closing arguments, whichever is later, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law,

including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanctions or conditions, if any, as authorized in the student conduct code. If the matter is an appeal by the responding party or the impacted party in the case of sexual misconduct, the committee may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanctions or conditions as authorized herein. The notice will also inform the responding party of their appeal rights.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving allegations of sexual misconduct, the chair of the student conduct committee will make arrangements to have a written notice served on the impacted party informing the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party, including suspension or dismissal of the responding party. The notice will also inform the impacted party of their appeal rights. This notice shall be served on the impacted party on the same date as the initial decision is served on the responding party. The impacted party may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

NEW SECTION

**WAC 132H-126-340 Student conduct committee—Review of an initial decision.** (1) A responding party, or an impacted party in a case involving allegations of sexual misconduct, who is aggrieved by the findings or conclusions issued by the student conduct committee may request a review of the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision or a written notice. Failure to file a timely appeal request within this time frame constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain an argument as to why the appeal should be granted. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to those issues and arguments raised in the notice of appeal. As part of the review process, the president may ask the nonappealing party(ies) to respond to the arguments contained in the notice of appeal.

(3) The president shall provide a written decision to all parties within thirty days after receipt of the notice of appeal or receipt of the response from nonappealing parties, whichever is later. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the responding party, shall serve a written notice informing the impacted party of the final decision. This notice shall inform the impacted party whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the responding party for the impacted party's protection, including suspension or dismissal of the responding party.

(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132H-125-010 Authority.
- WAC 132H-125-020 Statement of student rights.
- WAC 132H-125-030 Prohibited student conduct.
- WAC 132H-125-040 Disciplinary sanctions—Terms and conditions.
- WAC 132H-125-200 Statement of jurisdiction.
- WAC 132H-125-210 Definitions.
- WAC 132H-125-220 Initiation of disciplinary action.
- WAC 132H-125-230 Appeal from disciplinary action.
- WAC 132H-125-240 Brief adjudicative proceedings—Initial hearing.
- WAC 132H-125-250 Brief adjudicative proceedings—Review of an initial decision.
- WAC 132H-125-260 Student conduct committee.
- WAC 132H-125-270 Appeal—Student conduct committee.
- WAC 132H-125-280 Student conduct committee hearings—Presentations of evidence.
- WAC 132H-125-290 Student conduct committee—Initial decision.
- WAC 132H-125-300 Appeal from student conduct committee initial decision.
- WAC 132H-125-310 Summary suspension.
- WAC 132H-125-320 Discipline procedures for cases involving allegations of sexual misconduct.
- WAC 132H-125-330 Supplemental definitions.
- WAC 132H-125-340 Supplemental complaint process.
- WAC 132H-125-350 Supplemental appeal rights.

**WSR 18-15-071**  
**PROPOSED RULES**  
**STATE INVESTMENT BOARD**

[Filed July 17, 2018, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-11-084.

Title of Rule and Other Identifying Information: Amending chapter 287-02 WAC, relating to access to public records.

Hearing Location(s): On August 21, 2018, at 1:00 p.m., at the State Investment Board, 1st Floor, Room 103, 2100 Evergreen Park Drive S.W., Olympia, WA 98504.

Date of Intended Adoption: August 23, 2018.

Submit Written Comments to: Christopher Fournier, 2100 Evergreen Park Drive S.W., P.O. Box 40916, Olympia, WA 98504, email Christopher.fournier@sib.wa.gov, 360-956-4742, by August 14, 2018.

Assistance for Persons with Disabilities: Contact Christopher Fournier, phone 360-956-4742, email Christopher.fournier@sib.wa.gov, by August 14, 2018 [2018].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The state investment board proposes amending chapter 287-02 WAC to better conform such chapter to: (1) Recent changes in the law concerning public records; (2) model rules recommended by the attorney general's office (chapter 44-14 WAC), and (3) current agency practices.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.100 and 42.56.120; and chapter 304, Laws of 2017.

Statute Being Implemented: Chapter 304, Laws of 2017.

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

Name of Proponent: State investment board, governmental.

Name of Agency Personnel Responsible for Drafting: Christopher Fournier, 2100 Evergreen Park Drive S.W., Olympia, WA 98504, 360-956-4742; Implementation and Enforcement: State Investment Board, 2100 Evergreen Park Drive S.W., Olympia, WA 98504, 360-956-4600.

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

A cost-benefit analysis is not required under RCW 34.05.328. The state investment board is not a listed agency in RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted

or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

July 16, 2018  
Christopher Fournier  
Contract and Public  
Records Specialist

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-015 Definitions.** The definitions set forth in RCW 42.56.010 apply throughout this chapter. In addition, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~("Day" unless otherwise stated, means any day of the week on which banks and the NYSE are open for business for the conduct of all regular business.)~~ "Copy" means an identical reproduction of a public record. A copy can be either an electronic or physical reproduction of a public record.

"Executive director" means the executive director of the Washington state investment board.

"Page" means one impression on a single side of a sheet of paper. It also applies to one electronic image of one side of a sheet of paper.

"Public records manager" means the public records manager or designee for the Washington state investment board appointed by the executive director.

"WSIB" or "board" means the Washington state investment board established in chapter 3, Laws of 1981. Where appropriate, WSIB or agency also refers to the staff and employees of the Washington state investment board.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-023 Description of the Washington state investment board.** The Washington state investment board, created in chapter 3, Laws of 1981, and codified in chapter 43.33A RCW, is an independent board of trustees whose fiduciary responsibility is to manage retirement and public fund investments with the highest standard of professional conduct. The board's primary investment objective is to maximize returns at a prudent level of risk for the exclusive benefit of fund participants and beneficiaries.

Individual board members are appointed by the chair to serve on any of the board's four different committees which act as extensions of the board. The committees' function is to efficiently analyze investment and governance issues with greater scrutiny than would be practicable for the full board. Committee recommendations are brought to the board for consideration and a vote. The four committees are:

#### **Administrative committee**

The administrative committee oversees organizational, personnel, budget, legal, and legislative issues, as well as strategic asset allocation.

#### **Audit committee**

The audit committee assists the board in financial oversight of the WSIB including risk management, compliance monitoring, internal and external audits, corporate governance and proxy voting.

#### **Private markets committee**

The private markets committee develops policy and structure for private market and real estate opportunities and reviews those investments for recommendations to the board.

#### **Public markets committee**

The public markets committee develops policy and structure for public market investments (fixed income, domestic equity, international equity) and reviews individual equity managers to recommend to the board.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-025 Organizations, operations and procedures.** The state investment board is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.84.150, and chapter ~~(3, Laws of 1981)~~ 43.33A RCW. The board meets at least quarterly, at times and locations determined by the board, in order to perform its duties. All such meetings comply with the Open Public Meetings Act.

#### **Operative structure**

The WSIB is a small agency with staff working in three divisions - Investments, operations, and institutional relations. The WSIB's executive director is appointed by the board to oversee the staff, develop and recommend agency and investment policies for board adoption, and ensure adherence to state policies and laws.

The WSIB framework is similar to most investment management organizations, with a board and executive management providing firm-wide leadership with major operating units for investment management, operations, ~~((research, risk control, financial management and administration, and public affairs or client services))~~ human resources, risk control, legal and compliance, financial management and administration, and public affairs.

Investment professionals comprise the investment division which manages investments in major asset classes including public equity, private equity, real estate, tangible assets, ~~((and))~~ fixed income ~~((The investment division is also aided by a))~~ and risk management and asset allocation. Each asset class is led by one or more senior investment officers ~~((whose role is))~~ who supervise their asset class' investment staff and serve as the WSIB's primary portfolio risk analysts and ~~((the development of))~~ develop asset allocation strategies. The division employs both internal and external investment management strategies.

The operations division provides a number of services in support of the investment function, including trade settlement, cash management, private market funding, cash and stock distributions, foreign and domestic tax matters, and

investment compliance monitoring. It provides agency-wide risk management, information systems management, (~~human resources~~) and administrative services.

The institutional relations division oversees essential areas of strategic communications and related duties typically found in a client services division of an investment management entity. These duties include performance reporting, annual report preparation, proxy voting, corporate governance and managing interactions and relationships with external entities to ensure transparency and dissemination of accurate and timely information.

The administrative office of the investment board and its staff are located at 2100 Evergreen Park Drive S.W., Olympia, Washington 98502.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-033 Public records (~~(manager)~~) officer.**

(1) The public records (~~(manager)~~) officer is appointed by the executive director and is located in the legal, risk and compliance unit within the operations division of the WSIB.

(2) The public records (~~(manager)~~) officer is in charge of the WSIB's public records program. The public records (~~(manager)~~) officer is responsible for the implementation of the WSIB's rules regarding the release of public records for inspection and copying, coordinating the WSIB staff in this regard, and overseeing compliance with the Public Records Act requirements in chapter 42.56 RCW.

(3) The public records (~~(manager)~~) officer may choose a designee to act in his or her place to carry out the responsibilities in this chapter, including processing and responding to public records requests. The WSIB's public records (~~(manager)~~) officer will provide the fullest assistance to requestors.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-045 Processing of public records requests—Request.** (1) Any person wishing to inspect or copy public records of WSIB may submit the request in writing using the WSIB's request form, or by letter, (~~(fax)~~) or email addressed to (~~(the public records manager)~~) RequestPublicRecords@sib.wa.gov. The request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records manager to locate the records; and
- The date (~~(and time of day)~~) of the request.

(2) A request for all, or substantially all, of the WSIB's records is not a valid request for identifiable records.

(3) If the requestor wishes to have copies of the records made instead of inspecting them, he or she should so indicate. Costs will be assessed in compliance with WAC 287-02-075.

~~((3))~~ (4) A request form is available for use by requestors at the (~~(office of the public records manager and)~~) administrative office of the WSIB and online at <http://www.sib.wa.gov>.

~~((4) The public records manager may accept public records requests by telephone or in person; however, the requesting party may be asked to reduce the request to writing. In the alternative, the public records manager may confirm receipt of the request and restate the substance of the request in writing.)~~ (5) Requests may also be submitted to the receptionist at the WSIB by telephone or in person; however, the requesting party may be asked to reduce the request to writing for the sake of clarity. Alternatively, the public records officer may confirm receipt of the request and restate the substance of the request in writing.

(6) The WSIB may deny a bot request, or a request that is one of multiple requests made by the same requestor within a twenty-four-hour period, if responding to the multiple requests would cause excessive interference with essential WSIB functions and the WSIB reasonably believes the request to be automatically generated by a computer program or script.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-047 Processing of public records requests—Response.** (1) Within five business days of receipt of the request, the public records manager will do one or more of the following:

(a) ~~((Make the records available for inspection or copying;~~

~~(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;~~

~~(c) Provide a reasonable estimate of when records will be available; or~~

~~(d) If the request is unclear or does not sufficiently identify the requested records, obtain clarification from the requestor. Such clarification may be obtained and provided by telephone. The public records manager may then revise the estimate of when records will be available; or))~~ Produce the requested records;

(b) Provide the requestor with a link to the requested documents located on the internet;

(c) Provide a reasonable estimate of when records will be available;

(d) Seek clarification of the request and provide a reasonable estimate (where possible) of when records will be provided if no clarification is received; or

(e) Deny the request.

(2) ~~((In the event that the requested records))~~ If records responsive to the request contain information implicating a third party's privacy or financial interest and any exemption from disclosure of that information arguably applies, the public records (~~(manager will, prior to releasing the records to the requestor, give notice to such third parties whose rights may be affected by the disclosure. Such notice is provided so as to make it possible for those third parties to seek an order from a court to prevent or limit the disclosure pursuant to RCW 42.56.540.~~

The notice shall inform the third party that a request has been made for a record that pertains to the third party and that the WSIB plans to disclose the record in a specified amount

of time unless the third party obtains an injunction pursuant to RCW 42.56.540 blocking disclosure. The WSIB shall inform the record requestor that it is providing third-party notice.

~~(3) Some records are exempt from disclosure, in whole or in part. If WSIB believes that an entire record is exempt from disclosure and should be withheld, the public records manager will identify the record, state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public records manager will redact the exempt portions, provide the nonexempt portions, state the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.~~

~~(4) When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records manager will close the request and indicate to the requestor that WSIB has closed the request)) officer may give notice to those parties before releasing the records. Such notice provides those third parties an opportunity to seek a court order pursuant to RCW 42.56.540. The WSIB will inform the record requestor that it is providing third-party notice.~~

(3) If records responsive to the request are exempt from disclosure, in whole or in part, the public records officer will identify the record, state the specific exemption, and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public records officer will produce the nonexempt portions.

(4) If a requestor withdraws the request, fails to inspect the records, fails to pay the deposit if required under WAC 287-02-065 and 287-02-075, or make final payment for the requested records, the public records officer will close the request.

(5) The WSIB is not required to create new documents in order to respond to a request for public records or to provide records that are not the WSIB's own public records.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-055 Inspection of public records.** (1) Consistent with other demands, WSIB will provide space to inspect public records. ~~((No member of the public may remove a document from the viewing area or disassemble or alter any document.))~~ No requestor may remove a document from the viewing area or disassemble, reorder, deface, photograph, or in any way alter any records or collection of records. The requestor may also be supervised by a WSIB employee during the requestor's inspection of the records.

(2) After inspection is complete, the requestor ((shall)) will identify which documents, if any, he or she wishes the agency to ((copy)) produce. Consistent with other demands and the volume of documents requested, WSIB may copy the document at that time or provide the copies to the requestor at a later date.

(3) Within thirty days of the WSIB's notification that the records are available for inspection or copying, the requestor

must claim or review the assembled records. ((The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the WSIB may close the request and refile the assembled records.)) If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the WSIB may close the request. If the requestor makes a request for the same records, it will be processed as a new request.

(4) When the inspection of the requested records is complete and all requested copies are provided, the public records ((manager)) officer will indicate that WSIB has completed its search for the requested records and made any nonexempt records available for inspection.

(5) Many records are available on the WSIB web site at [www.sib.wa.gov](http://www.sib.wa.gov), and requestors are encouraged to review the documents available on the web site prior to submitting a records request.

(6) Records will be made available to the requestor subject to the following restrictions:

(a) The records may not be removed from the area designated;

(b) The quantity of records may be limited in accordance with the requested use;

(c) All possible care must be taken by the requestor to prevent damage to the records;

(d) Records may not be marked, altered, cut, mutilated, or defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file;

(e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited;

(f) Records must be kept in the order in which received;

(g) All copying of records will be done by WSIB personnel; and

(h) Records will be returned to the public records officer by the requestor at the conclusion of the time given to inspect records and no later than the end of the customary office hours as set forth in WAC 287-02-035.

(7) When a requestor requests records in an electronic format, the public records officer will provide available non-exempt electronic public records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record, or as otherwise agreed to between the requestor and the public records officer.

(8) Whenever possible, WSIB will provide records in electronic format. If the WSIB has only a paper copy of the record, the WSIB, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor. If the WSIB maintains the record in electronic format, the record will be provided in the maintained electronic format unless the requestor specifically asks to receive the record in paper copies or it is otherwise not feasible to provide the record in electronic format.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-065 Response to public records request —Installments.** (1) ~~((When a response to a public records request is complex or involves a large number of records, the public records manager may provide access for inspection and copying in installments pursuant to RCW 42.56.080.))~~ The public records officer may provide records or access for inspection and copying in installments.

(2) ~~((The))~~ Requestors will be notified when an installment is ready ~~((for inspection. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records manager may close the request.~~

(3) ~~When the request is for copies of public records, the public records manager may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to ten percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost within thirty days, the public records manager may close the request.~~ If a requestor fails to inspect or collect an installment within thirty days, the public records officer may close the request.

(3) Where payment is required as part of a public records request under WAC 287-02-075, the public records officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments and may require a deposit up to ten percent of the estimated cost of preparing or producing an installment. If the requestor fails to pay the required cost in a timely manner the public records officer may close the request.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-075 Costs of providing public records.**

(1) There is no fee for inspecting public records. WSIB may impose a charge for providing public records. ~~((WSIB will maintain a fee schedule on its web site.~~

(2) ~~The charge for providing public records may be the actual cost incident to providing the records.~~

(a) ~~The charge may include the actual cost of the postage or delivery, including the cost of the shipping container, cost of duplicating tape recordings, videotapes, photographs, slides, disks or similar media.~~

(b) ~~There will be no charge for emailing electronic records to a requestor, unless another cost applies.~~

(3) ~~If determining the actual cost is too burdensome or if the cost cannot be determined, WSIB may charge fifteen cents for each page, however produced.~~

(4) ~~Before beginning to copy public records, the public records manager may require:~~

(a) ~~A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor;~~

(b) ~~The payment of the remainder of the copying costs before providing all the records; or~~

(e) ~~The payment of the costs of copying an installment before providing that installment. The WSIB will not charge sales tax when it makes copies of public records.~~

(5) ~~Payment may be made by cash in the exact amount charged, check, or money order to the Washington state investment board.~~

(2) The WSIB does not calculate the actual costs for copying its records, because doing so would be unduly burdensome and it is in the public's best interest for the WSIB to adopt the fees in RCW 42.56.120 (2)(b). The WSIB fee schedule is:

<b>WSIB Fee Schedule</b>	
<b>Inspection:</b>	
No fee	<u>Inspection of agency records on agency public internet web site or scheduled at agency office.</u>
No fee	<u>Accessing or downloading records the agency routinely posts on its public internet web site, unless the requestor asks the agency for records to be provided through other means (the following copy charges below then apply).</u>
<b>Copies:</b>	
15 cents/page	<u>Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to make photocopies.</u>
10 cents/page	<u>Scanned records, or use of agency equipment for scanning.</u>
5 cents/each 4 electronic files or attachments	<u>Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery.</u>
10 cents/gigabyte	<u>Records transmitted in electronic format or for use of agency equipment to send records electronically.</u>
Actual cost	<u>Digital storage media or devices:</u> <ul style="list-style-type: none"> <li>• CD</li> <li>• DVD</li> <li>• Thumb drive</li> <li>• Other.</li> </ul>
Actual cost	<u>Postage or delivery charges - Specific amount based upon postage/delivery</u>

<b>WSIB Fee Schedule</b>	
	<u>charges for specific mailings or deliveries.</u>
<u>↑ Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</u>	
<b>Customized Service:</b>	
<u>Actual cost</u>	<u>Data compilations prepared or accessed as a customized service (cost is in addition to above fees for copies).</u>

(3) The WSIB may charge the actual costs of providing electronic or paper copies in response to a public records request when complying with the public records request will require IT expertise to prepare data compilations or provide customized electronic access services that are not used by the WSIB for any other purpose.

(4) Before producing public records, the public records officer may require:

(a) A deposit of up to ten percent of the estimated costs of copying all the records requested;

(b) The payment of the remainder of the costs before providing all the records; or

(c) The payment of the costs of providing an installment before providing that installment. The WSIB will not charge sales tax when it makes copies of public records.

(5) Payment may be made by cash in the exact amount charged, check, or money order made payable to the Washington state investment board.

(6) If a requestor fails to pay for records in full or in part by the requested due date, the request will be closed.

(7) The WSIB may enter into any contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the fees charged above when the response to the particular request is voluminous or frequently occurring.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-080 Review of denials of requests for public records.** (1)(a) Any person who has been denied an opportunity to inspect or copy a public record by the WSIB or who believes that the WSIB has not made a reasonable estimate of the time required to respond to a public record request may petition the WSIB for prompt review of its decision.

(b) The petition shall be in writing and shall include a copy of, or reasonably identify, the written statement by the public records (~~manager~~) officer denying the request or providing the estimate.

(c) The petition shall be sent to the public records (~~manager who shall promptly provide the petition and any other relevant information to the agency official designated by the agency to conduct the review.~~

~~(2) The designated WSIB official will immediately consider the petition and either affirm or reverse the denial or the estimate. This review will be complete within two business~~

days following WSIB's receipt of the petition, or within such times as mutually agreed by WSIB and the requestor.

~~(3) Administrative remedies shall not be considered exhausted until the WSIB has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.~~

~~(4) Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.)~~ officer at the WSIB's administrative offices or by email at RequestPublicRecords@sib.wa.gov. The public records officer will promptly provide the petition and any other relevant information to the executive director or the assigned delegate.

(2) The executive director or assigned delegate will immediately consider the petition and either affirm or reverse the denial or the estimate. This review will be complete within five business days following WSIB's receipt of the petition, or within such times as mutually agreed by WSIB and the requestor.

AMENDATORY SECTION (Amending WSR 16-24-047, filed 12/1/16, effective 1/1/17)

**WAC 287-02-090 Communications with the agency.**

All communications with WSIB to access public records of the WSIB or seek assistance in making such a request, or for the purpose of obtaining information, making submittals or requests, or making inquiries concerning the agency's rules for compliance with chapter 42.56 RCW (~~shall~~) or seeks review under WAC 287-02-080 must be addressed as follows:

Washington State Investment Board  
 Public Records Manager  
 2100 Evergreen Park Drive S.W.  
 P.O. Box 40916  
 Olympia, WA 98504-0916

~~((The telephone number of the public records manager is 360-956-4748, or you can email your request to))~~ Email: PublicRecordsRequest@sib.wa.gov.

Information is also available at the WSIB web site at <http://www.SIB.wa.gov>.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 287-02-057 Protection of public records.

WAC 287-02-067 Processing public records requests—  
 Electronic records.

WAC 287-02-070 Exemptions.

**WSR 18-15-073****PROPOSED RULES****DEPARTMENT OF ECOLOGY**

[Order 16-07—Filed July 17, 2018, 11:40 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-077.

Title of Rule and Other Identifying Information: We propose to amend chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington. This rule making will set forth revised fresh and marine water quality standards for the protection of water contact recreational use in state waters.

This rule making proposes:

- New bacterial indicators and numeric criteria to protect water contact recreational uses.
- Updated water contact recreational use categories, and modifications to WAC 173-201A-600 and 173-201A-610 to support the proposed updated uses.
- Improved location information in use designation WAC 173-201A-602 (use designations for fresh waters) and 173-201A-612 (use designations for marine waters).

The rule making proposed amendments in the following sections of chapter 173-201A WAC: WAC 173-201A-020 Definitions, 173-201A-200 Fresh water designated uses and criteria, 173-201A-210 Marine water designated uses and criteria, 173-201A-320 Tier II—Protection of waters of higher quality than the standards, 173-201A-600 Use designations—Fresh waters, 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA), 173-201A-610 Use designations—Marine waters, and 173-201A-612 Table 612—Use designations for marine waters.

Hearing Location(s): On August 28, 2018, at 1:30 p.m., webinar only. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. The hearing will begin with a short presentation followed by a question and answer (Q&A) session. Testimony will start after the Q&A session. The hearing will conclude once all interested persons provide formal testimony.

Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=e89508b32b3fbe29e50539ccfb6febb48>.

For audio call United States toll number 1-204-454-0887 and enter access code 804 961 541. Or to receive a free call back, provide your phone number when you join the event.

On August 28, 2018 at 6:30 p.m., webinar only. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. The hearing will begin with a short presentation followed by a Q&A session. Testimony will start after the Q&A session. The hearing will conclude once all interested persons provide formal testimony.

Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=e66c438b9a9ab2be29230dd42cae3c933>.

For audio call United States toll number 1-204-454-0887 and enter access code 801 319 021. Or to receive a free call back, provide your phone number when you join the event.

On August 29, 2018, at 1:30 p.m., in-person at Tukwila Community Center, Social Hall, 12424 42nd Avenue South, Tukwila, WA 98168. We are holding this hearing in-person only. The hearing will begin with a short presentation followed by a Q&A session. Testimony will start after the Q&A session. The hearing will conclude once all interested persons provide formal testimony.

On August 30, 2018, at 10:30 a.m., in-person at Center-Place, Auditorium, 2426 North Discovery Place, Spokane Valley, WA 99216. We are holding this hearing in-person only. The hearing will begin with a short presentation followed by a Q&A session. Testimony will start after the Q&A session. The hearing will conclude once all interested persons provide formal testimony.

And on September 5, 2018, at 6:30 p.m., webinar only. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. The hearing will begin with a short presentation followed by a Q&A session. Testimony will start after the Q&A session. The hearing will conclude once all interested persons provide formal testimony.

Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=eb07c7e9fb398786a44b57486a41abab7>.

For audio call United States toll number 1-204-454-0887 and enter access code 802 977 451. Or to receive a free call back, provide your phone number when you join the event.

Date of Intended Adoption: November 28, 2018.

Submit Written Comments to: Becca Conklin, Department of Ecology, Water Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503, submit comments by mail, online, or at the hearing(s), online <http://ws.ecology.commentinput.com/?id=sx2WK>, by September 14, 2018.

Assistance for Persons with Disabilities: Contact Hanna Waterstrat, phone 360-407-7668. People with speech disability may call TTY 877-833-6341. People with impaired hearing may call Washington relay service 711. To request Americans with Disabilities Act (ADA) accommodation[s] for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [hanna.waterstrat@ecy.wa.gov](mailto:hanna.waterstrat@ecy.wa.gov), by August 23, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2012, the Environmental Protection Agency (EPA) completed revisions to the national recommended recreational water quality criteria. The recommendations include the latest science, which quantifies the link between illness and fecal contamination in recreational waters. The recommended criteria are based on two bacterial indicators of fecal contamination, *E. coli* and enterococci. Washington's current bacterial indicator for contact recreation, fecal coliform, was removed from EPA's recommendations in 1986. This method of determining compliance with water quality standards is outdated. EPA has instructed states that still rely on fecal coliform as an indicator to revise their recreational use criteria and align them with the current national recommendations.

Washington is one of twelve states that have not revised fresh water criteria, and one of eight coastal states that have not revised marine water criteria to meet EPA recommendations.

We intend to improve the water quality standards by:

- Including new science to protect recreational uses of state waters.
- Establishing indicators that are better correlated with illness and can more accurately determine the presence of human-caused fecal pollution.
- Aligning Washington's recreational use categories with EPA's recommendations.
- Providing improved location information to allow the public to better understand which water quality criteria apply in their local waters.

Reasons Supporting Proposal: In 2012, EPA completed revisions to the national recommended recreational water quality criteria. The recommendations include the latest science, which quantifies the link between illness and fecal contamination in recreational waters. The recommended criteria are based on two bacterial indicators of fecal contamination, *E. coli* and enterococci.

Washington's current bacterial indicator for contact recreation, fecal coliform, was removed from EPA's recommendations in 1986. This method of determining compliance with water quality standards is outdated. EPA has instructed states that still rely on fecal coliform as an indicator to revise their recreational use criteria and align them with the current national recommendations.

Washington is one of twelve states that have not revised fresh water criteria, and one of eight coastal states that have not revised marine water criteria to meet EPA recommendations.

We are proposing revisions to Washington's water quality standards to:

- Include new bacterial indicators and numeric criteria to protect water contact recreational uses.
- Update current water contact recreational use categories in WAC 173-201A-600 and 173-201A-610.
- Include improved location information in use designation tables; Table 602 (use designations for fresh waters) and Table 612 (use designations for marine waters).

We are updating Washington's recreational use water quality standards to include new indicators and numeric criteria which protect the public from waterborne disease while boating, swimming, and enjoying other water contact recreational activities in the state waters.

We reviewed our current recreational use categories to ensure that they align with federal water quality recommendations issued by EPA. The current recreational use categories in WAC 173-201A-600 and 173-201A-610 include extraordinary primary contact, primary contact, and secondary contact.

We are also proposing improved fresh and marine use designation tables in WAC 173-201A-602 and 173-201A-612 by:

- Adding more accurate location information (latitude and longitude) to better define where designated uses apply in state waters.
- Incorporating the spawning and incubation use designation references to WAC 173-201A-200 (1)(c)(iv).

Statutory Authority for Adoption: RCW 90.48.035 Rule-making authority, provides clear and direct authority to ecology to revise the water quality standards. Additionally, 40 C.F.R. 131.20 requires states and tribes (with primacy for clean water actions) to periodically review and update the water quality standards.

Statute Being Implemented: Chapter 90.48 RCW, Water pollution control.

Rule is necessary because of federal law, Federal Water Pollution Control Act - 33 U.S.C. 1251 et seq and 40 C.F.R. Part 131 - Water Quality Standards.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Bryson Finch, Headquarters, Lacey, 360-407-7158; Implementation: Ben Rau, Headquarters, Lacey, 360-407-6551; and Enforcement: Heather Bartlett, Headquarters, Lacey, 360-407-6405.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Becca Conklin, Department of Ecology, Water Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503, phone 360-407-6413. People with speech disability may call TTY 877-833-6341. People with impaired hearing may call Washington relay service 711. To request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [swqs@ecy.wa.gov](mailto:swqs@ecy.wa.gov), <https://fortress.wa.gov/ecy/publications/SummaryPages/181007.html>.

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

#### Small Business Economic Impact Statement (SBEIS) Relevant Information for State Register Publication

Proposed amendments to chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

This SBEIS presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the

rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

*This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the Regulatory Analyses (Ecology publication no. 18-10-027, July 2018).*

**COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:** The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this proposed rule making, the baseline includes:

- The existing rule, chapter 173-201A WAC.
- Chapter 90.48 RCW, Water pollution control.

The proposed rule amendments make the following changes:

- Changing definitions:
  - Ambient water quality (added).
  - Effluent (added).
  - Extraordinary primary contact (removed).
  - Secondary contact recreation (removed).
- Revising standards for fresh waters:
  - Removing extraordinary primary contact and secondary contact recreation uses.
  - Replacing fecal coliform as the fresh water contact recreation bacterial indicator with *Escherichia coli* (*E. coli*) after December 31, 2020.
  - Requiring a minimum of three samples to calculate the geometric mean; samples must be within 30 day period for permit compliance or ninety days for all other monitoring data.
  - Removing the option to set alternative indicator criteria based on site-specific information.
- Revising standards for marine waters:
  - Removing secondary contact recreation use.
  - Replacing fecal coliform as the marine water recreation contact bacterial indicator with enterococcus after December 31, 2020.
  - Requiring a minimum of three samples to calculate the geometric mean; samples must be within a thirty day period for permit compliance or ninety days for all other monitoring data.
  - Removing alternative indicator criteria for certain samples.
- Other changes without material impact to requirements:
  - Table changes reflecting proposed changes above, including use designations.

- Clarifying that the most probable number is a unit of measure for bacterial indicators in the recreational criteria in addition to colony forming units (CFU).
- Clarifying units for measurable change for protection higher than the standards.
- Housekeeping including updated web address.

**Changing definitions:**

**Baseline:** Defines extraordinary primary contact and secondary contact recreation:

- "Extraordinary primary contact" means waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.
- "Secondary contact recreation" means activities where a person's water contact would be limited (e.g., wading or fishing) to the extent that bacterial infections of eyes, ears, respiratory or digestive systems, or urogenital areas would normally be avoided.

**Proposed:** Removes extraordinary primary contact and secondary contact recreation. Adds definitions of ambient water quality and effluent:

- "Ambient water quality" refers to the conditions and properties of a surface water of the state as determined by the results of water samples, measurements, or observations.
- "Effluent" refers to the discharge of chemical, physical, biological, or other constituents from point sources into surface waters.

**Expected impact:** Proposed amendments to definitions are not expected to have an impact on their own, beyond improved clarity. Where they are used in other rule amendments, below, they contribute to the impact of those amendments.

**Revising standards for fresh waters:**

**Baseline:**

- Fecal coliform is the recreational bacterial indicator.
- Extraordinary primary contact (50 CFU; 100 STV), primary contact (100 CFU; 200 STV), and secondary contact (200 CFU; 400 STV) recreational uses are designated.
- Averaging periods should not exceed twelve months. Language includes: "It is preferable to average by season and include five or more data collection events within each period. The period of averaging should not exceed twelve months. (Averaging periods longer than thirty days are) not permitted when such averaging would skew the data set so as to mask noncompliance periods."
- Alternative bacterial indicator criteria may be established for locations with bacterial sources potentially confounded by the presence of other organic matter.

**Proposed:**

- Primary contact is the only designated use for recreation.
- After December 31, 2020, fecal coliform is replaced with *E. coli* as the fresh water contact bacterial indicator, with an allowable equivalent illness rate of thirty-two ill-

nesses per one thousand recreational users, reflected in a geometric mean of 100 CFU (320 STV).

- A minimum of three samples is required to calculate the geometric mean; samples must be within [a] thirty day period for permit compliance or ninety days for all other monitoring data.
- Alternative indicator criteria are not allowed.

**Expected impact:** The combined rule amendments are likely to result in impacts to the cost of sample analysis for a different parameter being phased in at rule adoption and then required beginning in 2021. Dischargers that must meet water quality limits for downstream uses may have to analyze samples for two parameters. Downstream shellfish harvesting-based effluent limits would continue to be based on fecal coliform and recreational uses in fresh water would be based on *E. coli*. However, because of the similar treatment technologies for fecal coliform and *E. coli*, we do not expect impacts to treatment costs beyond potential minor adjustments to existing practices.

Dischargers to waterbodies with established total maximum daily loads (TMDL) are not expected to have their wasteload allocations change under the proposed amendments, as implementation will not change established TMDLs.

Dischargers with fecal coliform technology-based limits are not expected to have their limits affected by the proposed amendments. Revisions to these limits may be addressed in a future rule making.

In Washington, six fresh water dischargers currently reporting bacteria levels are located on waterbodies that would change use designation from secondary to primary contact use recreation. These dischargers currently:

- Have technology-based limits that would not change under the proposed rule amendments; or
- Do not have a water quality-based effluent limit for bacteria, but would continue to sample (they are included in the impact above regarding sampling) and use best management practices (BMP).

We, therefore, do not expect impacts to these dischargers. Moreover, EPA does not recognize the secondary use designation, and would not approve a rule that included it. While potential future EPA approval is not technically part of the baseline, it is a motivating factor in the proposed amendments.

While initially it may appear that health costs could be associated with elimination of the extraordinary primary use designation, we do not expect costs to arise from this proposed amendment. There is a high degree of uncertainty associated with the level of protection of fecal coliform, whereas the uncertainty associated with *E. coli* would be significantly reduced under the proposed amendments, given that *E. coli* has a high correlation with illness.

We expect the proposed rule to result in better accuracy of bacterial indicators as related to illness risk. Using a more accurate indicator of illness risk reduces potential costs for both dischargers and the public. This is because a more accurate bacterial indicator is less likely to result in effluent limits and additional application of treatment technologies, or restrict public access to water for recreational purposes.

While we do not expect impacts to existing dischargers on waterbodies changing from secondary use to primary use under the proposed amendments, there is a benefit to setting protections for those and other waters at the same preventative level as other waters of the state. Moreover, EPA does not recognize the secondary use designation, and would not approve a rule that included it. While potential future EPA approval is not technically part of the baseline, it is a motivating factor in the proposed amendments.

Dischargers on waterbodies shared with neighboring states or across international borders, as well as dischargers with multiple locations under the same company, would benefit from consistent methods and requirements across the northwest. States surrounding Washington and the majority of western states have adopted *E. coli* as the bacterial indicator for fresh water. This continuity provides a potential benefit of clarity and reduced compliance effort.

Establishing a thirty day averaging period for permit compliance, as well as a ninety day averaging period for all other monitoring data, is likely to create a benefit of clarity and consistency, as compared to the baseline. The baseline language is vague, and may result in additional time determining appropriate compliance behavior, as well as potential unnecessary expenditure testing or treating water while working with ecology staff to determine the best method or structure under which to comply. Environmental labs are not directly covered by this rule, and our regulatory analyses do not include indirect costs such as the results of increased demand for *E. coli* analysis in place of fecal coliform analysis. We acknowledge, however, this shift in demand could cause short-term increases in the price of *E. coli* analysis and a future need for more labs to become accredited for more types of analyses. Since *E. coli* is a subset of fecal coliform bacteria, and some labs are already accredited for this analysis, we do not expect a short-term shortage of available accredited labs or displaced demand to labs farther away than those dischargers already use. The two year transition period allowed under the proposed amendments allows more time for labs to become accredited for new bacterial indicators before compliance requirements for the updated recreational criteria are active.

#### **Revising standards for marine waters:**

##### **Baseline:**

- Fecal coliform is the recreation bacterial indicator for primary contact. Enterococcus is the recreation bacterial indicator for secondary contact.
- Primary contact (14 CFU; 43 STV) and secondary contact (70 CFU; 208 STV) recreational uses are designated.
- Averaging periods should not exceed twelve months. Language includes: "It is preferable to average by season and include five or more data collection events within each period. The period of averaging should not exceed twelve months. (Averaging periods longer than thirty days are) not permitted when such averaging would skew the data set so as to mask noncompliance periods."
- Alternative indicator criteria are allowed for samples with bacterial counts potentially confounded by the presence of other organic matter.

**Proposed:**

- Primary contact is the only designated use for recreation.
- After December 31, 2020, fecal coliform is replaced with enterococcus as the marine water contact bacterial indicator, with an allowable equivalent illness rate of thirty-two illnesses per one thousand recreational users, reflected in a geometric mean of 30 CFU (110 STV).
- A minimum of three samples is required to calculate the geometric mean; samples must be within [a] thirty day period for permit compliance or ninety days for all other monitoring data.
- Alternative indicator criteria are not allowed.

**Expected impact:** The combined rule amendments are likely to result in higher costs for dischargers who may have to do sample analysis for a different parameter beginning in 2021.

Dischargers to waterbodies with established TMDLs are not expected to have their wasteload allocations change under the proposed amendments, as implementation will not change established TMDLs.

Dischargers with technology-based limits are not expected to have their limits affected by the proposed amendments. Revisions to technology-based limits are not part of this rule making.

Six marine water dischargers currently reporting bacteria levels are located on waterbodies that would change use designation from secondary to primary use recreation. These dischargers currently:

- Have technology-based limits that would not change under the proposed rule amendments; or
- Do not have a limit for bacteria, but would continue to sample (they are included in the impact above regarding sampling) and use BMPs.

We, therefore, do not expect impacts to these dischargers. Moreover, EPA does not recognize the secondary use designation, and would not approve a rule that included it. While potential future EPA approval is not technically part of the baseline, it is a motivating factor in the proposed amendments.

We expect the proposed rule to result in better accuracy of bacterial indicators as related to illness risk. Using a more accurate indicator of illness risk reduces potential costs for both dischargers and the public. This is because a more accurate bacterial indicator is less likely to result in limits and unnecessary application of treatment technologies, or restrict public access.

While we do not expect impacts to existing dischargers on waterbodies changing from secondary use to primary use under the proposed amendments, there is a benefit to setting protections for those and other waters at the same preventative level as other waters of the state. Moreover, EPA does not recognize the secondary use designation, and would not approve a rule that included it. While potential future EPA approval is not technically part of the baseline, it is a motivating factor in the proposed amendments.

Dischargers with multiple locations under the same company would benefit from consistent methods and requirements across the northwest. States surrounding Washington

and the majority of western states have adopted enterococcus as the bacterial indicator for marine water. This continuity provides a potential benefit of clarity and reduced compliance effort.

Establishing a thirty day averaging period for permit compliance, as well as a ninety day averaging period for all other monitoring data, is likely to create a benefit of clarity and consistency, as compared to the baseline. The baseline language is vague, and may result in additional time determining appropriate compliance behavior, as well as potential unnecessary expenditure testing or treating water while working with ecology staff to determine the best method or structure under which to comply. Environmental labs are not directly covered by this rule, and our regulatory analyses do not include indirect costs such as the results of increased demand for *E. coli* analysis in place of fecal coliform analysis. We acknowledge, however, this shift in demand could cause short-term increases in the price of *E. coli* analysis and a future need for more labs to become accredited for more types of analyses. Since *E. coli* is a subset of fecal coliform bacteria, and many labs are already accredited in this analysis, however, we do not expect a short-term shortage of available accredited labs or displaced demand to labs farther away than those dischargers already use. The two year transition period allowed under the proposed amendments for labs to perform analyses before they are required to be accredited is intended to mitigate these potential issues.

**Other changes without material impact to requirements:**

**Baseline:** The existing rule contains tables indicating the designated recreational uses of areas of waterbodies.

**Proposed:**

- Table changes reflecting proposed changes above, including use designations.
- Clarifying units for measurable change for protection higher than the standards.
- Housekeeping including updated web address.

**Expected impact:** These proposed amendments do not impact rule requirements, and so only have a benefit of clarifying the rule for implementation and ease of compliance. They do not create any costs on their own, though they may reflect changes to other parts of the rule.

**COSTS OF COMPLIANCE: EQUIPMENT:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment.

**COSTS OF COMPLIANCE: SUPPLIES:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR:** Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of labor. Note that we assumed testing would be performed externally, and these costs are reflected below under "Costs of compliance: Professional services." If it is possible and less expensive to perform sample analyses in house, those costs would instead be represented in this section.

**COSTS OF COMPLIANCE: PROFESSIONAL SERVICES:** Assuming weekly *E. coli* testing at fresh water dischargers (12,116 samples across all identified dischargers), the pro-

posed amendments would result between an annual cost-savings of approximately \$92 thousand, and annual cost increase of \$79 thousand, compared to baseline testing for fecal coliform.

Assuming weekly enterococcus testing at marine water dischargers (4,524 samples across all identified dischargers), the proposed amendments would result in annual cost increases of between \$142 thousand and \$240 thousand, compared to baseline testing for fecal coliform.

An annual fresh water cost-savings of \$92 thousand beginning in 2021 translates to a present value cost-savings of \$1.4 million over twenty years. An annual cost increase of \$79 thousand beginning in 2021 translates to a present value cost increase of \$1.2 million over twenty years.

An annual marine water cost increase of between \$142 thousand and \$240 thousand beginning in 2021 translates to a present value cost increase of between \$2.2 million and \$3.6 million over twenty years, as compared to the baseline.

While potential future EPA approval of the rule is not technically part of the baseline, it is arguable that if we assume approval is a necessity, a reasonable baseline for comparison could also be the alternative indicator and criteria recommended by EPA. If the baseline was limited to criteria acceptable to EPA under its guidance, it would mean comparing the proposed amendments to using enterococcus for fresh waters (it would be the only other option that would receive EPA approval) and enterococcus for marine waters (the only option recommended by EPA). Under this scenario and using the same assumptions as in the primary calculation, the proposed amendments would result in:

- An annual cost-savings of between \$302 thousand and \$735 thousand, with equivalent twenty year cost-savings of between \$4.6 million and \$11.2 million for fresh water sampling.
- No difference between the proposed use of enterococcus for marine water, and the baseline. This would result in no cost or benefit of this proposed amendment.

**COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS:** Where applicable, ecology estimates administrative costs ("overhead") as part of the cost of labor and professional services, above.

**COSTS OF COMPLIANCE: OTHER:** Not applicable.

**COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES:** Ecology calculated the estimated per entity costs to comply with the proposed rule amendments, based on the costs estimated in Chapter 3. In this section, ecology summarizes compliance cost per employee at affected businesses of different sizes.

The average affected small business likely to be covered by the proposed rule amendments employ averages of:

- Twelve people at facilities discharging to fresh waters.
- Nine people at facilities discharging to marine waters.

The largest ten percent of affected businesses employ averages of:

- One thousand three hundred seventy-five people at facilities discharging to fresh waters.

- Four hundred seventeen people at facilities discharging to marine waters.

Based on cost estimates from Chapter 3, we estimated the following compliance costs per employee.

Twenty year present value costs per employee

	Low	High
Fresh water small businesses	(\$503)	\$431
Fresh water large businesses	(\$4)	\$4
Marine water small businesses	\$4,759	\$4,392
Marine water large businesses	\$101	\$93

*Parentheses indicate a cost-savings.*

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, and therefore ecology must include elements in the proposed rule amendments to mitigate this disproportion, as far as is legal and feasible.

**CONSIDERATION OF LOST SALES OR REVENUE:** Businesses that would incur costs could experience reduced sales or revenue if the fee changes would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, as well as the relative responsiveness of market demand to price changes.

The additional sampling costs estimated in Chapter 3 could impact sales or revenues at individual firms if they significantly impact the price they must charge, and that in turn disproportionately affects the number of units they sell. As many of the affected businesses are in inelastic markets (markets from which there is limited ability to substitute to other goods), they may raise prices without a disproportionate reduction in sales units resulting in a reduction in revenue. Those businesses are more likely to incur compliance costs without impacting their competitiveness.

**MITIGATION OF DISPROPORTIONATE IMPACT:** The Regulatory Fairness Act (RCW 19.85.030(2)) states that: Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- Reducing, modifying, or eliminating substantive regulatory requirements;
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- Reducing the frequency of inspections;
- Delaying compliance timetables;
- Reducing or modifying fine schedules for noncompliance; or
- Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the proposed rule amendments that reduce costs. In addition, ecology considered the alternative rule contents discussed in Chapter 6 of the preliminary regulatory analyses, and excluded those elements that would have imposed excess compliance burden on businesses.

- Adding an option for reporting units.
- Clarifying averaging periods and accounting for programs with less frequent sampling.
- Delaying the change in bacterial indicator for two years.
- Taking lab testing availability into account when choosing a bacterial indicator.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION:** Ecology involved small businesses and local government in its development of the proposed rule amendments, by:

- Water quality information listserv.
- Emails soliciting for technical team participants.
- Technical advisory team meeting one.
- Technical advisory team meeting two.
- Technical advisory team meeting three.
- Kick-off recreational use criteria webinar.
- Coalition for clean water presentation.
- Annual BEACH program meeting presentation.
- 2018 Salish sea conference presentation.
- Agriculture committee.
- Recreational use criteria preliminary decisions webinar (June 14).

**NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:** The proposed rule is likely to impact NAICS codes:

- 2213 - Water, Sewage and Other Systems.
- 3114 - Fruit and Vegetable Preserving and Specialty Food Manufacturing.
- 3117 - Seafood Product Preparation and Packaging.
- 3211 - Sawmills and Wood Preservation.
- 3241 - Petroleum and Coal Products Manufacturing.
- 3272 - Glass and Glass Product Manufacturing.
- 3313 - Alumina and Aluminum Production and Processing.
- 3366 - Ship and Boat Building.
- 6231 - Nursing Care Facilities (Skilled Nursing Facilities).
- 7211 - Traveler Accommodation.

**IMPACT ON JOBS:** Ecology used the Washington state office of financial management's 2007 Washington input-output model to estimate the impact of the proposed rule on jobs in the state. The model accounts for inter-industry impacts and spending multipliers of earned income and changes in output.

The proposed rule amendments will result in transfers of money within and between industries; these estimates assume increased sampling compliance costs are transferred to environmental laboratory services.

Under the low-end cost assumptions discussed in Chapter 3, the Washington state economy, beginning in 2021, could experience between a net loss of one full-time employee (FTE) equivalent, to a net gain of 2.5 FTEs. This range depends on the distribution of costs across relevant NAICS codes transferring costs to environmental labs.

Under the high-end cost assumptions discussed in Chapter 3, the Washington state economy, beginning in 2021, could experience between a net loss of 1.6 FTE equivalent, to a net gain of 3.8 FTEs. This range depends on the distribution of costs across relevant NAICS codes transferring costs to environmental labs.

Some dischargers may not pay external labs, choosing to continue to analyze samples in house, reducing the degree of these estimated impacts, positive or negative.

These prospective changes in overall employment in the state are the sum of multiple small increases and decreases across all industries in the state. Decreases are primarily in industries directly incurring compliance costs under the proposed rule. Increases are primarily in environmental labs and related industries.

A copy of the statement may be obtained by contacting Becca Conklin, Department of Ecology, Water Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503, phone 360-407-6413. People with speech disability may call TTY 877-833-6341. People with impaired hearing may call Washington relay service 711. To request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>, email [swqs@ecy.wa.gov](mailto:swqs@ecy.wa.gov), <https://fortress.wa.gov/ecy/publications/SummaryPages/181007.html>.

July 17, 2018

Polly Zehm

Deputy Director

**AMENDATORY SECTION** (Amending WSR 16-16-095, filed 8/1/16, effective 9/1/16)

**WAC 173-201A-020 Definitions.** The following definitions are intended to facilitate the use of chapter 173-201A WAC:

**"1-DMax" or "1-day maximum temperature"** is the highest water temperature reached on any given day. This measure can be obtained using calibrated maximum/minimum thermometers or continuous monitoring probes having sampling intervals of thirty minutes or less.

**"7-DADMax" or "7-day average of the daily maximum temperatures"** is the arithmetic average of seven consecutive measures of daily maximum temperatures. The 7-DADMax for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date.

**"Action value"** means a total phosphorus (TP) value established at the upper limit of the trophic states in each ecoregion (see Table 230(1)). Exceedance of an action value indicates that a problem is suspected. A lake-specific study may be needed to confirm if a nutrient problem exists.

"**Actions**" refers broadly to any human projects or activities.

"**Acute conditions**" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of short-term exposure to the substance or detrimental environmental condition.

"**AKART**" is an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices," typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement.

"Ambient water quality" refers to the conditions and properties of a surface water of the state as determined by the results of water samples, measurements, or observations.

"**Background**" means the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration. Background sampling locations in an enforcement action would be up-gradient or outside the area of influence of the discharge. If several discharges to any water body exist, and enforcement action is being taken for possible violations to the standards, background sampling would be undertaken immediately up-gradient from each discharge.

"**Best management practices (BMP)**" means physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges.

"**Biological assessment**" is an evaluation of the biological condition of a water body using surveys of aquatic community structure and function and other direct measurements of resident biota in surface waters.

"**Bog**" means those wetlands that are acidic, peat forming, and whose primary water source is precipitation, with little, if any, outflow.

"**Carcinogen**" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"**Chronic conditions**" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of repeated or constant exposure over an extended period of time to a substance or detrimental environmental condition.

"**Combined sewer overflow (CSO) treatment plant**" is a facility that provides at-site treatment as provided for in

chapter 173-245 WAC. A CSO treatment plant is a specific facility identified in a department-approved CSO reduction plan (long-term control plan) that is designed, operated and controlled by a municipal utility to capture and treat excess combined sanitary sewage and stormwater from a combined sewer system.

"**Compliance schedule**" or "**schedule of compliance**" is a schedule of remedial measures included in a permit or an order, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with an effluent limit, other prohibition, or standard.

"**Created wetlands**" means those wetlands intentionally created from nonwetland sites to produce or replace natural wetland habitat.

"**Critical condition**" is when the physical, chemical, and biological characteristics of the receiving water environment interact with the effluent to produce the greatest potential adverse impact on aquatic biota and existing or designated water uses. For steady-state discharges to riverine systems the critical condition may be assumed to be equal to the 7Q10 flow event unless determined otherwise by the department.

"**Damage to the ecosystem**" means any demonstrated or predicted stress to aquatic or terrestrial organisms or communities of organisms which the department reasonably concludes may interfere in the health or survival success or natural structure of such populations. This stress may be due to, but is not limited to, alteration in habitat or changes in water temperature, chemistry, or turbidity, and shall consider the potential build up of discharge constituents or temporal increases in habitat alteration which may create such stress in the long term.

"**Department**" means the state of Washington department of ecology.

"**Designated uses**" are those uses specified in this chapter for each water body or segment, regardless of whether or not the uses are currently attained.

"**Director**" means the director of the state of Washington department of ecology.

"**Drainage ditch**" means that portion of a designed and constructed conveyance system that serves the purpose of transporting surplus water; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"**Ecoregions**" are defined using EPA's *Ecoregions of the Pacific Northwest* Document No. 600/3-86/033 July 1986 by Omernik and Gallant.

"Effluent" refers to the discharge of chemical, physical, biological, or other constituents from point sources into surface waters.

"**Enterococci**" refers to a subgroup of fecal streptococci that includes *S. faecalis*, *S. faecium*, *S. gallinarum*, and *S. avium*. The enterococci are differentiated from other streptococci by their ability to grow in 6.5% sodium chloride, at pH 9.6, and at 10°C and 45°C.

"**E. coli**" or "**Escherichia coli**" is an aerobic and facultative gram negative nonspore forming rod shaped bacterium that can grow at 44.5 degrees Celsius that is ortho-nitrophen-

nyl-B-D-galactopyranoside (ONPG) positive and Methylumbelliferyl glucuronide (MUG) positive.

**"Existing uses"** means those uses actually attained in fresh or marine waters on or after November 28, 1975, whether or not they are designated uses. Introduced species that are not native to Washington, and put-and-take fisheries comprised of nonself-replicating introduced native species, do not need to receive full support as an existing use.

~~("Extraordinary primary contact" means waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.)~~

**"Fecal coliform"** means that portion of the coliform group which is present in the intestinal tracts and feces of warm-blooded animals as detected by the product of acid or gas from lactose in a suitable culture medium within twenty-four hours at 44.5 plus or minus 0.2 degrees Celsius.

**"Geometric mean"** means either the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

**"Ground water exchange"** means the discharge and recharge of ground water to a surface water. Discharge is inflow from an aquifer, seeps or springs that increases the available supply of surface water. Recharge is outflow down-gradient to an aquifer or downstream to surface water for base flow maintenance. Exchange may include ground water discharge in one season followed by recharge later in the year.

**"Hardness"** means a measure of the calcium and magnesium salts present in water. For purposes of this chapter, hardness is measured in milligrams per liter and expressed as calcium carbonate (CaCO<sub>3</sub>).

**"Intake credit"** is a procedure for establishing effluent limits that takes into account the amount of a pollutant that is present in waters of the state, at the time water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water.

**"Irrigation ditch"** means that portion of a designed and constructed conveyance system that serves the purpose of transporting irrigation water from its supply source to its place of use; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

**"Lakes"** shall be distinguished from riverine systems as being water bodies, including reservoirs, with a mean detention time of greater than fifteen days.

**"Lake-specific study"** means a study intended to quantify existing nutrient concentrations, determine existing characteristic uses for lake class waters, and potential lake uses. The study determines how to protect these uses and if any uses are lost or impaired because of nutrients, algae, or aquatic plants. An appropriate study must recommend a criterion for total phosphorus (TP), total nitrogen (TN) in µg/l, or other nutrient that impairs characteristic uses by causing excessive algae blooms or aquatic plant growth.

**"Mean detention time"** means the time obtained by dividing a reservoir's mean annual minimum total storage by the thirty-day ten-year low-flow from the reservoir.

**"Migration"** or **"translocation"** means any natural movement of an organism or community of organisms from one locality to another locality.

**"Mixing zone"** means that portion of a water body adjacent to an effluent outfall where mixing results in the dilution of the effluent with the receiving water. Water quality criteria may be exceeded in a mixing zone as conditioned and provided for in WAC 173-201A-400.

**"Natural conditions"** or **"natural background levels"** means surface water quality that was present before any human-caused pollution. When estimating natural conditions in the headwaters of a disturbed watershed it may be necessary to use the less disturbed conditions of a neighboring or similar watershed as a reference condition. (See also WAC 173-201A-260(1).)

**"New or expanded actions"** mean human actions that occur or are regulated for the first time, or human actions expanded such that they result in an increase in pollution, after July 1, 2003, for the purpose of applying this chapter only.

**"Nonpoint source"** means pollution that enters any waters of the state from any dispersed land-based or water-based activities including, but not limited to, atmospheric deposition; surface water runoff from agricultural lands, urban areas, or forest lands; subsurface or underground sources; or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

**"Permit"** means a document issued pursuant to chapter 90.48 RCW specifying the waste treatment and control requirements and waste discharge conditions.

**"pH"** means the negative logarithm of the hydrogen ion concentration.

**"Pollution"** means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**"Primary contact recreation"** means activities where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and water skiing.

~~("Secondary contact recreation" means activities where a person's water contact would be limited (e.g., wading or fishing) to the extent that bacterial infections of eyes, ears, respiratory or digestive systems, or urogenital areas would normally be avoided.)~~

**"Shoreline stabilization"** means the anchoring of soil at the water's edge, or in shallow water, by fibrous plant root complexes; this may include long-term accretion of sediment or peat, along with shoreline progradation in such areas.

**"Stormwater"** means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features

of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

**"Stormwater attenuation"** means the process by which peak flows from precipitation are reduced and runoff velocities are slowed as a result of passing through a surface water body.

**"Surface waters of the state"** includes lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands and all other surface waters and water courses within the jurisdiction of the state of Washington.

**"Temperature"** means water temperature expressed in degrees Celsius (°C).

**"Treatment wetlands"** means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or stormwater treatment. Treatment wetlands are considered part of a collection and treatment system, and generally are not subject to the criteria of this chapter.

**"Trophic state"** means a classification of the productivity of a lake ecosystem. Lake productivity depends on the amount of biologically available nutrients in water and sediments and may be based on total phosphorus (TP). Secchi depth and chlorophyll-a measurements may be used to improve the trophic state classification of a lake. Trophic states used in this rule include, from least to most nutrient rich, ultra-oligotrophic, oligotrophic, lower mesotrophic, upper mesotrophic, and eutrophic.

**"Turbidity"** means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

**"Upwelling"** means the natural process along Washington's Pacific Coast where the summer prevailing northerly winds produce a seaward transport of surface water. Cold, deeper more saline waters rich in nutrients and low in dissolved oxygen, rise to replace the surface water. The cold oxygen deficient water enters Puget Sound and other coastal estuaries at depth where it displaces the existing deep water and eventually rises to replace the surface water. Such surface water replacement results in an overall increase in salinity and nutrients accompanied by a depression in dissolved oxygen. Localized upwelling of the deeper water of Puget Sound can occur year-round under influence of tidal currents, winds, and geomorphic features.

**"USEPA"** means the United States Environmental Protection Agency.

**"Variance"** is a time-limited designated use and criterion as defined in 40 C.F.R. 131.3, and must be adopted by rule.

**"Wetlands"** means areas that are inundated or saturated by surface water or ground water 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. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construc-

tion of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (Water bodies not included in the definition of wetlands as well as those mentioned in the definition are still waters of the state.)

**"Wildlife habitat"** means waters of the state used by, or that directly or indirectly provide food support to, fish, other aquatic life, and wildlife for any life history stage or activity.

AMENDATORY SECTION (Amending WSR 11-09-090, filed 4/20/11, effective 5/21/11)

**WAC 173-201A-200 Fresh water designated uses and criteria.** The following uses are designated for protection in fresh surface waters of the state. Use designations for water bodies are listed in WAC 173-201A-600 and 173-201A-602.

(1) **Aquatic life uses.** Aquatic life uses are designated based on the presence of, or the intent to provide protection for, the key uses identified in (a) of this subsection. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state in addition to the key species described below.

(a) The categories for aquatic life uses are:

(i) **Char spawning and rearing.** The key identifying characteristics of this use are spawning or early juvenile rearing by native char (bull trout and Dolly Varden), or use by other aquatic species similarly dependent on such cold water. Other common characteristic aquatic life uses for waters in this category include summer foraging and migration of native char; and spawning, rearing, and migration by other salmonid species.

(ii) **Core summer salmonid habitat.** The key identifying characteristics of this use are summer (June 15 - September 15) salmonid spawning or emergence, or adult holding; use as important summer rearing habitat by one or more salmonids; or foraging by adult and subadult native char. Other common characteristic aquatic life uses for waters in this category include spawning outside of the summer season, rearing, and migration by salmonids.

(iii) **Salmonid spawning, rearing, and migration.** The key identifying characteristic of this use is salmon or trout spawning and emergence that only occurs outside of the summer season (September 16 - June 14). Other common characteristic aquatic life uses for waters in this category include rearing and migration by salmonids.

(iv) **Salmonid rearing and migration only.** The key identifying characteristic of this use is use only for rearing or migration by salmonids (not used for spawning).

(v) **Non-anadromous interior redband trout.** For the protection of waters where the only trout species is a non-anadromous form of self-reproducing interior redband trout (*O. mykiss*), and other associated aquatic life.

(vi) **Indigenous warm water species.** For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous nonsalmonid species. Examples include dace, redband shiner, chiselmouth, sucker, and northern pikeminnow.

(b) **General criteria.** General criteria that apply to all aquatic life fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, water temperature is measured by the 7-day average of the daily maximum temperatures (7-DADMax). Table 200 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

**Table 200 (1)(c)  
Aquatic Life Temperature Criteria in Fresh Water**

Category	Highest 7-DADMax
Char Spawning and Rearing*	12°C (53.6°F)
Core Summer Salmonid Habitat*	16°C (60.8°F)
Salmonid Spawning, Rearing, and Migration*	17.5°C (63.5°F)
Salmonid Rearing and Migration Only	17.5°C (63.5°F)
Non-anadromous Interior Red-band Trout	18°C (64.4°F)
Indigenous Warm Water Species	20°C (68°F)

\*Note: Some streams have a more stringent temperature criterion that is applied seasonally to further protect salmonid spawning and egg incubation. See (c)(B)(iv) of this subsection.

(i) When a water body's temperature is warmer than the criteria in Table 200 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

(ii) When the background condition of the water is cooler than the criteria in Table 200 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed  $28/(T+7)$  as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Spawning and incubation protection. The department has identified waterbodies, or portions thereof, which require special protection for spawning and incubation in ecology publication 06-10-038 (also available on ecology's web site at ([www.ecy.wa.gov](http://www.ecy.wa.gov))) [www.ecology.wa.gov](http://www.ecology.wa.gov)). This publication indicates where and when the following criteria are to be applied to protect the reproduction of native char, salmon, and trout:

- Maximum 7-DADMax temperatures of 9°C (48.2°F) at the initiation of spawning and at fry emergence for char; and

- Maximum 7-DADMax temperatures of 13°C (55.4°F) at the initiation of spawning for salmon and at fry emergence for salmon and trout.

The two criteria above are protective of incubation as long as human actions do not significantly disrupt the normal patterns of fall cooling and spring warming that provide significantly colder temperatures over the majority of the incubation period.

(v) For lakes, human actions considered cumulatively may not increase the 7-DADMax temperature more than 0.3°C (0.54°F) above natural conditions.

(vi) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(vii) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this section or WAC 173-201A-600 through 173-201A-602:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-day maximum (1-DMax) temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(viii) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** The D.O. criteria are measured in milligrams per liter (mg/L). Table 200 (1)(d) lists the 1-day minimum D.O. for each of the aquatic life use categories.

**Table 200 (1)(d)**

**Aquatic Life Dissolved Oxygen Criteria in Fresh Water**

Category	Lowest 1-Day Minimum
Char Spawning and Rearing	9.5 mg/L
Core Summer Salmonid Habitat	9.5 mg/L
Salmonid Spawning, Rearing, and Migration	8.0 mg/L
Salmonid Rearing and Migration Only	6.5 mg/L
Non-anadromous Interior Redband Trout	8.0 mg/L
Indigenous Warm Water Species	6.5 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 200 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) For lakes, human actions considered cumulatively may not decrease the dissolved oxygen concentration more than 0.2 mg/L below natural conditions.

(iii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iv) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 200 (1)(e) lists the maximum turbidity criteria for each of the aquatic life use categories.

**Table 200 (1)(e)**

**Aquatic Life Turbidity Criteria in Fresh Water**

Category	NTUs
Char Spawning and Rearing	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Core Summer Salmonid Habitat	Same as above.
Salmonid Spawning, Rearing, and Migration	Same as above.

Category	NTUs
Salmonid Rearing and Migration Only	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Non-anadromous Interior Redband Trout	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Indigenous Warm Water Species	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(i) The turbidity criteria established under WAC 173-201A-200 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary area of mixing shall be as follows:

(A) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

(B) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.

(C) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

(D) For projects working within or along lakes, ponds, wetlands, or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life total dissolved gas (TDG) criteria.** TDG is measured in percent saturation. Table 200 (1)(f) lists

the maximum TDG criteria for each of the aquatic life use categories.

**Table 200 (1)(f)**

**Aquatic Life Total Dissolved Gas Criteria in Fresh Water**

Category	Percent Saturation
Char Spawning and Rearing	Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.
Core Summer Salmonid Habitat	Same as above.
Salmonid Spawning, Rearing, and Migration	Same as above.
Salmonid Rearing and Migration <b>Only</b>	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(i) The water quality criteria established in this chapter for TDG shall not apply when the stream flow exceeds the seven-day, ten-year frequency flood.

(ii) The TDG criteria may be adjusted to aid fish passage over hydroelectric dams when consistent with a department approved gas abatement plan. This plan must be accompanied by fisheries management and physical and biological monitoring plans. The elevated TDG levels are intended to allow increased fish passage without causing more harm to fish populations than caused by turbine fish passage. The following special fish passage exemptions for the Snake and Columbia rivers apply when spilling water at dams is necessary to aid fish passage:

- TDG must not exceed an average of one hundred fifteen percent as measured in the forebays of the next downstream dams and must not exceed an average of one hundred twenty percent as measured in the tailraces of each dam (these averages are measured as an average of the twelve highest consecutive hourly readings in any one day, relative to atmospheric pressure); and

- A maximum TDG one hour average of one hundred twenty-five percent must not be exceeded during spillage for fish passage.

(g) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 200 (1)(g) lists the pH levels for each of the aquatic life use categories.

**Table 200 (1)(g)**

**Aquatic Life pH Criteria in Fresh Water**

Use Category	pH Units
Char Spawning and Rearing	pH shall be within the range of 6.5 to 8.5, with a human-

Use Category	pH Units
	caused variation within the above range of less than 0.2 units.
Core Summer Salmonid Habitat	Same as above.
Salmonid Spawning, Rearing, and Migration	pH shall be within the range of 6.5 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
Salmonid Rearing and Migration <b>Only</b>	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(2) **Recreational uses.** The recreational (~~uses are extraordinary primary contact recreation,~~) use is primary contact recreation(~~and secondary contact recreation~~).

(a) **General criteria.** General criteria that apply to fresh water recreational uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 200 (2)(b) lists the bacteria criteria to protect water contact recreation in fresh waters. These criteria are based on *Escherichia coli* (*E. coli*) and fecal coliform organism levels, and expressed as colony forming units (CFU) or most probable number (MPN). Both bacterial indicators may be used to measure effluent discharge and ambient water quality conditions to determine compliance. The use of fecal coliform organism levels to determine compliance will expire December 31, 2020.

**Table 200 (2)(b)**

~~((Water))~~ **Primary Contact Recreation Bacteria Criteria in Fresh Water**

<del>((Category))</del> <b>Bacterial Indicator</b>	<del>((Bacteria Indicator))</del> <b>Criteria</b>
<del>((Extraordinary Primary Contact Recreation</del>	Fecal coliform organism levels must not exceed a geometric mean value of 50 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 100 colonies/100 mL.)
<i>E. coli</i>	<i>E. coli</i> organism levels within an averaging period must not exceed a geometric mean value of 100 CFU or MPN per 100 mL, with not more than

<u>((Category)) Bacterial Indicator</u>	<u>((Bacteria Indicator)) Criteria</u>
	<u>10 percent of all samples (or any single sample when less than ten sample points exist) obtained within the averaging period exceeding 320 CFU or MPN per 100 mL.</u>
<u>((Primary Contact Recreation)) Fecal coliform (expires 12/31/2020)</u>	<u>Fecal coliform organism levels within an averaging period must not exceed a geometric mean value of 100 ((colonies/100)) CFU or MPN per 100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained ((for calculating the geometric mean value)) within an averaging period exceeding 200 ((colonies/100)) CFU or MPN per 100 mL.</u>
<u>((Secondary Contact Recreation</u>	<u>Fecal coliform organism levels must not exceed a geometric mean value of 200 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 400 colonies /100 mL.))</u>

~~(i) ((When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.)) A minimum of three samples is required to calculate a geometric mean for comparison to the geometric mean criteria. Sample collection dates shall be well distributed throughout the averaging period so as not to mask noncompliance periods.~~

(A) Effluent bacteria samples: When averaging effluent bacteria sample values for comparison to the geometric mean criteria, or for determining compliance with effluent requirements, the averaging period shall be thirty days or less.

(B) Ambient water quality samples: When averaging bacteria sample values for comparison to the geometric mean criteria, it is preferable to average by season. The averaging period of bacteria sample data shall be ninety days or less.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating

a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for rivers and streams that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the river or stream are being met.

~~((iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.))~~

(3) **Water supply uses.** The water supply uses are domestic, agricultural, industrial, and stock watering.

**General criteria.** General criteria that apply to the water supply uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

(4) **Miscellaneous uses.** The miscellaneous fresh water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

**General criteria.** General criteria that apply to miscellaneous fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

AMENDATORY SECTION (Amending WSR 11-09-090, filed 4/20/11, effective 5/21/11)

**WAC 173-201A-210 Marine water designated uses and criteria.** The following uses are designated for protection in marine surface waters of the state of Washington. Use designations for specific water bodies are listed in WAC 173-201A-612.

(1) **Aquatic life uses.** Aquatic life uses are designated using the following general categories. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state.

(a) **The categories for aquatic life uses are:**

(i) **Extraordinary quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(ii) **Excellent quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iii) **Good quality** salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iv) **Fair quality** salmonid and other fish migration.

(b) **General criteria.** General criteria that apply to aquatic life marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, temperature is measured as a 1-day maximum temperature (1-DMax). Table 210 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

**Table 210 (1)(c)**  
**Aquatic Life Temperature Criteria in Marine Water**

Category	Highest 1-DMax
<i>Extraordinary quality</i>	13°C (55.4°F)
<i>Excellent quality</i>	16°C (60.8°F)
<i>Good quality</i>	19°C (66.2°F)
<i>Fair quality</i>	22°C (71.6°F)

(i) When a water body's temperature is warmer than the criteria in Table 210 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

(ii) When the natural condition of the water is cooler than the criteria in Table 210 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed 12/(T-2) as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(v) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this subsection or WAC 173-201A-612:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-DMax temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(vi) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** Except where noted, D.O. concentrations are measured as a 1-day minimum in milligrams per liter. Table 210 (1)(d) lists the D.O. criteria for each of the aquatic life use categories.

**Table 210 (1)(d)**  
**Aquatic Life Dissolved Oxygen Criteria in Marine Water**

Category	Lowest 1-Day Minimum
<i>Extraordinary quality</i>	7.0 mg/L
<i>Excellent quality</i>	6.0 mg/L
<i>Good quality</i>	5.0 mg/L
<i>Fair quality</i>	4.0 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 210 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iii) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 210 (1)(e) lists the one-day maximum turbidity allowed as a result of human actions for each of the aquatic life use categories.

**Table 210 (1)(e)**  
**Aquatic Life Turbidity Criteria in Marine Water**

Category	NTUs
<i>Extraordinary quality</i>	Turbidity must not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.

Category	NTUs
<i>Excellent quality</i>	Same as above.
<i>Good quality</i>	Turbidity must not exceed: <ul style="list-style-type: none"> <li>• 10 NTU over background when the background is 50 NTU or less; or</li> <li>• A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.</li> </ul>
<i>Fair quality</i>	Same as above.

(i) The turbidity criteria established under WAC 173-201A-210 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. For estuaries or marine waters, the point of compliance for a temporary area of mixing shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 210 (1)(f) lists the pH levels allowed as a result of human actions for each of the aquatic life use categories.

**Table 210 (1)(f)**  
**Aquatic Life pH Criteria in Marine Water**

Use Category	pH Units
<i>Extraordinary quality</i>	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.2 units.
<i>Excellent quality</i>	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
<i>Good quality</i>	Same as above.
<i>Fair quality</i>	pH must be within the range of 6.5 to 9.0 with a human-caused variation within the above range of less than 0.5 units.

(2) **Shellfish harvesting.**

(a) General criteria. General criteria that apply to shellfish harvesting uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Shellfish harvesting bacteria criteria.** ~~((To protect shellfish harvesting, fecal coliform organism levels))~~ Fecal coliform organism levels are used to protect shellfish harvesting. Criteria are expressed as colony forming units (CFU) or most probable number (MPN). Fecal coliform must not exceed a geometric mean value of 14 ((colonies/)) CFU or MPN per 100 mL, and not have more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 43 ((colonies/)) CFU or MPN per 100 mL.

(i) Shellfish growing areas approved for unconditional harvest by the state department of health are fully supporting the shellfish harvest goals of this chapter, even when comparison with the criteria contained in this chapter suggest otherwise.

(ii) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(iii) When determining compliance with the bacteria criteria in or around small sensitive areas, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iv) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water ~~((is))~~ are being met.

(v) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(3) **Recreational uses.** The recreational ~~((uses are))~~ use is primary contact recreation ~~((and secondary contact recreation)).~~

(a) **General criteria.** General criteria that apply to water contact uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 210 (3)(b) lists the bacteria criteria to protect water contact recreation in marine waters. These criteria are based on

enterococci and fecal coliform organism levels, and expressed as colony forming units (CFU) or most probable number (MPN). Both bacterial indicators may be used to measure effluent discharge and ambient water quality conditions to determine compliance. The use of fecal coliform levels to determine compliance will expire December 31, 2020.

**Table 210 (3)(b)**

**~~(Water)~~ Primary Contact Recreation Bacteria Criteria in Marine Water**

<del>((Category)) Bacterial Indicator</del>	<del>((Bacteria Indicator)) Criteria</del>
<u>Enterococci</u>	<u>Enterococci organism levels within an averaging period must not exceed a geometric mean value of 30 CFU or MPN per 100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample values exist) obtained within the averaging period exceeding 110 CFU or MPN per 100 mL.</u>
<del>((Primary Contact Recreation)) Fecal coliform (expires 12/31/2020)</del>	<u>Fecal coliform organism levels within an averaging period must not exceed a geometric mean value of 14 (<del>colonies/100</del>) CFU or MPN per 100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained (<del>for calculating the geometric mean value</del>) within an averaging period exceeding 43 (<del>colonies/100</del>) CFU or MPN per 100 mL.</u>
<del>((Secondary Contact Recreation)</del>	<u>Enterococci organism levels must not exceed a geometric mean value of 70 <del>colonies/100 mL</del>, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 208 <del>colonies/100 mL</del>.)</u>

~~(i) ((When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.)) A minimum of three samples is required to calculate a geometric mean for comparison to the geometric mean criterion. Sample collection dates shall be well distributed throughout the averaging period so as not to mask noncompliance periods.~~

(A) Effluent bacteria samples: When averaging effluent bacteria sample values for comparison to the geometric mean criteria, or for determining compliance with effluent requirements, the averaging period shall be thirty days or less.

(B) Ambient water quality samples: When averaging ambient bacteria sample values for comparison to the geometric mean criteria, it is preferable to average by season. The averaging period of bacteria sample data shall be ninety days or less.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water ~~(is)~~ are being met.

~~((iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.))~~

(4) **Miscellaneous uses.** The miscellaneous marine water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

**General criteria.** General criteria that apply in miscellaneous marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

AMENDATORY SECTION (Amending WSR 03-14-129, filed 7/1/03, effective 8/1/03)

**WAC 173-201A-320 Tier II—Protection of waters of higher quality than the standards.** (1) Whenever a water quality constituent is of a higher quality than a criterion designated for that water under this chapter, new or expanded actions within the categories identified in subsection (2) of this section that are expected to cause a measurable change in the quality of the water (see subsection (3) of this section) may not be allowed unless the department determines that the lowering of water quality is necessary and in the overriding public interest (see subsection (4) of this section).

(2) A Tier II review will only be conducted for new or expanded actions conducted under the following authorizations. Public involvement with the Tier II review will be conducted in accordance with the public involvement processes associated with these actions.

- (a) National Pollutant Discharge Elimination System (NPDES) waste discharge permits;
- (b) State waste discharge permits to surface waters;
- (c) Federal Clean Water Act Section 401 water quality certifications; and

(d) Other water pollution control programs authorized, implemented, or administered by the department.

(3) **Definition of measurable change.** To determine that a lowering of water quality is necessary and in the overriding public interest, an analysis must be conducted for new or expanded actions when the resulting action has the potential to cause a measurable change in the physical, chemical, or biological quality of a water body. Measurable changes will be determined based on an estimated change in water quality at a point outside the source area, after allowing for mixing consistent with WAC 173-201A-400(7). In the context of this regulation, a measurable change includes a:

- (a) Temperature increase of 0.3°C or greater;
- (b) Dissolved oxygen decrease of 0.2 mg/L or greater;
- (c) Bacteria level increase of 2 (~~(cfu)~~) CFU or MPN per 100 mL or greater;
- (d) pH change of 0.1 units or greater;
- (e) Turbidity increase of 0.5 NTU or greater; or
- (f) Any detectable increase in the concentration of a toxic or radioactive substance.

(4) **Necessary and overriding public interest determinations.** Once an activity has been determined to cause a measurable lowering in water quality, then an analysis must be conducted to determine if the lowering of water quality is necessary and in the overriding public interest. Information to conduct the analysis must be provided by the applicant seeking the authorization, or by the department in developing a general permit or pollution control program, and must include:

(a) A statement of the benefits and costs of the social, economic, and environmental effects associated with the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is in the overriding public interest. Examples of information that can assist in this determination include:

(i) Economic benefits such as creating or expanding employment, increasing median family income, or increasing the community tax base;

(ii) Providing or contributing to necessary social services;

(iii) The use and demonstration of innovative pollution control and management approaches that would allow a significant improvement in AKART for a particular industry or category of action;

(iv) The prevention or remediation of environmental or public health threats;

(v) The societal and economic benefits of better health protection;

(vi) The preservation of assimilative capacity for future industry and development; and

(vii) The benefits associated with high water quality for uses such as fishing, recreation, and tourism.

(b) Information that identifies and selects the best combination of site, structural, and managerial approaches that can be feasibly implemented to prevent or minimize the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is necessary. Examples that may be considered as alternatives include:

(i) Pollution prevention measures (such as changes in plant processes, source reduction, and substitution with less toxic substances);

(ii) Recycle/reuse of waste by-products or production materials and fluids;

(iii) Application of water conservation methods;

(iv) Alternative or enhanced treatment technology;

(v) Improved operation and maintenance of existing treatment systems;

(vi) Seasonal or controlled discharge options to avoid critical conditions of water quality;

(vii) Establishing buffer areas with effective limits on activities;

(viii) Land application or infiltration to capture pollutants and reduce surface runoff, on-site treatment, or alternative discharge locations;

(ix) Water quality offsets as described in WAC 173-201A-450.

(5) The department retains the discretion to require that the applicant examine specific alternatives, or that additional information be provided to conduct the analysis.

(6) General permit and water pollution control programs are developed for a category of dischargers that have similar processes and pollutants. New or reissued general permits or other water pollution control programs authorized, implemented, or administered by the department will undergo an analysis under Tier II at the time the department develops and approves the general permit or program.

(a) Individual activities covered under these general permits or programs will not require a Tier II analysis.

(b) The department will describe in writing how the general permit or control program meets the antidegradation requirements of this section.

(c) The department recognizes that many water quality protection programs and their associated control technologies are in a continual state of improvement and development. As a result, information regarding the existence, effectiveness, or costs of control practices for reducing pollution and meeting the water quality standards may be incomplete. In these instances, the antidegradation requirements of this section can be considered met for general permits and programs that have a formal process to select, develop, adopt, and refine control practices for protecting water quality and meeting the intent of this section. This adaptive process must:

(i) Ensure that information is developed and used expeditiously to revise permit or program requirements;

(ii) Review and refine management and control programs in cycles not to exceed five years or the period of permit reissuance; and

(iii) Include a plan that describes how information will be obtained and used to ensure full compliance with this chapter. The plan must be developed and documented in advance of permit or program approval under this section.

(7) All authorizations under this section must still comply with the provisions of Tier I (WAC 173-201A-310).

AMENDATORY SECTION (Amending WSR 11-09-090, filed 4/20/11, effective 5/21/11)

**WAC 173-201A-600 Use designations—Fresh waters.** (1) All surface waters of the state not named in Table 602 are to be protected for the designated uses of: Salmonid spawning, rearing, and migration; primary contact recreation; domestic, industrial, and agricultural water supply; stock watering; wildlife habitat; harvesting; commerce and navigation; boating; and aesthetic values.

(a) Additionally, the following waters are also to be protected for the designated use((s)) of((s)) core summer salmonid habitat(~~(; and extraordinary primary contact recreation)~~):

(i) All surface waters lying within national parks, national forests, and/or wilderness areas;

(ii) All lakes and all feeder streams to lakes (reservoirs with a mean detention time greater than fifteen days are to be treated as a lake for use designation);

(iii) All surface waters that are tributaries to waters designated core summer salmonid habitat(~~(; or extraordinary primary contact recreation)~~); and

(iv) All fresh surface waters that are tributaries to extraordinary aquatic life marine waters (WAC 173-201A-610 through 173-201A-612).

(2) The water quality standards for surface waters for the state of Washington do not apply to segments of waters that are on Indian reservations, except for surface waters overlying fee lands on the Puyallup reservation consistent with the Puyallup Tribe Land Claims Settlement of 1989.

(3) Aquatic life uses are designated based on the presence of, or the intent to provide, protection for the key uses identified in Table 600. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state in addition to the key species described below.

**Table 600 (Key to Table 602)**

Abbreviation	General Description
<b>Aquatic Life Uses:</b>	(see WAC 173-201A-200(1))
Char Spawning/Rearing	<b>Char spawning and rearing.</b> The key identifying characteristics of this use are spawning or early juvenile rearing by native char (bull trout and Dolly Varden), or use by other aquatic species similarly dependent on such cold water. Other common characteristic aquatic life uses for waters in this category include summer foraging and migration of native char; and spawning, rearing, and migration by other salmonid species.

Abbreviation	General Description
Core Summer Habitat	<b>Core summer salmonid habitat.</b> The key identifying characteristics of this use are summer (June 15 - September 15) salmonid spawning or emergence, or adult holding; use as important summer rearing habitat by one or more salmonids; or foraging by adult and subadult native char. Other common characteristic aquatic life uses for waters in this category include spawning outside of the summer season, rearing, and migration by salmonids.
Spawning/Rearing	<b>Salmonid spawning, rearing, and migration.</b> The key identifying characteristic of this use is salmon or trout spawning and emergence that only occurs outside of the summer season (September 16 - June 14). Other common characteristic aquatic life uses for waters in this category include rearing and migration by salmonids.
Rearing/Migration Only	<b>Salmonid rearing and migration only.</b> The key identifying characteristic of this use is use only for rearing or migration by salmonids (not used for spawning).
Redband Trout	<b>Nonanadromous interior redband trout.</b> For the protection of waters where the only trout species is a nonanadromous form of self-reproducing interior redband trout ( <i>O. mykiss</i> ), and other associated aquatic life.
Warm Water Species	<b>Indigenous warm water species.</b> For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous nonsalmonid species. Exam

Abbreviation	General Description
	ples include dace, redbside shiner, chiselmouth, sucker, and northern pikeminnow.
<b>Recreational Uses:</b> (see WAC 173-201A-200(2))	
(( <del>Extraordinary Primary Cont.</del>	Extraordinary quality primary contact waters. <del>Waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.</del> )
Primary <del>((Cont.))</del> <u>Contact</u>	Primary contact recreation.
(( <del>Secondary Cont.</del>	Secondary contact recreation.)
<b>Water Supply Uses:</b> (see WAC 173-201A-200(3))	
Domestic Water	Domestic water supply.
Industrial Water	Industrial water supply.
Agricultural Water	Agricultural water supply.
Stock Water	Stock watering.
<b>Miscellaneous Uses:</b> (see WAC 173-201A-200(4))	
Wildlife Habitat	Wildlife habitat.
Harvesting	Fish harvesting.
Commerce/Navigation	Commerce and navigation.
Boating	Boating.
Aesthetics	Aesthetic values.

may view Table 602 at the department of ecology's web site at (~~www.ecy.wa.gov~~) www.ecology.wa.gov, or request a paper copy of the rule with Table 602 from the department of ecology or the office of the code reviser.

(3) The department has identified waterbodies, or portions thereof, in Table 602 use designations which have additional requirements for supplemental spawning and incubation protection for salmonid species. See WAC 173-201A-200 (1)(c)(iv) for more information.

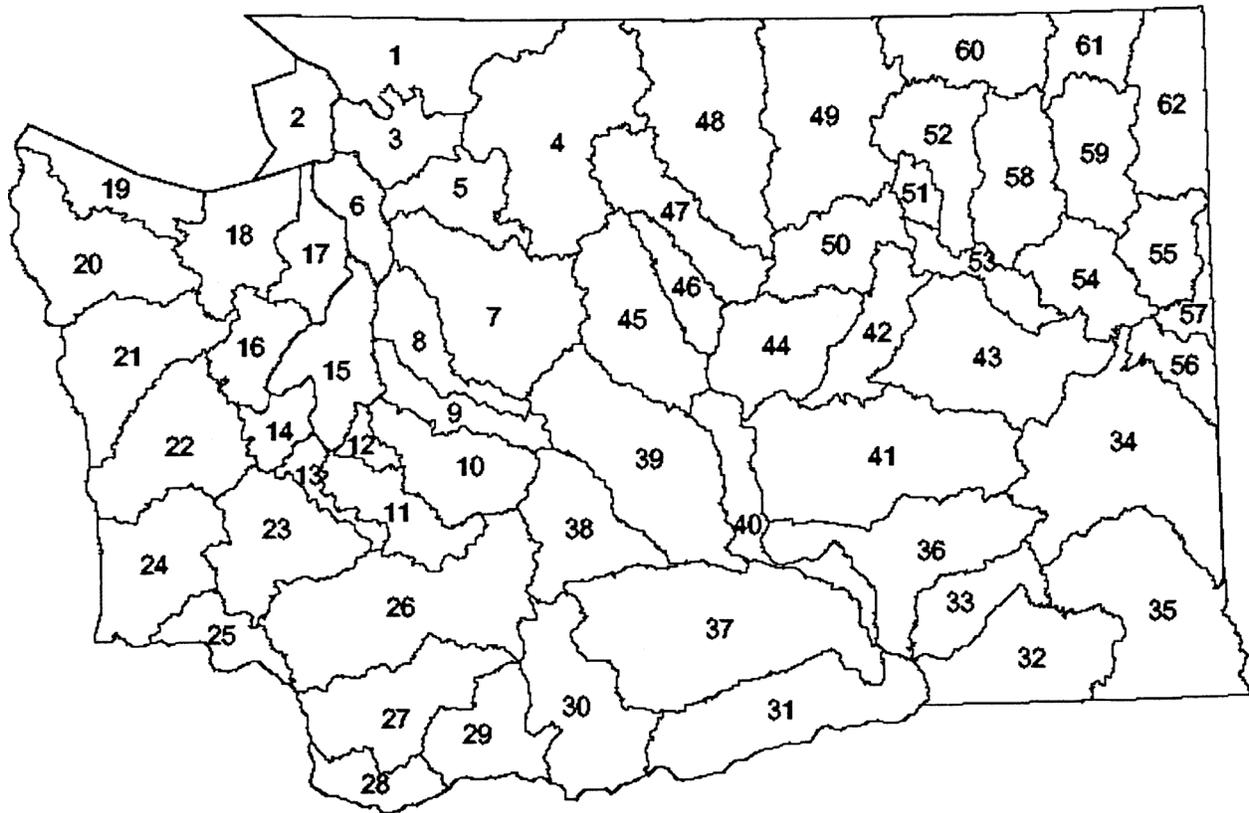
(4) The coordinates listed in Table 602 are defined in the North American 1983 Datum High Accuracy Reference Network (NAD83 HARN).

AMENDATORY SECTION (Amending WSR 11-09-090 and 11-11-022, filed 4/20/11 and 5/9/11, effective 5/21/11 and 6/9/11)

**WAC 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA).** (1) Table 602 lists uses for fresh waters. All surface waters of the state have designated uses assigned to them for protection under this chapter. Table 602 lists use designations for specific fresh waters. Fresh waters not assigned designated uses in Table 602 have their designated uses assigned in accordance with WAC 173-201A-600 and 173-201A-260(3). In Table 602, the Columbia River is listed first, followed by other water bodies listed by WRIA. Only the uses with the most stringent criteria are listed. The criteria notes in Table 602 take precedence over the criteria in WAC 173-201A-200 for same parameter.

(2) Table 602 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their web site, Table 602 may be missing (it will instead say "place illustration here"). In this situation, you

Illustration 1: Water Resources Inventory Area Map



Key:			
1. Nooksack	21. Queets/Quinault	41. Lower Crab	61. Upper Lake Roosevelt
2. San Juan	22. Lower Chehalis	42. Grand Coulee	62. Pend Oreille
3. Lower Skagit/Samish	23. Upper Chehalis	43. Upper Crab/Wilson	
4. Upper Skagit	24. Willapa	44. Moses Coulee	
5. Stillaguamish	25. Grays/Elochoman	45. Wenatchee	
6. Island	26. Cowlitz	46. Entiat	
7. Snohomish	27. Lewis	47. Chelan	
8. Cedar/Sammamish	28. Salmon/Washougal	48. Methow	
9. Duwamish/Green	29. Wind/White Salmon	49. Okanogan	
10. Puyallup/White	30. Klickitat	50. Foster	
11. Nisqually	31. Rock/Glade	51. Nespelem	
12. Chambers/Clover	32. Walla Walla	52. Sanpoil	
13. Deschutes	33. Lower Snake	53. Lower Lake Roosevelt	
14. Kennedy/Goldsborough	34. Palouse	54. Lower Spokane	
15. Kitsap	35. Middle Snake	55. Little Spokane	
16. Skokomish/Dosewallips	36. Esquatzel Coulee	56. Hangman	
17. Quilcene/Snow	37. Lower Yakima	57. Middle Spokane	
18. Elwha/Dungeness	38. Naches	58. Middle Lake Roosevelt	
19. Lyre/Hoko	39. Upper Yakima	59. Colville	
20. Soleduck/Hoh	40. Alkaki/Squilchuck	60. Kettle	

((

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>COLUMBIA RIVER</b>																		
Columbia River from mouth to the Washington-Oregon border (river mile 309.3). <sup>1</sup>			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Columbia River from Washington-Oregon border (river mile 309.3) to Grand Coulee Dam (river mile 596.6). <sup>2,3</sup>			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Columbia River from Grand Coulee Dam (river mile 596.6) to Canadian border (river mile 745.0).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for Columbia River:</b>																		
1. Temperature shall not exceed a 1-day maximum (1-DMax) of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.5°C due to any single source or 1.1°C due to all such activities combined. Dissolved oxygen shall exceed 90 percent of saturation. Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).																		
2. From Washington-Oregon border (river mile 309.3) to Priest Rapids Dam (river mile 397.1). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9).																		
3. From Washington-Oregon border (river mile 309.3) to Grand Coulee Dam (river mile 596.6). Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).																		
<b>WRIA 1 - Nooksack</b>																		
Bertrand Creek from mouth to Canadian border	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Breckenridge Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Chilliwaek River and Little Chilliwaek River: All waters (including tributaries) above the confluence.	✓								✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Chuckanut Creek from mouth to headwaters		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Colony Creek and tributaries from mouth to headwaters		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Dakota Creek and tributaries		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Dale Creek		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Deer Creek (tributary to Barrett Lake) and tributaries		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Depot Creek and tributaries	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Fishtrap Creek from mouth to Canadian border		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Hutchinson Creek and tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Johnson Creek, unnamed tributary just north of Pangborn Road		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River mainstem from mouth to Anderson Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River and tributaries [except where otherwise designated Char] from and including Anderson Creek (latitude 48.8675 longitude -122.3210) to confluence with South Fork.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, North Fork, and all tributaries, upstream to the confluence with Maple creek (RM 49.7).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, North Fork, and all tributaries above and including Maple Creek (RM 49.7) and tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, Middle Fork, and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, South Fork, from mouth to Skookum Creek (river mile 14.3).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, South Fork, from Skookum Creek (river mile 14.3) to Fobes Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, South Fork, and all tributaries above the confluence with Fobes Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Padden Creek and tributaries from mouth to headwaters		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Pepin Creek from mouth to Canadian border		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Saar Creek from latitude 48.98177 longitude -122.23846 to headwaters		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Silesia Creek and all tributaries south of Canadian border.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookum Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Squaw Creek		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Squalicum Creek, unnamed tributary from latitude 48.7862 longitude -122.4864 to headwaters		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stickney Creek (Slough) and Kamm Ditch from confluence with mainstem Nooksack River to headwaters.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Sumas River from Canadian border (river mile 12) to headwaters (river mile 23) except where designated otherwise.			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tennile Creek below Barrett Lake		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Tomyhoi Creek and tributaries from Canadian border to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Whatcom Creek and tributaries from mouth to outlet of Lake Whatcom.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 2 San Juan</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 3 Lower Skagit-Samish</b>																		
Fisher and Carpenter Creeks and tributaries.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Hansen Creek and tributaries.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Nookachamps Creek and tributaries (except where designated char).		✓									✓	✓	✓	✓	✓	✓	✓	✓
Nookachamps Creek, East Fork, and unnamed creek at latitude 48.4103 longitude -122.1657: All waters (including tributaries) above the confluence.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Samish River and tributaries above latitude 48.5472 longitude -122.3378 (Sect 05 T35N R04E).		✓									✓	✓	✓	✓	✓	✓	✓	✓
Skagit River mainstem from mouth to Skiyou Slough-lower end (river mile 25.6).		✓									✓	✓	✓	✓	✓	✓	✓	✓
Skagit River, all tributaries to the mainstem from the mouth to Skiyou Slough-lower end (river mile 25.6); except where designated otherwise.			✓								✓	✓	✓	✓	✓	✓	✓	✓
Skagit River and tributaries from Skiyou Slough-lower end, (river mile 25.6) to the boundary of WRIA 3 and 4, except the other waters listed for this WRIA. <sup>1</sup>		✓									✓	✓	✓	✓	✓	✓	✓	✓
Walker Creek and unnamed creek at latitude 48.3813 longitude -122.1639: All waters (including tributaries) above the confluence.	✓										✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 3:</b>																		
1. Skagit River (Gorge by-pass reach) from Gorge Dam (river mile 96.6) to Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human activities. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed t = 34/(T + 9).																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>WRIA 4 Upper Skagit</b>	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Bacon Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Baker Lake and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Bear Creek and the unnamed outlet creek of Blue Lake (Latitude 48.62036; Longitude -121.74882): All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Beaver Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Buck Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Cascade River and Boulder Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Circle Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Clear Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Diobsud Creek and the unnamed tributary at longitude -121.4414 and latitude 48.5850: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Goodell Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Hozomeen Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Illabot Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Jordan Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Lightning Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Beaver Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Murphy Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Newhalem Creek, and all tributaries	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Rocky Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Ruby Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Sauk River and Dutch Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Silver Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses						
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics	
Skagit River and tributaries, except where listed otherwise for this WRIA. <sup>1</sup>	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Stetattle Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Straight Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Suiattle River all tributaries above Harriet Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Sulphur Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Tenas Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Thunder Creek (upstream of Lake Shannon at Latitude 48.59867, Longitude -121.71359) and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Thunder Creek (upstream of Diablo Lake at Latitude 48.69469, Longitude -121.09830) and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
White Chuck River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
<b>Notes for WRIA 4:</b>																			
1. Skagit River (Gorge by-pass reach) from Gorge Dam (river mile 96.6) to Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human action. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed t = 34/(T + 9).																			
<b>WRIA 5 Stillaguamish</b>																			
Brooks Creek and the unnamed tributary at latitude 48.2967 longitude -121.9031: All waters (including tributaries) above the confluence.	✓												✓						✓
Canyon Creek above unnamed tributary at latitude 48.1242 longitude -121.8894 (Sect. 34 T31N R7E) to headwaters (including tributaries).	✓							✓					✓						✓
Canyon Creek's unnamed tributaries at latitude 48.1522 longitude -121.9677.	✓							✓					✓						✓
Unnamed tributaries at latitude 48.1461 longitude -122.9649 located upstream of unnamed tributary at river mile 3 of Canyon Creek	✓							✓					✓						✓
Crane Creek and unnamed tributary at latitude 48.3295 longitude -122.1005: All waters (including tributaries) above the confluence.	✓												✓						✓
Crape Creek's unnamed tributaries at latitude 48.3323 longitude -122.1059: All waters (including tributaries) above the confluence.	✓												✓						✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Reband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Cub Creek and the unnamed tributary at latitude 48.1655 longitude -121.9376; All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Deer Creek (on N.F. Stillaguamish) and the unnamed tributary at longitude -121.9565 and latitude 48.3195: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Dicks Creek and unnamed outlet of Myrtle Lake at latitude 48.3187 longitude -121.8129: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Jim Creek and Little Jim Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Jorgenson Slough (Church Creek) from latitude 48.23409 longitude -121.32346 between West Pass and Hat Slough: All waters (including tributaries) above the confluence.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lake Cavanaugh and all tributaries above outlet at latitude 48.3127 longitude -121.9802.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pitchuck Creek and Bear Creek: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Pitchuck Creek's unnamed tributaries at latitude 48.3104 longitude -122.1305: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Pitchuck Creek from latitude 48.2395 longitude -122.2015 (above 268 <sup>th</sup> St) to headwaters including tributaries(except where designated Char)		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Unnamed tributary to Portage Creek at latitude 48.1837 longitude -122.2314: All waters (including tributaries) above the confluence		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River from mouth to confluence of north and south forks (river mile 17.8).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, North Fork, from mouth to Boulder River (including tributaries) except where designated Char.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, North Fork, and Boulder River: All waters (including tributaries) from the confluence up to Squire Creek, downstream of the Mt. Baker Snoqualmie National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Stillaguamish River, North Fork, and Boulder River: All waters (including tributaries) from the confluence up to Squire Creek that are in or above the Mt. Baker Snoqualmie National Forest.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, North Fork, from Squire Creek (river mile 31.2) to headwaters, including all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, South Fork, from mouth to Canyon Creek (river mile 33.7).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, South Fork, from Canyon Creek (river mile 33.7) to the unnamed tributary at latitude 48.0921 longitude -121.8797 (near Cranberry Creek).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, South Fork, and the unnamed tributary at latitude 48.0921 longitude -121.8797 (near Cranberry Creek): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 6 Island</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 7 Snohomish</b>																		
Cherry Creek and tributaries from mouth to headwaters.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Cripple Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Kelly Creek and tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Miller River, East Fork, and West Fork Miller River: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
North Fork Creek and unnamed creek at latitude 47.7409 longitude -121.8231 (Sect. 18 T26N R8E): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pilchuck River from mouth to Boulder Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pilchuck River and Boulder Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pratt River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skykomish River and tributaries from mouth to May Creek (above Gold Bar at river mile 41.2).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Skylomish River and May Creek (above Gold Bar at river mile 41.2): All waters (including tributaries) above confluence (Except where designated Char).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skylomish River, North Fork, beginning below Salmon Creek at latitude 47.8790 longitude -121.4594) to headwaters (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skylomish River, South Fork, and Beckler River: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snohomish River from mouth to latitude 47.942 longitude -122.1719 (southern tip of Ebey Island at river mile 8.1). <sup>1</sup>			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snohomish River from latitude 47.942, longitude -122.1719 (southern tip of Ebey Island at river mile 8.1) to below Pilchuck Creek at latitude 47.9045 longitude -122.0917.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snohomish River from below Pilchuck Creek (latitude 47.9045 longitude -122.0917) to confluence with Skylomish and Snoqualmie River (river mile 20.5).	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River from mouth to confluence with Harris Creek (latitude 47.7686 longitude -121.9605; Sect.5 T25N R6E)			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River and tributaries from and including Harris Creek (latitude 47.7686 longitude -121.9605; Sect.5 T25N R6E) to west boundary of Twin Falls State Park on south fork (river mile 9.1).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, South Fork, from west boundary of Twin Falls State Park (river mile 9.1) to headwaters (including tributaries).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, North Fork, from mouth to Sunday Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, North Fork, and Sunday Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, Middle Fork, from mouth to Dingford Creek (Except where designated char).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, Middle Fork, and Dingford Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓

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	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Snoqualmie River's Middle Fork's unnamed tributaries at latitude 47.5389 longitude -121.5629 (Sect. 29 T24N R10E).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sultan River and tributaries from mouth to Chaplain Creek (river mile 5.9).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Sultan River and tributaries from Chaplain Creek (river mile 5.9) to headwaters. <sup>2</sup>		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Taylor River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tolt River, North Fork, and unnamed creek at latitude 47.7183 longitude -121.7775: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tolt River, South Fork, and tributaries from mouth to unnamed creek at latitude 47.6925 longitude -121.7392; river mile 5.4			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tolt River, South Fork, and unnamed creek at latitude 47.6925 longitude -121.7392 (river mile 5.4): All waters (including tributaries) above the confluence. <sup>3</sup>	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tolt River's South Fork's unnamed tributaries at latitude 47.6889 longitude -121.7856 (Sect.33 T26N R8E).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Trout Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 7:</b>																		
1. Fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL and not have more than 10 percent of the samples obtained for calculating the mean value exceeding 400 colonies/100 mL.																		
2. No waste discharge will be permitted above city of Everett Diversion Dam (river mile 9.4).																		
3. No waste discharge will be permitted for the South Fork Tolt River and tributaries from latitude 47.6925 longitude -121.7392 (river mile 5.4) to headwaters.																		
<b>WRIA 8 Cedar-Sammamish</b>																		
Cedar River from Lake Washington to the Maplewood Bridge (river mile 4.1).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Cedar River and tributaries from the Maplewood Bridge (river mile 4.1) to Landsburg Dam (river mile 21.6).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cedar River and tributaries from Landsburg Dam (river mile 21.6) to Chester Morse Lake. <sup>1</sup>		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

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	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Cedar River at Chester Morse Lake Cedar Falls Dam: All waters (including tributaries) to headwaters. <sup>2</sup>	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Holder Creek and the unnamed tributary at latitude 47.4581 longitude -121.9496: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Issaquah Creek from Lake Sammamish to headwaters (including tributaries) except where designated Char.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lake Washington Ship Canal from Government Locks (river mile 1.0) to Lake Washington (river mile 8.6). <sup>3,4</sup>		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 8:</b>																		
1. No waste discharge will be permitted.																		
2. No waste discharge will be permitted.																		
3. Salinity shall not exceed one part per thousand (1.0 ppt) at any point or depth along a line that transects the ship canal at the University Bridge (river mile 6.1).																		
4. This waterbody is to be treated as a Lake for purposes of applying this chapter.																		
<b>WRIA 9 Duwamish-Green</b>																		
Duwamish River from mouth south of a line bearing 254° true from the NW corner of berth 3, terminal No. 37 to the Black River (river mile 11.0) (Duwamish River continues as the Green River above the Black River).			✓						✓		✓	✓	✓	✓	✓	✓	✓	✓
Green River from and including the Black River (river mile 11.0 and point where Duwamish River continues as the Green River) to latitude 47.3699 longitude -122.246 (Sect. 25 T22N R4E) above confluence with unnamed tributary.			✓						✓		✓	✓	✓	✓	✓	✓	✓	✓
Green River from above confluence with Mill Creek at latitude 47.3699 longitude -122.246 (Sect. 25 T22N R4E) (east of the West Valley highway) to west boundary of Flaming Geyser State Park (including all tributaries)		✓							✓		✓	✓	✓	✓	✓	✓	✓	✓
Green River from W. Boundary of Flaming Geyser State Park to headwaters (including tributaries) except where designated Char, Core, and Ex. Primary-Green River and Sunday Creek: All waters (including tributaries) above the confluence. <sup>1</sup>		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602	Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
		Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
	Smay Creek and West Fork Smay Creek: All waters (including tributaries) above the confluence. <sup>1</sup>	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
	<b>Notes for WRIA 9:</b>																		
	1. No waste discharge will be permitted for the Green River and tributaries (King County) from west boundary of Sec. 13-T21N-R7E (river mile 59.1) to headwaters.																		
	<b>WRIA 10 Puyallup-White</b>																		
	Carbon River and tributaries above latitude 46.9998 longitude -121.9794, downstream of the Snoqualmie National Forest or Mt. Rainier National Park.	✓																	
	Carbon River and tributaries above latitude 46.9998 longitude -121.9794 that are in or above the Snoqualmie National Forest or Mt. Rainier National Park.																		
	Clarks Creek and tributaries.		✓																
	Clear Creek and tributaries.		✓																
	Clearwater River and Milky Creek: All waters (including tributaries) above the confluence.	✓																	
	Greenwater River from confluence with White River to headwaters (including all tributaries).	✓																	
	Puyallup River from mouth to river mile 1.0.																		
	Puyallup River from river mile 1.0 to confluence with White River.		✓																
	Puyallup River and tributaries from confluence with White River to Mowich River (Except where designated char).		✓																
	Puyallup River at and including Mowich River: All waters (including tributaries) above the confluence.	✓																	
	South Prairie Creek and all tributaries above the Kepka Fishing Pond, except those waters in or above the Snoqualmie National Forest.	✓																	
	South Prairie Creek and all tributaries above the Kepka Fishing Pond that are in or above the Snoqualmie National Forest.	✓																	
	Swan Creek		✓																

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Voight Creek and Bear Creek: All waters (including tributaries) above the confluence that are downstream of the Snoqualmie National Forest or Mt. Rainier National Park.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Voight Creek and Bear Creek: All waters (including tributaries) above the confluence that are in or above the Snoqualmie National Forest or Mt. Rainier National Park.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
White River from mouth to latitude 47.2438 longitude -122.2422 (Sect. 1 T20N R4E).										✓	✓	✓	✓	✓	✓	✓	✓	✓
White River from latitude 47.2438 longitude -122.2422 (Sect. 1 T20N R4E) to Mud Mountain dam (including tributaries).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
White River from Mud Mountain Dam (river mile 27.1) to West Fork White River at (latitude 47.3699 longitude -121.6197) except where designated Char.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
White River from and including West Fork White River: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Wilkeson Creek and Gale Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 11 Nisqually</b>																		
Big Creek and all tributaries.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Copper Creek and all tributaries.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
East Creek and all tributaries.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Horn Creek and tributaries											✓	✓	✓	✓	✓	✓	✓	✓
Little Nisqually River and all tributaries.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Mashel River and Little Mashel River: All waters (including tributaries) above the confluence.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Mineral Creek and all tributaries.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Muck Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Murray Creek and tributaries											✓	✓	✓	✓	✓	✓	✓	✓
Nisqually River mainstem from mouth to Alder Dam (river mile 44.2).		✓									✓	✓	✓	✓	✓	✓	✓	✓

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	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Nisqually River from Alder Dam (river mile 44.2) to Tahoma Creek (including tributaries) except where designated Char.		✓				✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nisqually River and Tahoma Creek: All waters (including tributaries) above the confluence.	✓																	
Rocky Slough from latitude 46.8882 longitude -122.4339 to latitude 46.9109 longitude -122.4012.			✓							✓	✓	✓	✓	✓	✓	✓	✓	✓
Tanwax Creek and tributaries downstream of lakes		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 12 Chambers-Clover</b>																		
Clover Creek from inlet to Lake Steilacoom, upstream and including Spanaway Creek to outlet of Spanaway Lake		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 13 Deschutes</b>																		
Deschutes River from mouth to and including tributary to Offutt Lake.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Deschutes River, and tributaries, upstream of the tributary to Offutt Lake (all waters in or above the national forest boundary).		✓									✓	✓	✓	✓	✓	✓	✓	✓
Deschutes River, and tributaries, upstream of the tributary to Offutt Lake (all waters below the national forest boundary).		✓									✓	✓	✓	✓	✓	✓	✓	✓
McLane Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 14 Kennedy-Goldsborough</b>																		
Campbell Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Coffee Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Cranberry Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Deer Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Goldsborough Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Hiawata Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Jarrell Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
John's Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓
Jones Creek and tributaries		✓									✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Malaney Creek (at Spencer Lake)	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Perry Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Shelton Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Uncle John Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Unnamed stream (latitude 47.2237 longitude -122.9135) at Peale Passage inlet on west side of Hartstone Island.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 15 Kitsap</b>																		
Anderson Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Barker Creek and tributaries from Dyes Inlet to Island Lake	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Blackjack Creek and tributaries downstream of Square Lake	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Chico Creek and tributaries above confluence with Kitsap Creek (tributaries to Chico Bay in Dyes Inlet).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Clear Creek from Dyes Inlet to headwaters (including tributaries)	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Gamble Creek and tributaries (latitude 47.8116 longitude -122.5797).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Gorst Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Martha John Creek and tributaries (latitude 47.8252 longitude -122.5632).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Ross Creek and tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Strawberry Creek and tributaries (latitude 47.6458 longitude -122.6933)	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Union River and tributaries from Bremerton Waterworks Dam (river mile 6.9) to headwaters. <sup>1</sup>	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Unnamed tributary to Sinclair Inlet between Gorst and Anderson Creeks (latitude 47.5270 longitude -122.6932).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Unnamed tributary to Sinclair Inlet (latitude 47.5471 longitude -122.6123) east of Blackjack Creek.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Unnamed tributary west of Port Gamble Bay at latitude 47.8220 longitude -122.5831.	✓							✓			✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 15:</b>																		
1. No waste discharge will be permitted.																		
<b>WRIA 16 Skokomish-Dosewallips</b>																		
Dosewallips River and tributaries.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Duckabush River and tributaries.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Hamma Hamma River and tributaries.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek and unnamed tributary at latitude 47.3894 longitude -123.3496. All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River and tributaries, except where designated char.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River, North Fork, from latitude 47.4160 longitude -123.2233 (below Cushman Upper Dam) to headwaters (including tributaries).	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River, South Fork, and Brown Creek: All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Vance Creek and Cabin Creek all waters above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 17 Quilcene-Snow</b>																		
Big Quilcene River and tributaries	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 18 Elwha-Dungeness</b>																		
Boulder Creek and Deep Creek: All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River mainstem from mouth to Canyon Creek (river mile 10.8).		✓									✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River, tributaries to mainstem, above and between confluence with Matriotti Creek to Canyon Creek (river mile 10.8).			✓								✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River and Canyon Creek: All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602	Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
		Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
	Elwha River and tributaries from mouth to Cat Creek, except where designated Char.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	Elwha River and Cat Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	Emmis Creek and White Creek (and all tributaries) from the confluence with the Strait of Juan De Fuca to the Olympic National Park Boundary.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
	Emmis Creek and tributaries lying above the Olympic National Park Boundary.										✓	✓	✓	✓	✓	✓	✓	✓	✓
	Griff Creek and the unnamed tributary at latitude 48.0135 longitude -123.5440 (Sect. 11 T29N R7W): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	Hughes Creek and the unnamed tributary at latitude 48.0298 longitude - 123.6322 (Sect. 6 T29N R7W): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	Little River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	Matriotti Creek		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
	Wolf Creek and the unnamed tributary at latitude 47.9654 longitude -123.5374 (Sect. 35 T29N R7W): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
	<b>WRIA 19 Lyre-Hoko</b>																		
	There are no specific waterbody entries for this WRIA.																		
	<b>WRIA 20 Soleduc</b>																		
	Dickey River and tributaries.		✓																
	Hoh River and tributaries from mouth to South Fork Hoh River.		✓						✓										
	Hoh River and South Fork Hoh River: All waters above the confluence.	✓																	
	Quillayute and Bogachiel Rivers.		✓																
	Soleduc River and tributaries from mouth to Canyon Creek.		✓																
	Soleduc River and all tributaries above Canyon Creek.	✓																	

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>WRIA 21 Queets-Quinalt</b>																		
Clearwater River and the unnamed tributary at latitude 47.7270 longitude - 124.0361 (Sect.26 T26N R11W): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Kunamakst Creek and the unnamed tributary at latitude 47.7285 longitude - 124.0771 (Sect.26 T26N R11W): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Matheny Creek and the unnamed tributary at latitude 47.5592 longitude - 123.9538: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Queets River and tributaries from mouth to Tshletshy Creek.							✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Queets River and tributaries above the confluence with Tshletshy Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quinalt River and tributaries from mouth to the confluence with the North Fork Quinalt River.							✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quinalt River and North Fork Quinalt: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Salmon River, Middle Fork, and the unnamed tributary at latitude 47.5208 longitude -123.9899: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sams River and the unnamed tributary at latitude 47.6059 longitude -123.8941: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Solleks River and the unnamed tributary at latitude 47.6937 longitude - 124.0133: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stequaleho Creek and the unnamed tributary at latitude 47.6620 longitude - 124.0426: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tshletshy Creek and the unnamed tributary at latitude 47.6585 longitude - 123.8668: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 22 Lower Chehalis</b>																		
Andrews Creek and tributaries above confluence with West Fork.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Baker Creek and the unnamed tributary at latitude 47.3301 longitude -123.4142: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Creek and Middle Fork Big Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Canyon River and the unnamed tributary at latitude 47.3473 longitude -123.4936: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River from upper boundary of Grays Harbor at Cosmopolis (river mile 3.1, longitude 123°45'45"W) to latitude 46.6004 and longitude -123.1472 (Section 23 T13N R43W on main stem and to latitude 46.6013 and longitude -123.1253 on South Fork.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Chester Creek and the unnamed tributary at latitude 47.4196 longitude -123.7841: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cloquallum Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Decker Creek.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Delezene Creek and tributaries above latitude 46.9413 longitude -123.3893.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Elk River, West Branch and tributaries above latitude 46.8111 longitude -123.9774.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Goforth Creek and the unnamed tributary at latitude 47.3560 longitude -123.7323: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Hoquiam River, East Fork and tributaries above latitude 47.0524 longitude -123.8428 (above Lytle Creek).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Hoquiam River and tributaries above latitude 47.0571 longitude -123.9287 (above river mile 9.3 - Dekay Road Bridge) (upper limit of tidal influence).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Hoquiam River, Middle Fork and tributaries above latitude 47.0418 longitude -123.9052.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Hoquiam River mainstem (continues as west fork above east fork) from mouth to river mile 9.3 - Dekay Road Bridge) (upper limit of tidal influence).			✓						✓		✓	✓	✓	✓	✓	✓	✓	✓
Humpulips River and tributaries from mouth to latitude 47.0810 longitude -124.0655 (Section 4 T18N R11W).			✓						✓		✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
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Humtulpis River and tributaries from latitude 47.0810 longitude -124.0655 (Section 4 T18N R11W) to Olympic National Forest boundary (except where designated Char).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Humtulpis River and tributaries from Olympic National Forest boundary to headwaters (except where designated Char).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Humtulpis River, East Fork, and the unnamed tributary at latitude 47.3821 longitude -123.7163: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Humtulpis River, West Fork, and Petes Creek: All waters (including tributaries) above the confluence.							✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Johns River and North Fork Johns River: All waters above the confluence.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Hoquiam River, North Fork and tributaries above latitude 47.0001 longitude -123.9269.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Hoquiam River and tributaries above latitude 46.9934 longitude -123.9364.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Mox Chehalis Creek and tributaries above and latitude 46.9680 longitude -123.3083.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Newskah Creek and tributaries above latitude 46.9163 longitude -123.8235 (Section 32 T16N R9W).		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Satsop River and tributaries from latitude 46.9854 longitude -123.4887 (Section 6 T17N R6W) to headwaters, except where designated Char.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Satsop River, West Fork, and Robertson Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Satsop River, Middle Fork, and the unnamed tributary at latitude 47.3340 longitude -123.4451: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Wildcat Creek and tributaries above confluence with Cloquallum Creek.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River, East Fork and tributaries above latitude 47.0801 longitude -123.7560.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River from mouth to river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21-T18N-R9W).				✓														✓

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	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Wishkah River from river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21-T18N-R9W) to latitude 47.1089 longitude -123.7908.			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River and tributaries from latitude 47.1089 longitude -123.7908 to confluence with West Fork.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River and tributaries from and including West Fork to headwaters. <sup>1</sup>		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River and tributaries from latitude 46.9709 longitude -123.6252 (near railroad crossing) to Olympic National Forest boundary (river mile 45.9).		✓						✓			✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River and tributaries from Olympic National Forest boundary (river mile 45.9) to Wynoochee Dam.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River and all tributaries above Wynoochee Dam.	✓										✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 22:</b>																		
1. No waste discharge will be permitted from south boundary of Sec. 33-T21N-R8W (river mile 32.0) to headwaters.																		
<b>WRIA 23 Upper Chehalis</b>																		
Bunker Creek and tributaries.	✓							✓			✓	✓	✓	✓	✓	✓	✓	✓
Cedar Creek and tributaries above latitude 46.8760 longitude -123.2714 (near intersection with Highway 12).		✓						✓			✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River, South Fork (including tributaries) above latitude 46.6014 longitude -123.1253 (near junction with State Route 6), except where specifically designated Char.		✓						✓			✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River (including tributaries) above latitude 46.6004 longitude -123.1473 (Section 23 T13N R4W), except where specifically designated Char.		✓						✓			✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River mainstem from upper boundary of Grays Harbor at Cosmopolis (river mile 3.1, longitude 123°45'W) to latitude 46.6004 longitude -123.1473 (Section 23 T13N R4W) on main stem and to latitude 46.6014 longitude -123.1253 on South Fork. <sup>1</sup>			✓					✓			✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River, South Fork, and the unnamed tributary at latitude 46.179 longitude -123.4127 (Sect. 10 T10N R4W): All waters (including tributaries) above the confluence.	✓							✓			✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Chehalis River, West Fork, and East Fork Chehalis River: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Coffee Creek and tributaries.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Eight Creek and the unnamed tributary at latitude 46.6211 longitude -123.4127: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Fall Creek and the unnamed tributary at Sect. 22 T15N R1E: All waters (including tributaries) above their confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Garrard Creek, South Fork, and tributaries above latitude 46.8013 longitude -123.3060.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Hanaford Creek and all tributaries from east boundary of Sec. 25-T15N-R2W (river mile 4.1) to the unnamed tributary at latitude 46.7295 longitude -122.6812 except where designated Char.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Hanaford Creek and all tributaries from mouth to east boundary of Sec. 25-T15N-R2W (river mile 4.1)².			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Hanaford Creek and the unnamed tributary at latitude 46.7295 longitude -122.6812 (Sect. 4 T14N R1E): All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Kearney Creek and the unnamed tributary at latitude 46.6256 longitude -122.5683: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Laramie Creek and the unnamed tributary at latitude 46.7901 longitude -122.5901: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lincoln Creek, North Fork and tributaries above latitude 46.7370 longitude -123.7370 and (Section 36 T15N R5W).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lincoln Creek, South Fork and tributaries above latitude 46.7253 longitude -123.2306 (Section 6 T14N R4W).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Mima Creek and tributaries above latitude 46.8588 longitude -123.0856.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Newaukum River and tributaries (except where designated Char).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Newaukum River, North Fork, and the unnamed tributary at latitude 46.6793 longitude -122.6677: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Newaukum River, South Fork, and Frase Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pheeny Creek and the unnamed tributary at latitude 46.7836 longitude -122.6276 (Sect. 13 T15N R1E): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Porter Creek and Jamaica Day Creek: All waters above the confluence.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek (upstream of Callow): All waters above confluence with Chehalis River (Section 15, T16N, R5W), except where designated otherwise in this table.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek (upstream of Pe Ell) and the unnamed tributary at latitude 46.5279 longitude -123.3782 (Sect. 11 T12N R6W): All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Scatter Creek and tributaries from latitude 46.8025 longitude -123.0863 (near mouth) to headwaters.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Seven Creek and the unnamed tributary at latitude 46.6192 longitude -123.3723: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck River and tributaries from confluence with Hanaford Creek to headwaters (except where designated char).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck River mainstem from mouth to Hanaford Creek.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck River and Hospital Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Stearns Creek's, unnamed (GIS Ripple Creek) tributary at latitude 46.5711 longitude -122.9692 (Section 30 T13N R2W).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stearns Creek's, unnamed tributary to West Fork at latitude 46.5824 longitude -123.0222 (Section 26 T13N R3W).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillman Creek and Little Mill Creek (Sect. 23 T12N R4W): All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Thrash Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Waddef Creek and tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>Notes for WRIA 23:</b>																		
1. Chehalis River from Scammon Creek (RM 65.8) to Newaukum River (RM 75.2); dissolved oxygen shall exceed 5.0 mg/L from June 1 to September 15. For the remainder of the year, the dissolved oxygen shall meet standard criteria.																		
2. Dissolved oxygen shall exceed 6.5 mg/L.																		
<b>WRIA 24 Willapa</b>																		
Bear River, unnamed south flowing tributary at latitude 46.3342 longitude -123.9394 (Section 20 T10N R10W).																		
Bear River and tributaries above latitude 46.3284 longitude -123.9172 (Section 28 T10N R10W) to headwaters.	✓																	
Canon River and tributaries above latitude 46.5879 longitude -123.8672 (Section 25 T13N R10W).	✓																	
Lower Salmon Creek and tributaries.	✓																	
Middle Nemah River and tributaries above latitude 46.4873 longitude -123.8855 (Section 35 T12N R10W).	✓																	
Mill Creek and tributaries above latitude 46.6448 longitude -123.6251 (Section 1 T13N R8W).	✓																	
Naselle River from O'Conner Creek to headwaters (including tributaries).	✓																	
North Nemah River and tributaries above latitude 46.5172 longitude -123.8665 (Section 14 T12N R10W).	✓																	
North River and Fall River: All waters above the confluence (Section 24 T15N R7W).	✓																	
Pioneer Creek and tributaries above latitude 46.8149 longitude -123.5502 (Section 4 T15N R7W).	✓																	
Salmon Creek and tributaries above latitude 46.8904 longitude -123.6829 (Section 9 T16N R8W).	✓																	
Smith Creek and tributaries above latitude 46.7554 longitude -123.8424 (Section 30 T15N R9W).	✓																	

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
South Naselle River above latitude 46.3499 longitude -123.8093 (Section 16 T10N R9W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
South Nemah River above latitude 46.4406 longitude -123.8630 (Section 13 T11N R10W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stringer Creek and tributaries (Section 25 T13N R8W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Willapa River South Fork and tributaries above latitude 46.6479 longitude -123.7267 (Section 6 T13N R8W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Willapa River and Oxbow Creek: All waters upstream of the confluence (Section 26 T13N R8W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Williams Creek and tributaries above latitude 46.5284 longitude -123.8668 (Section 14 T12N R10W).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 25 Grays-Elochoman</b>																		
Abernathy Creek and Cameron Creek: All waters above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Coal Creek and Tributaries above and latitude 46.1839 longitude -123.0338 (just below Harmony Creek).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Elochoman River and tributaries from mouth to latitude 46.2292 longitude -123.3606 (Section 25 T9N R6W).			✓															
Elochoman River and tributaries from latitude 46.2292 longitude -123.3606 (Section 25 T9N R6W) to headwaters.	✓																	
Germany Creek from latitude 46.1946 longitude -123.1259 (near mouth) to headwaters.	✓																	
Grays River from latitude 46.3454 longitude -123.6099 to headwaters.	✓																	
Hull Creek and tributaries.	✓																	
Mill Creek and Tributaries above latitude 46.1906 longitude -123.1802 (near mouth).	✓																	
Skomokawa Creek and Wilson Creek: All waters above the confluence.	✓																	
<b>WRIA 26 Cowlitz</b>																		
Cispus River and tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Coweeaman River and tributaries from mouth to latitude 46.1405 longitude -122.8532 (Section 31 T8N R1W).			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Coweeaman River and tributaries from latitude 46.1405 longitude -122.8532 (Section 31 T8N R1W) to Mulholland Creek (river mile 18.4).	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Coweeaman River and tributaries from Mulholland Creek (river mile 18.4) to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cowlitz River and tributaries from mouth to latitude 46.2622 longitude -122.9001 (Section 14 T9N R2W).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Cowlitz River from latitude 46.2622 longitude -122.9001 (Section 14 T9N R2W) base of Mayfield Dam (river mile 52.0).	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Cowlitz River, and tributaries from base of Mayfield Dam (river mile 52.0) to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Green River and tributaries.										✓	✓	✓	✓	✓	✓	✓	✓	✓
Toutle River and tributaries from mouth to Green River on North Fork.									✓		✓	✓	✓	✓	✓	✓	✓	✓
Toutle River, North Fork, and tributaries from Green River to headwaters.										✓	✓	✓	✓	✓	✓	✓	✓	✓
Toutle River, South Fork, and tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 27 Lewis</b>																		
Alec Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Chickoon Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Clear Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Clearwater Creek and upriamed creek: All waters (including tributaries) above the confluence (Section 15 T8N R6E – below confluence of Smith and Muddy Creeks).	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Curly Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Cussed Hollow Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Kalama River east of Interstate 5 to Kalama River Falls (river mile 10.4) (including tributaries).		✓							✓		✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Kalama River from lower Kalama River Falls (river mile 10.4) to headwaters (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lewis River from Houghton Creek (including tributaries) to Lake Merwin.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lewis River and Pass Creek (alternately known as Swamp Creek): All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lewis River's unnamed tributaries at latitude 46.1122 longitude -121.9174 (Sect. 11 T7N R7E).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lewis River, East Fork, from and including Mason Creek to Multon Falls (river mile 24.6) including tributaries.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lewis River, East Fork, and tributaries from Multon Falls (river mile 24.6) to headwaters.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Panamaker Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pin Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pine Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quartz Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rush Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Spencer Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Steamboat Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Trillicum Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 28 Salmon-Washougal</b>																		
Burnt Bridge Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Duncan Creek and unnamed tributary just east of Duncan Creek: All waters north of highway 14.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Greep-Leaf Creek and Hamilton Creek: All waters above the confluence.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Hardy Creek and tributaries above lake inlet.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
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Lawton Creek and tributaries above latitude 45.5708 longitude -122.2576 (Section 13).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Salmon Creek from latitude 45.7176 longitude -122.6958 (below confluence with Cougar Creek) and tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Washougal River from latitude 45.5883 longitude -122.3711 (Section 7 TIN R4E) (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Woodward Creek and tributaries north of highway 14.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 29 Wind-White Salmon</b>																		
Bear Creek (tributary to White Salmon River (at Latitude 45.98290 Longitude 121.52946) below National Forest Boundary		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Buck Creek and all tributaries (Two Buck Creeks drain to the White Salmon River, the mouth of this creek is found in Section 21 T7NR10E).	✓							✓			✓	✓	✓	✓	✓	✓	✓	✓
Carson Creek.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Catherine Creek and tributaries.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Cave Creek below National Forest Boundary											✓	✓	✓	✓	✓	✓	✓	✓
Gilmer Creek and all tributaries, except as noted otherwise.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Gilmer Creek's unnamed tributary in Sections 29 and 32 T5N R11E.											✓	✓	✓	✓	✓	✓	✓	✓
Gotchen Creek and all tributaries, except those waters in or above the Gifford Pinchot National Forest.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Gotchen Creek and all tributaries that are in or above the Gifford Pinchot National Forest.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Green Canyon Creek and all tributaries.	✓										✓	✓	✓	✓	✓	✓	✓	✓
Jewett Creek and tributaries.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Killowatt Canyon Creek below National Forest Boundary and unnamed creek at latitude 45.965 longitude -121.5154											✓	✓	✓	✓	✓	✓	✓	✓
Little White Salmon River and tributaries downstream of National Forest boundary.		✓									✓	✓	✓	✓	✓	✓	✓	✓
Little White Salmon River and tributaries in or above National Forest boundary.		✓									✓	✓	✓	✓	✓	✓	✓	✓

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	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Major Creek and tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Morrison Creek and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Rattlesnake Creek and the unnamed tributary at latitude 45.8512 longitude - 121.4081; All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek and tributaries downstream of Gifford Pinchot National Forest boundaries from Latitude 45.68557 Longitude -121.88523.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Spring Creek below National Forest Boundary (Latitude 45.99170 Longitude - 121.57855).			✓							✓	✓	✓	✓	✓	✓	✓	✓	✓
Trout Lake Creek and all tributaries below Trout Lake.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Trout Lake Creek and all tributaries at and above Trout Lake.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River (including all natural tributaries) occurring downstream of National Forest boundary, not otherwise designated Char.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River (including all natural tributaries) occurring in or upstream of National Forest boundary, not otherwise designated Char.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River drainage's unnamed tributaries that originate in Section 13 T6N R10E (latitude 46.0042 longitude 121.5001); all portions occurring downstream of the Gifford Pinchot National Forest boundary.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River drainage's unnamed tributaries that originate in Section 13 T6NR10E (latitude 46.0042 longitude 121.5001); all portions occurring upstream of the Gifford Pinchot National Forest boundary.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River and Cascade Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Wind River and tributaries downstream of Gifford Pinchot National Forest boundaries.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Wind River and tributaries in or upstream of Gifford Pinchot National Forest.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 30 Kikikitat</b>																		
Clearwater Creek and Trappers Creek: All waters (including tributaries) above the confluence.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Reband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Cougar Creek and Big Muddy Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Fork and Cuitin Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Fork's unnamed tributaries at latitude 46.4205 longitude -121.1562.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Fork's unnamed tributaries at latitude 46.4355 longitude -121.1590 (outlet of Maiden Springs).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Fish Lake Stream and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Fraser Creek and Outlet Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Klickitat River mainstem from mouth to Little Klickitat River (river mile 19.8).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Klickitat River from Little Klickitat River (river mile 19.8) to Diamond Fork.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Klickitat River and all tributaries above the confluence with Diamond Fork.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Klickitat River and all tributaries above the confluence with Cozy Nook Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Muddy Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
McCreedy Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 31 Rock-Glade</b>																		
Squaw Creek and unnamed tributary at latitude 45.8758 longitude -120.4324 (Section 33 T5N R19E): all waters above confluence.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek and Quartz Creek: all waters above confluence.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 32 Walla Walla</b>																		
Blue Creek and tributaries above latitude 46.0581 and longitude 118.0971	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Coppei Creek, North and South Forks (including tributaries).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Dry Creek and tributaries above confluence with unnamed creek at latitude 46.1197 longitude -118.1378 (Seaman Rd).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek from mouth to 13th Street Bridge in Walla Walla (river mile 6.4). <sup>1</sup>				✓														✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses		Water Supply Uses				Misc. Uses						
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Mill Creek from 13th Street Bridge in Walla Walla (river mile 6.4) to diversion structure at confluence of Mill Creek and unnamed creek (river mile 11.4); latitude 46.0800 longitude -118.2541		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek from river mile 11.4; latitude 46.080 longitude -118.2541 to headwaters (including tributaries) except where otherwise designated Char		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek and Railroad Canyon: All waters (including tributaries) above the confluence to the Oregon state line (river mile 21.6).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek and tributaries within Washington that are above the city of Walla Walla Waterworks Dam (river mile 25.2) to headwaters. <sup>2</sup>	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River above latitude 46.3172 longitude -118.0000 (Sect. 25 T10N R38E) (including tributaries) not otherwise designated Char.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, North Fork, and Wolf Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, South Fork, and the unnamed tributary at latitude 46.2307 longitude -117.9397: All waters (including tributaries) above the confluence, except those waters in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, South Fork, and the unnamed tributary at latitude 46.2307 longitude -117.9397: All waters (including tributaries) above the confluence that are in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Walla Walla River from mouth to Lowden (Dry Creek at river mile 27.2).				✓					✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Walla Walla River from Lowden (Dry Creek at river mile 27.2) to Oregon border (river mile 40). <sup>3</sup>			✓							✓	✓	✓	✓	✓	✓	✓	✓	✓
Whiskey Creek, and unnamed tributary system at and latitude 46.2176 longitude -118.0667 (Section 33 T9N R38E), all waters above confluence.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓

**Notes for WRIA 32:**

1. Dissolved oxygen concentration shall exceed 5.0 mg/L.

2. No waste discharge will be permitted for Mill Creek and tributaries in Washington from city of Walla Walla Waterworks Dam (river mile 25.2) to headwaters.

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T + 9).																		
<b>WRIA 33 Lower Snake</b>																		
Snake River from mouth to Washington-Idaho-Oregon border (river mile 176.1). <sup>1</sup>																		
<b>Notes for WRIA 33:</b>																		
1. Below Clearwater River (river mile 139.3). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9). Special condition- special fish passage exemption as described in WAC 173-201A-200 (1)(f).																		
<b>WRIA 34 Palouse</b>																		
Palouse River from Palouse Falls to south fork (Colfax, river mile 89.6).																		
Palouse River mainstem from mouth to Palouse Falls																		
Palouse River, main river, from confluence with south fork (Colfax, river mile 89.6) to Idaho border (river mile 123.4). <sup>1</sup>																		
<b>Notes on WRIA 34:</b>																		
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T + 9).																		
<b>WRIA 35 Middle Snake</b>																		
<b>All streams flowing into Oregon from North Fork Wenaha River east to, and including, Fairview Creek.</b>																		
Asotin River from and including Charley Creek to headwaters (including tributaries) not otherwise designated Char.																		
Asotin River, North Fork, and all tributaries above Lick Creek, except those waters in or above the Umatilla National Forest.																		
Asotin River, North Fork, and all tributaries above Lick Creek that are in or above the Umatilla National Forest.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Charley Creek and the unnamed tributary at latitude 46.2851 longitude - 117.3216: All waters (including tributaries) above the confluence, except those waters in or above the Umatilla National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Charley Creek and the unnamed tributary at latitude 46.2851 longitude - 117.3216: All waters (including tributaries) above the confluence that are in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Cottonwood Creek and the unnamed tributary at latitude 46.0678 longitude - 117.3015 (Section 21 T7N R44E) all waters above the confluence.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Crooked Creek (including tributaries) from Oregon Border to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cummings Creek and all tributaries, except those waters in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Cummings Creek and all tributaries that are in or above the Umatilla National Forest.	✓								✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
George Creek, above and including Coombs Canyon (including tributaries).	✓								✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
George Creek and the unnamed tributary at latitude 46.2292 longitude -117.1874 (Section 29 T9N R45E), all waters above confluence not otherwise designated Char.		✓							✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Grande Ronde River from mouth to Oregon border (river mile 37). <sup>1</sup>			✓							✓	✓	✓	✓	✓	✓	✓	✓	✓
Grouse Creek and tributaries from Oregon border.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Grub Canyon and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Hixon Canyon and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Tucannon River and all tributaries.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Menatchee Creek and West Fork Menatchee Creek: All waters (including tributaries) above the confluence.	✓								✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pataha Creek and Dry Pataha Creek: All waters (including tributaries) above the confluence, except those waters in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Pataha Creek and Dry Pataha Creek: All waters (including tributaries) above the confluence that are in or above the Umatilla National Forest.	✓								✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Snake River from mouth to Washington-Idaho-Oregon border (river mile 176.1). <sup>2</sup>			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tennile Creek, all waters above confluence with unnamed creek at latitude 46.2156 longitude -117.0386 (Section 33 T9N R46E).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River and tributaries from latitude 46.4592 longitude -117.8461 (Section 6, T11N R40E) to Panjab Creek (except where designated char).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River mainstem from between Little Tucannon River and Panjab Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River and Panjab Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River's unnamed tributaries in Sect. 1 T10N R40E and in Sect. 35 T11N R40E (South of Marengo): all waters above their forks.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Tumalum Creek and the unnamed tributary at latitude 46.3594 longitude -117.6488: All waters (including tributaries) above the confluence, except those waters in or above the Umatilla National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Tumalum Creek and the unnamed tributary at latitude 46.3594 longitude -117.6488: All waters (including tributaries) above the confluence that are in or above the Umatilla National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Willow Creek and the unnamed tributary at latitude 46.4182 longitude -117.8314: All waters (including tributaries) above the confluence.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 35:</b>																		
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9).																		
2. The following two notes apply:																		
(a) Below Clearwater River (river mile 139.3). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9). Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses						
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics	
<p>(b) Above Clearwater River (river mile 139.3). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increases will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined.</p>																			
<b>WRIA 36 Esquatzel Coulee</b>																			
There are no specific waterbody entries for this WRIA.																			
<b>WRIA 37 Lower Yakima</b>																			
Ahtanum Creek North Fork's unnamed tributaries at latitude 46.5465 longitude - 120.8857.																			
Ahtanum Creek North Fork's unnamed tributaries at latitude 46.5395 longitude - 120.9851.																			
Ahtanum Creek, between confluence with South Fork and confluence of North and Middle Forks (including tributaries) except where designated Char																			
Ahtanum Creek, North Fork, and Middle Fork Ahtanum Creek: All waters (including tributaries) above the confluence.																			
Ahtanum Creek, South Fork, and all tributaries.																			
Carpenter Gulch and all tributaries.																			
Foundation Creek and all tributaries.																			
Nasty Creek and all tributaries.																			
Sulphur Creek																			
Yakima River from mouth to Cle Elum River (river mile 185.6) except where specifically designated otherwise in Table 602. <sup>1</sup>																			
<b>Notes for WRIA 37:</b>																			
1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T+9)$ .																			
<b>WRIA 38 Naches</b>																			
American River and all tributaries.																			

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses		Water Supply Uses				Misc. Uses						
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Barton Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping Lake's unnamed tributaries at latitude 46.8464 longitude -121.3106.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River's unnamed tributaries at latitude 46.9317 longitude -121.2067 (outlet of Flat Iron Lake).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River and tributaries downstream of the upper end of Bumping Lake (except where designated char).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River (and tributaries) upstream of Bumping Lake.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cedar Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Clear Creek and tributaries (including Clear Lake).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Crow Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Deep Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Goat Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Granite Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Indian Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Naches River and Bear Creek: All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Naches River, South Fork and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Naches River and tributaries from latitude 46.7640 longitude -120.8286 (just upstream of Cougar Canyon) to Snoqualmie National Forest boundary (river mile 35.7) (except where designated Char).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Naches River from Snoqualmie National Forest boundary (river mile 35.7) to headwaters (except where designated Char).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pileup Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quartz Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rattlesnake Creek: All waters above the confluence with North Fork Rattlesnake Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Rattlesnake Creek, North Fork, all waters above latitude 46.8107 longitude 121.0694 (from and including the unnamed tributary just above confluence with mainstem).	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Sand Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sunrise Creek (latitude 46.9042 longitude -121.2431) and all tributaries	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tieton River and tributaries (except where otherwise designated).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tieton River, North Fork (including tributaries) above the confluence with Clear Lake.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tieton River, South Fork, and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>WRIA 39 Upper Yakima</b>																		
Cle Elum River from mouth to latitude 47.3805 longitude -121.0983 (above Little Salmon la Sac Creek).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cle Elum River and all tributaries from confluence with unnamed tributary at latitude 47.3805 longitude -121.0983 to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Indian Creek and tributaries downstream of Wenatchee National Forest boundary below.		✓							✓									
Indian Creek and tributaries in or above National Forest boundary.		✓							✓									
Jack Creek and tributaries downstream of Wenatchee National Forest boundary below.	✓									✓	✓	✓	✓	✓	✓	✓	✓	✓
Jack Creek and tributaries in or above National Forest boundary.	✓								✓									
Little Kachess Lake (narrowest point dividing Kachess Lake from Little Kachess Lake) and all tributaries.	✓								✓									
Manastash Creek: All waters above the confluence of the North and South Forks that are downstream of the Wenatchee National Forest boundary.		✓							✓									
Manastash Creek: All waters above the confluence of the North and South Forks that are in or above the Wenatchee National Forest.		✓							✓									
Manastash Creek mainstem from mouth to confluence of North and South Forks.		✓							✓									

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Manastash Creek, tributaries to mainstem, between the mouth and the confluence of North and South Forks.																		
Swaak Creek mainstem from mouth to confluence with First Creek.																		
Swaak Creek from confluence with First Creek to Wenatchee National Forest (including tributaries).																		
Taneum Creek, tributaries to mainstem, from mouth to Wenatchee National Forest boundary.																		
Taneum Creek mainstem from mouth to Wenatchee National Forest boundary.																		
Teanaway River mainstem from mouth to West Fork Teanaway River.																		
Teanaway River, tributaries to mainstem, from mouth to West Fork Teanaway River.																		
Teanaway River, West Fork and Middle Fork, and tributaries downstream of the Wenatchee National Forest.																		
Teanaway River, West Fork and Middle Fork, and tributaries upstream of the Wenatchee National Forest.																		
Teanaway River, North Fork (and tributaries) from mouth to Jungle Creek that are downstream of the Wenatchee National Forest boundary (except where designated otherwise).																		
Teanaway River, North Fork (and tributaries) from mouth to Jungle Creek that are in or above the Wenatchee National Forest boundary (except where designated otherwise).																		
Teanaway River, North Fork, and all tributaries above and including Jungle Creek.																		
Yakima River mainstem from mouth to Cle Elum River (river mile 185.6) except where specifically designated otherwise in Table 602. <sup>1</sup>																		
Yakima River and tributaries from Cle Elum River (river mile 185.6) to headwaters (except where designated otherwise).																		
Yakima River and tributaries above but not including Cedar Creek (latitude 47.2892 longitude -121.2947) in Sect.25 T21N12E.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>Notes for WRIA 39:</b>																		
1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9).																		
<b>WRIA 40 Alkaki-Squilchuck</b>																		
There are no specific water body entries for this WRIA.																		
<b>WRIA 41 Lower Crab</b>																		
Crab Creek and tributaries.																		
<b>WRIA 42 Grand Coulee</b>																		
Crab Creek and tributaries.																		
<b>WRIA 43 Upper Crab-Wilson</b>																		
Crab Creek and tributaries.																		
<b>WRIA 44 Moses Coulee</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 45 Wenatchee</b>																		
Chiwaukum Creek from confluence with Skirney Creek to headwaters (including tributaries).																		
Chiwawa River from mouth to Chikamin Creek (including tributaries).																		
Chiwawa River (and all tributaries) above and including Chikamin Creek.																		
Chumstick Creek and tributaries downstream of the National Forest boundary (not otherwise designated char).																		
Chumstick Creek and tributaries in or above the National Forest boundary (not otherwise designated char).																		
Dry Creek and Chumstick Creek: All waters (including tributaries) above the confluence, except those waters in or above the Wenatchee National Forest.																		
Dry Creek and Chumstick Creek: All waters (including tributaries) above the confluence that are in or above the Wenatchee National Forest.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Eagle Creek and the unnamed tributary at latitude 47.6544 longitude -120.5165; All waters (including tributaries) above the junction, except those waters in or above the Wenatchee National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Eagle Creek and the unnamed tributary at latitude 47.6544 longitude -120.5165; All waters (including tributaries) above the confluence that are in or above the Wenatchee National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Icicle Creek (including tributaries) from mouth to the National Forest Boundary.		✓								✓	✓	✓	✓	✓	✓	✓	✓	✓
Icicle Creek (including tributaries) from National Forest boundary to confluence with Jack Creek.							✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Icicle Creek above and including Jack Creek (including all tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Ingalls Creek (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mission Creek from latitude 47.4496 longitude -120.4945 to headwaters (including tributaries) downstream of the National Forest boundary.		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Mission Creek from latitude 47.4496 longitude -120.4945 to headwaters (including tributaries) in or above the National Forest boundary.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Peshastin Creek from National Forest Boundary to headwaters (including tributaries) except where designated char.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Peshastin Creek from confluence with Mill Creek to National Forest Boundary (including tributaries).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Second Creek and the unnamed tributary at latitude 47.7384 longitude -120.5935; All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Van Creek and the unnamed tributary at latitude 47.6722 longitude -120.5373; All waters (including tributaries) above the confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wenatchee River mainstem between Peshastin Creek and the boundary of the Wenatchee National Forest (river mile 27.1).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Wenatchee River from Wenatchee National Forest boundary (river mile 27.1) to Chiwawa River (including tributaries) except where designated otherwise.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wenatchee River and all tributaries above Chiwawa River confluence.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602	Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
		Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>WRIA 46 Entiat</b>																			
	Brennegan Creek and the unnamed tributary at and latitude 47.9098 longitude - 120.4185: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Entiat River and tributaries occurring below the National Forest boundary from and including the Mad River to Wenatchee National Forest boundary on the mainstem Entiat River (river mile 20.5).		✓							✓				✓	✓	✓	✓	✓	✓
	Entiat River and all tributaries above the unnamed creek at and latitude 47.9135 longitude -120.4942 (below Fox Creek).	✓								✓				✓	✓	✓	✓	✓	✓
	Entiat River's unnamed tributaries upstream of latitude 47.9106 longitude - 121.5010 (below Fox Creek).	✓								✓				✓	✓	✓	✓	✓	✓
	Gray Canyon, North Fork, and South Fork Gray Canyon: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Hornet Creek and all tributaries.	✓								✓				✓	✓	✓	✓	✓	✓
	Mad River and all tributaries above latitude 47.8015 longitude -120.4920 (below Young Creek).	✓								✓				✓	✓	✓	✓	✓	✓
	Mud Creek and Switchback Canyon: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Potato Creek and Gene Creek: All waters above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Preston Creek and South Fork Preston Creek: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Stormy Creek and the unnamed tributary at latitude 47.8387 longitude - 120.3865: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
	Tillicum Creek and Indian Creek: All waters (including tributaries) above the confluence.	✓								✓				✓	✓	✓	✓	✓	✓
<b>WRIA 47 Chelan</b>																			
	Stehakin River.		✓							✓				✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics	
<b>WRIA 48 Methow</b>																			
Bear Creek from mouth to headwaters (including tributaries) in or above the National Forest boundary.																			
Bear Creek from mouth to headwaters (including tributaries) downstream of the National Forest boundary.																			
Beaver Creek and South Fork Beaver Creek: All waters (including tributaries) above the confluence.																			
Big Hidden Lake and all tributaries, and the outlet stream that flows into the East Fork Pasayten River.																			
Boulder Creek and Pebble Creek: All waters (including tributaries) above the confluence.																			
Buttermilk Creek and all tributaries.																			
Chevuch River and tributaries from mouth to headwaters (except where designated otherwise).																			
Chevuch River and tributaries above Buck Creek at Section 30, T38, R22E.																			
Eagle Creek and all tributaries.																			
Early Winters Creek (including tributaries) from mouth to headwaters.																			
Eureka Creek and all tributaries.																			
Goat Creek above the confluence with Roundup Creek to headwaters (including tributaries).																			
Gold Creek and all tributaries, except those waters in or above the Okanogan National Forest.																			
Gold Creek and all tributaries that are in or above the Okanogan National Forest.																			
Lake Creek and all tributaries.																			
Libby Creek and Hornel Draw: All waters (including tributaries) above the confluence.																			
Little-Bridge Creek and tributaries																			
Lost River Gorge and all tributaries upstream of confluence with Sunset Creek.																			

TABLE 602	Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
		Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
	Methow River from mouth to confluence with Twisp River.			✓								✓	✓	✓	✓	✓	✓	✓	✓
	Methow River from confluence with Twisp River to Chewuch River (river mile 50.1).		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
	Methow River and tributaries from Chewuch River (river mile 50.1) to headwaters (except where designated char.		✓						✓			✓	✓	✓	✓	✓	✓	✓	✓
	Methow River, West Fork, (including tributaries) from and including Robinson Creek and its tributaries to headwaters (except unnamed tributary above mouth at latitude 48.6591 longitude -120.5493.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
	Pipestone Canyon Creek and all tributaries below Campbell Lake.	✓							✓			✓	✓	✓	✓	✓	✓	✓	✓
	Pipestone Canyon Creek and all tributaries above Campbell Lake, Campbell Lake, and all tributaries to Campbell Lake.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
	Smith Canyon Creek and Elderberry Canyon: All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
	Twisp River from mouth to War Creek.		✓					✓				✓	✓	✓	✓	✓	✓	✓	✓
	Twisp River and War Creek: All waters (including tributaries) above the confluence.	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
	Wolf Creek from and including unnamed tributary at latitude 48.4849 longitude -120.3180 to headwaters (including tributaries).	✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
	<b>WRIA 49 Okanogan</b>																		
	Okanogan River.			✓								✓	✓	✓	✓	✓	✓	✓	✓
	<b>WRIA 50 Foster</b>																		
	There are no specific waterbody entries for this WRIA.																		
	<b>WRIA 51 Nespelem</b>																		
	There are no specific waterbody entries for this WRIA.																		
	<b>WRIA 52 Sanpoil</b>																		
	There are no specific waterbody entries for this WRIA.																		

TABLE 602	Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreation Uses			Water Supply Uses				Misc. Uses				
		Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Reband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>WRIA 53 Lower Lake Roosevelt</b>																			
There are no specific waterbody entries for this WRIA.																			
<b>WRIA 54 Lower Spokane</b>																			
Spokane River from mouth to Long Lake Dam (river mile 33.9). <sup>1</sup>				✓						✓		✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Long Lake Dam (river mile 33.9) to Nine Mile Bridge (river mile 58.0). <sup>2</sup>		✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Nine Mile Bridge (river mile 58.0) to the Idaho border (river mile 96.5). <sup>3</sup>				✓					✓			✓	✓	✓	✓	✓	✓	✓	✓
<b>Notes for WRIA 54:</b>																			
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T + 9)$ .																			
2. a. The average euphotic zone concentration of total phosphorus (as P) shall not exceed 25µg/L during the period of June 1 to October 31. b. Temperature shall not exceed a 1-DMax of 20.0°C, due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T + 9)$ .																			
3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed $t=34/(T+9)$ .																			
<b>WRIA 55 Little Spokane</b>																			
There are no specific waterbody entries for this WRIA.																			
<b>WRIA 56 Hangman</b>																			
There are no specific waterbody entries for this WRIA.																			
<b>WRIA 57 Middle Spokane</b>																			
Lake Creek and all tributaries.		✓						✓				✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Nine Mile Bridge (river mile 58.0) to the Idaho border (river mile 96.5). <sup>1</sup>				✓					✓			✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses			Water Supply Uses				Misc. Uses					
	Char Spawning /Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<b>Notes on WRIA 57:</b>																		
1. Temperature shall not exceed a 1-DM <sub>max</sub> of 20.0°C due to human activities. When natural conditions exceed a 1-DM <sub>max</sub> of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed t=34/(T+9).																		
<b>WRIA 58 Middle Lake Roosevelt</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 59 Colville</b>																		
Colville River.																		
<b>WRIA 60 Kettle</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 61 Upper Lake Roosevelt</b>																		
There are no specific waterbody entries for this WRIA.																		
<b>WRIA 62 Pend Oreille</b>																		
All streams flowing into Idaho from Bath Creek (latitude 48.5865 longitude 117.0351) to the Canadian border.																		
Calispell Creek (including tributaries) from Small Creek to Calispell Lake.																		
Calispell Lake and all tributaries.																		
Cedar Creek from latitude 48.7500 longitude -117.4349 (including tributaries) to headwaters: all waters that are in the Colville National Forest.																		
Cedar Creek from latitude 48.7500 longitude -117.4349 to (including tributaries) to headwaters: all waters that are outside the Colville National Forest.																		
Cedar Creek from mouth to latitude 48.7500 longitude -117.4349 (including tributaries) in or above Colville National Forest boundary.																		
Cedar Creek from mouth to latitude 48.7500 longitude -117.4349 (including tributaries) downstream of the Colville National Forest.																		
Harvey Creek (also called Outlet Creek) and Paupac Creek: All waters (including tributaries) above the confluence.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreation Uses		Water Supply Uses				Misc. Uses						
	Char Spawning/Rearing	Core Summer Habitat	Spawning/Rearing	Rearing/Migration Only	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Indian Creek from mouth to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters (including tributaries) above the confluence, except those waters in or above the Colville National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters (including tributaries) above the confluence that are in or above the Colville National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Le Clerc Creek from mouth to confluence with West Branch le Clerc Creek (including tributaries).		✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek from mouth to headwaters (including tributaries).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pend Oreille River from Canadian border (river mile 16.0) to Idaho border (river mile 87.7). <sup>1</sup>			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Slate Creek from mouth to headwaters (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Small Creek and all tributaries, except those waters in or above the National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Small Creek and all tributaries that are in or above the National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
South Salmo River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sullivan Creek above confluence with Harvey Creek (including tributaries) to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tacoma Creek, South Fork, upstream of Tacoma Creek and downstream of the Colville National Forest boundary (including tributaries).	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Tacoma Creek, South Fork, and tributaries upstream of the Colville National Forest boundary (including tributaries).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

**Notes for WRIA 62:**

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed ~~t-34/(T + 9)~~.

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Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>COLUMBIA RIVER</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Columbia River:</b> from mouth (latitude 46.2502, longitude -124.0829) to the Washington-Oregon border (latitude 46.0002, longitude -118.9809). <sup>1</sup>		Spawning /Rearing	Primary Contact	All	All	-
<b>Columbia River:</b> from Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Grand Coulee Dam (latitude 47.957, longitude -118.9825). <sup>2,3</sup>		Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Columbia River:</b> from Grand Coulee Dam (latitude 47.957, longitude -118.9825) to Canadian border (latitude 49.007, longitude -117.6313).		Core Summer Habitat	Primary Contact	All	All	-
<b>Notes for Columbia River:</b>						
<ol style="list-style-type: none"> <li>Temperature shall not exceed a 1-day maximum (1-DMax) of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined. Dissolved oxygen shall exceed 90 percent of saturation. Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).</li> <li>From Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Priest Rapids Dam (latitude 46.6443, longitude -119.9103). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t = 34/(T + 9)</math>.</li> <li>From Washington-Oregon border (latitude 46.0002, longitude -118.9809) to Grand Coulee Dam (latitude 47.957, longitude -118.9825). Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).</li> </ol>						
<b>WRIA 1 – Nooksack</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Bertrand Creek:</b> upstream from the mouth (latitude 48.9121, longitude -122.5352) to Canadian border.		Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Breckenridge Creek:</b> upstream from the mouth (latitude 48.9267, longitude -122.3129), including tributaries.		Core Summer Habitat	Primary Contact	All	All	-
<b>Chilliwack River and Little Chilliwack River:</b> all waters above the confluence (latitude 48.9929, longitude -121.4086), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Chuckanut Creek:</b> upstream from the mouth (latitude 48.7002, longitude -122.4949) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Colony Creek:</b> upstream from the mouth (latitude 48.5966, longitude -122.4193) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Dakota Creek:</b> upstream from the mouth (latitude 48.9721, longitude -122.7291), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Dale Creek:</b> upstream from the mouth (latitude 48.8938, longitude -122.3023).	Core Summer Habitat	Primary Contact	All	All	-
<b>Deer Creek (tributary to Barrett Lake):</b> upstream from the mouth (latitude 48.8471, longitude -122.5615), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Depot Creek:</b> upstream from the mouth (latitude 49.0296, longitude -121.4021), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Fishtrap Creek:</b> upstream from the mouth (latitude 48.912, longitude -122.5229) to Canadian border.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hutchinson Creek:</b> upstream from the mouth (latitude 48.7078, longitude -122.1812), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Johnson Creek's unnamed tributary:</b> upstream from the mouth (latitude 48.978, longitude -122.3223) just north of Pangborn Road.	Core Summer Habitat	Primary Contact	All	All	-
<b>Nooksack River mainstem:</b> upstream from the mouth to the confluence with Anderson Creek (latitude 48.8646, longitude -122.3157).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Nooksack River:</b> upstream from, and including, Anderson Creek (latitude 48.8646, longitude -122.3157) to the confluence with South Fork (latitude 48.8094, longitude -122.2039) except where otherwise designated Char, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, North Fork:</b> upstream from the confluence with South Fork (latitude 48.8094, longitude -122.2039) upstream to the confluence with Maple Creek (latitude 48.9119, longitude -122.0792), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, North Fork:</b> upstream from and including Maple Creek (latitude 48.9119, longitude -122.0792), including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, Middle Fork:</b> upstream from the confluence with mainstem (latitude 48.8341, longitude -122.1549) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, South Fork:</b> upstream from the mouth (latitude 48.8075, longitude -122.2024) to Skookum Creek (latitude 48.6701, longitude -122.1417).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, South Fork:</b> upstream from Skookum Creek (latitude 48.6701, longitude -122.1417) to Fobes Creek (latitude 48.6237, longitude -122.1123).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nooksack River, South Fork:</b> upstream from the confluence with Fobes Creek (latitude 48.6237, longitude -122.1123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Padden Creek:</b> upstream from the mouth (latitude 48.7202, longitude -122.5073) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Pepin Creek:</b> from the mouth (latitude 48.9417, longitude -122.4748) to Canadian border (latitude 49.0023, longitude -122.4738).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Saar Creek:</b> from the mouth (latitude 48.9818, longitude -122.2386) to headwaters.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Silesia Creek:</b> south of Canadian border (latitude 48.9985, longitude -121.6125), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skookum Creek:</b> upstream from the mouth (latitude 48.6702, longitude -122.1417), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Squaw Creek:</b> upstream from the mouth (latitude 48.969, longitude -122.3291).	Core Summer Habitat	Primary Contact	All	All	-
<b>Squalicum Creek's unnamed tributary:</b> upstream from latitude 48.7862 longitude -122.4864 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stickney Creek (Slough) and Kamm Ditch:</b> upstream from the confluence with mainstem Nooksack River (latitude 48.938, longitude -122.441) to headwaters.	Core Summer Habitat	Primary Contact	All	All	-
<b>Sumas River:</b> from the Canadian border (latitude 49.0024, longitude -122.2324) to headwaters (latitude 48.888, longitude -122.3087) except where designated otherwise.	Spawning /Rearing	Primary Contact	All	All	-
<b>Tenmile Creek:</b> upstream from the mouth (latitude 48.8559, longitude -122.5771) to Barrett Lake (latitude 48.8513, longitude -122.5718).	Core Summer Habitat	Primary Contact	All	All	-
<b>Tomyhoi Creek:</b> from the Canadian border (latitude 48.9991, longitude -121.7318) to headwaters.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Whatcom Creek:</b> upstream from the mouth (latitude 48.7549, longitude -122.4824) to outlet of Lake Whatcom (latitude 48.7575, longitude -122.4226), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 2 San Juan</b>					
There are no specific waterbody entries for this WRIA.					

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 3 Lower Skagit-Samish</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Fisher and Carpenter Creeks:</b> upstream from the mouth (latitude 48.3222, longitude -122.3363), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Hansen Creek:</b> upstream from the mouth (latitude 48.4902, longitude -122.2086), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nookachamps Creek:</b> upstream from the mouth (latitude 48.4709, longitude -122.2954) except where designated char, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nookachamps Creek, East Fork, and unnamed creek:</b> upstream from the confluence (latitude 48.4091, longitude -122.1702), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Samish River:</b> upstream from latitude 48.547 longitude -122.3373, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skagit River mainstem:</b> upstream from the mouth to Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skagit River, all tributaries to the mainstem:</b> upstream from the mouth to Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811), except where designated otherwise.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skagit River:</b> upstream Skiyou Slough-lower end (latitude 48.4974, longitude -122.1811) to the boundary of WRIA 3 and 4 (latitude 48.5106, longitude -121.8973), except the other waters listed for this WRIA, including tributaries. <sup>1</sup>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Walker Creek and unnamed creek:</b> upstream of the confluence (latitude 48.3808, longitude -122.164), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<p><b>Notes for WRIA 3:</b> Skagit River (Gorge by-pass reach) from Gorge Dam (latitude 48.6978, longitude -121.2082) to Gorge Powerhouse (latitude 48.677, longitude -121.2422). Temperature shall not exceed a 1-DMax of 2°C due to human activities. When natural conditions exceed a 1-DMax of 2°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed t = 34/(T + 9).</p> <p><b>WRIA 4 Upper Skagit</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</p>					
<b>Bacon Creek:</b> upstream from the mouth (latitude 48.5858, longitude -121.3934), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Baker Lake:</b> from dam (latitude 48.649, longitude -121.6906), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Bear Creek and the unnamed outlet creek of Blue Lake:</b> upstream of the confluence (latitude 48.6204, longitude -121.7488), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Big Beaver Creek:</b> upstream from the mouth (latitude 48.7747, longitude -121.065), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Big Creek:</b> upstream from the mouth (latitude 48.3457, longitude -121.451), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Buck Creek:</b> upstream from the mouth (latitude 48.2635, longitude -121.3374), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Cascade River and Boulder Creek:</b> all waters above the confluence (latitude 48.5177, longitude -121.3643), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Circle Creek:</b> upstream from the mouth (latitude 48.2593, longitude -121.339), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Clear Creek:</b> upstream from the mouth (latitude 48.2191, longitude -121.5684), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Diobsud Creek and unnamed tributary:</b> all waters above the confluence (latitude 48.5846, longitude -121.4422), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	
<b>Goodell Creek:</b> upstream from the mouth (latitude 48.6725, longitude -121.2649), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hozomeen Creek:</b> upstream from the mouth (latitude 48.9869, longitude -121.0717), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Illabot Creek:</b> upstream from the mouth (latitude 48.49597, longitude -121.53164), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Jordan Creek:</b> upstream from the mouth (latitude 48.5228, longitude -121.4229), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lightning Creek:</b> upstream from the mouth, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Little Beaver Creek:</b> upstream from the mouth (latitude 48.9162, longitude -121.0825), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Murphy Creek:</b> upstream from the mouth (latitude 48.191, longitude -121.5157), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Newhalem Creek:</b> upstream from the mouth (latitude 48.6714, longitude -121.2561), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Rocky Creek:</b> upstream from the mouth (latitude 48.6461, longitude -121.702), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Ruby Creek:</b> upstream from the mouth (latitude 48.7125, longitude -120.9868), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Sauk River and Dutch Creek:</b> all waters above the confluence (latitude 48.1812, longitude -121.488), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Silver Creek:</b> upstream from the mouth (latitude 48.9702, longitude -121.1039), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skagit River:</b> upstream from latitude 48.5106 longitude -121.8973, including tributaries, except where listed otherwise for this WRIA. <sup>1</sup>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stetattle Creek:</b> upstream from the mouth (latitude 48.7172, longitude -121.1498), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Straight Creek:</b> upstream from the mouth (latitude 48.2719, longitude -121.4004), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Suiattle River:</b> above the confluence with Harriet Creek (latitude 48.2507, longitude -121.3018), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Sulphur Creek:</b> upstream of the mouth (latitude 48.6482, longitude -121.6997), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tenas Creek:</b> upstream of the mouth (latitude 48.3236, longitude -121.4395), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Thunder Creek:</b> upstream of Lake Shannon (latitude 48.5978, longitude -121.7138), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Thunder Creek:</b> upstream of Diablo Lake (latitude 48.69469, longitude -121.09830), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>White Chuck River:</b> upstream of the mouth (latitude 48.1729, longitude -121.4723), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<p><b>Notes for WRIA 4:</b></p> <p>1. Skagit River (Gorge by-pass reach) from the Gorge Dam (river mile 96.6) to the Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human action. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed <math>t = 34/(T + 9)</math>.</p>					
<p><b>WRIA 5 Stillaguamish</b>  <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i></p>					
<b>Brooks Creek and unnamed tributary:</b> upstream of the confluence (latitude 48.296, longitude -121.905), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Canyon Creek:</b> upstream of the confluence with unnamed tributary (latitude 48.1245, longitude -121.8892) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Canyon Creek's unnamed tributaries:</b> Upstream from latitude 48.1516 longitude -121.9677.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Unnamed tributaries:</b> upstream from the mouth of tributary (latitude 48.1463, longitude -121.9653) of unnamed tributary of Canyon Creek (latitude 48.12145, longitude -121.94482).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Crane Creek and unnamed tributary:</b> upstream of the confluence (latitude 48.3298, longitude -121.1005), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Crane Creek's unnamed tributaries:</b> upstream of the confluence (latitude 48.3324, longitude -122.1059), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cub Creek and unnamed tributary:</b> upstream of the confluence (latitude 48.1677, longitude -121.9428), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Deer Creek (on N.F. Stillaguamish) and unnamed tributary:</b> upstream of the confluence (latitude 48.3194, longitude -121.9582), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Dicks Creek and unnamed outlet of Myrtle Lake:</b> upstream of the confluence (latitude 48.3185, longitude -121.8147), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Jim Creek and Little Jim Creek:</b> upstream of the confluence (latitude 48.1969, longitude -121.902), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Jorgenson Slough:</b> upstream from the confluence with Church Creek (latitude 48.2341, longitude -122.3235), between West Pass and Hat Slough, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Lake Cavanaugh and all tributaries:</b> all waters above the outlet (latitude 48.3126, longitude -121.9803).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pilchuck Creek and Bear Creek:</b> upstream of the confluence (latitude 48.3444, longitude -122.0691), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pilchuck Creek's unnamed tributaries:</b> upstream of the confluence (latitude 48.309, longitude -122.1303), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pilchuck Creek:</b> upstream from latitude 48.2395 longitude -122.2015 (above 268 <sup>th</sup> St) to headwaters, including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Unnamed tributary to Portage Creek:</b> upstream of the confluence (latitude 48.1836, longitude -122.2314), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River:</b> upstream from the mouth (latitude 48.2082, longitude -122.323) to confluence of north and south forks (latitude 48.2036, longitude -122.1279).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, North Fork:</b> upstream from the mouth (latitude 48.2039, longitude -122.128) to Boulder River (latitude 48.2822, longitude -121.7876), including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, North Fork, and Boulder River:</b> upstream from the confluence (latitude 48.2822, longitude -121.7876) to Squire Creek (latitude 48.2802, longitude -121.686), and downstream of the Mt. Baker Snoqualmie National Forest, including tributaries	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, North Fork, and Boulder River:</b> upstream from the confluence (latitude 48.2802, longitude -121.686) up to Squire Creek (latitude 48.2802, longitude -121.686) that are in or above the Mt. Baker Snoqualmie National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, North Fork:</b> upstream from the confluence with Squire Creek (latitude 48.2802, longitude -121.686) to headwaters, including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, South Fork:</b> upstream from the mouth (latitude 48.2034, longitude -122.1277) to Canyon Creek (latitude 48.0972, longitude -121.9711).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, South Fork:</b> upstream from Canyon Creek (latitude 48.0972, longitude -121.9711) to the unnamed tributary at latitude 48.092 longitude -121.8812 (near Cranberry Creek).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillaguamish River, South Fork, and the unnamed tributary:</b> upstream of the confluence (latitude 48.092, longitude -121.8812) near Cranberry Creek, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 6 Island</b>					
There are no specific waterbody entries for this WRIA.	-	-	-	-	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 7 Snohomish</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Cherry Creek:</b> upstream from the mouth (latitude 47.7684, longitude -121.9603) to headwaters, including tributaries	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cripple Creek:</b> upstream from the mouth (latitude 47.523, longitude -121.4728), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Kelly Creek:</b> upstream from the mouth (latitude 47.9849, longitude -121.5034), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Miller River, East Fork, and West Fork Miller River:</b> upstream of the confluence (latitude 47.675, longitude -121.3892), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>North Fork Creek and unnamed creek:</b> upstream of the confluence (latitude 47.7406, longitude -121.8246), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pilchuck River:</b> upstream from the mouth (latitude 47.9006, longitude -122.0919) to the confluence with Boulder Creek (latitude 48.0248, longitude -121.8217).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pilchuck River and Boulder Creek:</b> upstream on the confluence (latitude 48.0248, longitude -121.8217), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pratt River:</b> upstream from the mouth (latitude 47.5261, longitude -121.5873), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skykomish River:</b> upstream from the mouth (latitude 47.8213, longitude -122.0327) to May Creek (above Gold Bar at latitude 47.8471 longitude -121.6954), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skykomish River and May Creek:</b> upstream from the confluence above Gold Bar at latitude 47.8471 longitude -121.6954, including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Skykomish River, North Fork:</b> upstream from below Salmon Creek at latitude 47.8790 longitude -121.4594 to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skykomish River, South Fork, and Beckler River:</b> upstream from the confluence (latitude 47.715, longitude -121.3398), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Snohomish River:</b> upstream from the mouth (latitude 48.0202, longitude -122.1989) to the southern tip of Ebey Island (latitude 47.942, longitude -122.1719). <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	-
<b>Snohomish River:</b> upstream the southern tip of Ebey Island (latitude 47.942, longitude -122.1719) to below Pilchuck Creek at (latitude 47.9005, longitude -122.0925).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Snohomish River:</b> upstream from below Pilchuck Creek (latitude 47.9005, longitude -122.0925) to the confluence with Skykomish and Snoqualmie River (latitude 47.8212, longitude -122.0331).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Snoqualmie River:</b> upstream from the mouth (latitude 47.8208, longitude -122.0321) to the confluence with Harris Creek (latitude 47.6772, longitude -121.9382).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Snoqualmie River and Harris Creek:</b> upstream from the confluence (latitude 47.6772, longitude -121.9382) to west boundary of Twin Falls State Park on south fork (latitude 47.4525, longitude -121.7063).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Snoqualmie River, South Fork:</b> upstream from the west boundary of Twin Falls State Park (latitude 47.4525, longitude -121.7063) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Snoqualmie River, North Fork:</b> upstream from the mouth (latitude 47.5203, longitude -121.7746) to Sunday Creek (latitude 47.6556, longitude -121.6419).	Core Summer Habitat	Primary Contact	All	All	-
<b>Snoqualmie River, North Fork, and Sunday Creek:</b> upstream of the confluence (latitude 47.6556, longitude -121.6419), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Snoqualmie River, Middle Fork:</b> upstream from the mouth (latitude 47.52, longitude -121.7767) to Dingford Creek at latitude 47.5156 longitude -121.4545 (except where designated char).	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Snoqualmie River, Middle Fork, and Dingford Creek:</b> upstream of the confluence (latitude 47.5156, longitude -121.4545), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Snoqualmie River's Middle Fork's unnamed tributaries:</b> upstream of the mouth at latitude 47.539 longitude -121.5645.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Sultan River:</b> upstream from the mouth (latitude 47.8605, longitude -121.8206) to Chaplain Creek (latitude 47.9211, longitude -121.8033), including the.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Sultan River:</b> from the confluence with Chaplain Creek (latitude 47.9211, longitude -121.8033) to headwaters, including tributaries. <sup>2</sup>	Core Summer Habitat	Primary Contact	All	All	-
<b>Taylor River:</b> upstream from the mouth (latitude 47.5468, longitude -121.5355), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tolt River, North Fork, and unnamed creek:</b> upstream from the confluence (latitude 47.718, longitude -121.7788), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tolt River, South Fork:</b> upstream from the mouth (latitude 47.6957, longitude -121.8213) to the unnamed creek at latitude 47.6921, longitude -121.7408, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tolt River, South Fork, and unnamed creek:</b> upstream of the confluence (latitude 47.6921, longitude -121.7408), including tributaries <sup>3</sup> .	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tolt River's South Fork's unnamed tributaries:</b> upstream of the mouth at latitude 47.6888 longitude -121.7869.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Trout Creek:</b> upstream from the mouth (latitude 47.8643, longitude -121.4877), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<p><b>Notes for WRIA 7:</b></p> <ol style="list-style-type: none"> <li>Fecal coliform organism levels shall both not exceed a geometric mean value of 200 colonies/100 mL and not have more than 10 percent of the samples obtained for calculating the mean value exceeding 400 colonies/100 mL.</li> <li>No waste discharge will be permitted above city of Everett Diversion Dam (latitude 47.9599, longitude -121.7962).</li> <li>No waste discharge will be permitted for the South Fork Tolt River and tributaries from latitude 47.6957 longitude -121.8213 to headwaters.</li> </ol>					
<p><b>WRIA 8 Cedar-Sammamish</b>  <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i></p>					
<p><b>Cedar River:</b> upstream from the confluence with Lake Washington (latitude 47.5005, longitude -122.2159) to the Maplewood Bridge (latitude 47.4693, longitude -122.1596).</p>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<p><b>Cedar River:</b> upstream from the Maplewood Bridge (latitude 47.4693, longitude -122.1596) to Landsburg Dam (latitude 47.3759, longitude -121.9615), including tributaries.</p>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<p><b>Cedar River:</b> from Landsburg Dam (latitude 47.3759, longitude -121.9615) to Chester Morse Lake (latitude 47.4121, longitude -121.7526), including tributaries.<sup>1</sup></p>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<p><b>Cedar River at Chester Morse Lake Cedar Falls Dam:</b> All waters above the dam (latitude 47.4121, longitude -121.7526) to headwaters, including tributaries.<sup>2</sup></p>	Char Spawning /Rearing	Primary Contact	All	All	-
<p><b>Holder Creek and unnamed tributary:</b> Upstream from the confluence (latitude 47.4576, longitude -121.9505), including tributaries.</p>	Char Spawning /Rearing	Primary Contact	All	All	-
<p><b>Issaquah Creek:</b> upstream from the confluence with Lake Sammamish (latitude 47.562, longitude -122.0651) to headwaters, including tributaries (except where designated Char).</p>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<p><b>Lake Washington Ship Canal:</b> from Government Locks (latitude 47.6652, longitude -122.3973) to Lake Washington (latitude 47.6471, longitude -122.3003).<sup>3,4</sup></p>	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<p><b>Notes for WRIA 8:</b></p> <ol style="list-style-type: none"> <li>No waste discharge will be permitted.</li> <li>No waste discharge will be permitted.</li> <li>Salinity shall not exceed one part per thousand (1.0 ppt) at any point or depth along a line that transects the ship canal at the University Bridge (latitude 47.65284, longitude -122.32029).</li> <li>This waterbody is to be treated as a lake for purposes of applying this chapter.</li> </ol>					
<b>WRIA 9 Duwamish-Green</b>					
<p><b>Duwamish River:</b> from mouth south of a line bearing 254° true from the NW corner of berth 3, terminal No. 37 to the Black River (latitude 47.4737, longitude -122.2521) (Duwamish River continues as the Green River above the Black River).</p>	<p>Rearing /Migration Only</p>	<p>Primary Contact</p>	<p>All, Except Domestic Water</p>	<p>All</p>	<p>-</p>
<p><b>Green River:</b> from and including the Black River (latitude 47.4737 longitude -122.2521, and point where Duwamish River continues as the Green River) to latitude 47.3699 longitude -122.246 above confluence with Mill Creek.</p>	<p>Spawning /Rearing</p>	<p>Primary Contact</p>	<p>All</p>	<p>All</p>	<p>-</p>
<p><b>Green River:</b> upstream from above confluence with Mill Creek at latitude 47.3699 longitude -122.2461 (east of the West Valley highway) to west boundary of Flaming Geyser State Park, including tributaries.</p>	<p>Core Summer Habitat</p>	<p>Primary Contact</p>	<p>All</p>	<p>All</p>	<p>173-200(1)(c)(iv)</p>
<p><b>Green River:</b> upstream from the west boundary of Flaming Geyser State Park (latitude 47.2805, longitude -122.0379) to headwaters, including tributaries (except where designated Char and Core).</p>	<p>Core Summer Habitat</p>	<p>Primary Contact</p>	<p>All</p>	<p>All</p>	<p>173-200(1)(c)(iv)</p>
<p><b>Green River and Sunday Creek:</b> upstream from the confluence (latitude 47.2164, longitude -121.4494), including tributaries.<sup>1</sup></p>	<p>Char Spawning /Rearing</p>	<p>Primary Contact</p>	<p>All</p>	<p>All</p>	<p>173-200(1)(c)(iv)</p>
<p><b>Smay Creek and West Fork Smay Creek:</b> upstream from the confluence, (latitude 47.2458, longitude -121.592) including tributaries.<sup>1</sup></p>	<p>Char Spawning /Rearing</p>	<p>Primary Contact</p>	<p>All</p>	<p>All</p>	<p>-</p>
<p><b>Notes for WRIA 9:</b></p> <ol style="list-style-type: none"> <li>No waste discharge will be permitted for the Green River and tributaries (King County) from west boundary of Sec. 13-T21N-R7E (river mile 59.1) to headwaters.</li> </ol>					

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>						Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 10 Puyallup-White</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>										
<b>Carbon River:</b> waters above latitude 47.0001 longitude -121.9796, downstream of the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Carbon River:</b> waters upstream from latitude 47.0001 longitude -121.9796 that are in or above the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Clarks Creek:</b> upstream from the mouth (latitude 47.2137, longitude -122.3415), including tributaries.						Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Clear Creek:</b> upstream from the mouth (latitude 47.2342, longitude -122.3942), including tributaries.						Core Summer Habitat	Primary Contact	All	All	-
<b>Clearwater River and Milky Creek:</b> upstream from the confluence (latitude 47.0978, longitude -121.7835), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Greenwater River:</b> upstream from the confluence with White River (latitude 47.1586, longitude -121.6596) to headwaters, including all tributaries.						Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Puyallup River:</b> upstream from the mouth (latitude 47.2685, longitude -122.4269) to river mile 1.0 (latitude 47.2562, longitude -122.4173).						Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-
<b>Puyallup River:</b> upstream from river mile 1.0 (latitude 47.2562, longitude -122.4173) to the confluence with White River (latitude 47.1999, longitude -122.2591).						Core Summer Habitat	Primary Contact	All	All	-
<b>Puyallup River:</b> upstream from the confluence with White River (latitude 47.1999, longitude -122.2591) to Mowich River (latitude 46.9005, longitude -122.031), including tributaries (except where designated char).						Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Puyallup River at and including Mowich River:</b> all waters upstream from the confluence (latitude 46.9005, longitude -122.031), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>South Prairie Creek:</b> upstream from the Kepka Fishing Pond (latitude 47.1197, longitude -122.0128), including tributaries, except those waters in or above the Snoqualmie National Forest.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>South Prairie Creek:</b> upstream from the Kepka Fishing Pond (latitude 47.1197, longitude -122.0128) in or above the Snoqualmie National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Swam Creek:</b> upstream from the mouth (latitude 47.2361, longitude -122.3928).	Core Summer Habitat	Primary Contact	All	All	-
<b>Voight Creek and Bear Creek:</b> upstream from the confluence (latitude 47.0493, longitude -122.1173) and downstream of the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Voight Creek and Bear Creek:</b> upstream from the confluence (latitude 47.0493, longitude -122.1173) and in or above the Snoqualmie National Forest or Mt. Rainier National Park, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>White River:</b> upstream from the mouth (latitude 47.2001, longitude -122.2585) to latitude 47.2438 longitude -122.2422.	Spawning /Rearing	Primary Contact	All	All	-
<b>White River:</b> upstream from latitude 47.2438 longitude -122.2422 to Mud Mountain dam (latitude 47.1425, longitude -121.931), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>White River:</b> upstream from the Mud Mountain Dam (latitude 47.1425, longitude -121.931) to West Fork White River (latitude 47.1259, longitude -121.62), except where designated Char.	Core Summer Habitat	Primary Contact	All	All	-
<b>White River and West Fork White River:</b> upstream from the confluence (latitude 47.1259, longitude -121.62), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Wilkeson Creek and Gale Creek:</b> upstream from the confluence (latitude 47.0897, longitude -122.0171), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 11 Nisqually</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Big Creek:</b> upstream from the mouth (latitude 46.7424, longitude -122.0396), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Copper Creek:</b> upstream from the mouth (latitude 46.7542, longitude -121.9615), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>East Creek:</b> upstream from the mouth (latitude 46.761, longitude -122.2078), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Horn Creek:</b> upstream from the mouth (latitude 46.9048, longitude -122.4945), including tributaries	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little Nisqually River:</b> upstream from the mouth (latitude 46.7945, longitude -122.3123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Mashel River and Little Mashel River:</b> upstream from the confluence (latitude 46.8574, longitude -122.2802), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mineral Creek:</b> upstream from the mouth (latitude 46.7522, longitude -122.1462), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Muck Creek:</b> upstream from the mouth (latitude 46.9971, longitude -122.6293), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Murray Creek:</b> upstream from the mouth (latitude 46.9234, longitude -122.5269), including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nisqually River mainstem:</b> upstream from the mouth (latitude 47.0858, longitude -122.7075) to Alger Dam (latitude 46.801, longitude -122.3106).	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Nisqually River:</b> upstream from the Alder Dam (latitude 46.801, longitude -122.3106) to Tahoma Creek (latitude 46.7372, longitude -121.9022), including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nisqually River and Tahoma Creek:</b> upstream from the confluence (latitude 46.7372, longitude -121.9022), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Rocky Slough:</b> from latitude 46.8882 longitude -122.4339 to latitude 46.9109 longitude -122.4012.	Spawning /Rearing	Primary Contact	All	All	-
<b>Tanwax Creek:</b> upstream from the mouth (latitude 46.8636, longitude -122.4582) and downstream of lakes, including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 12 Chambers-Clover</b>					
<b>Clover Creek:</b> upstream from the inlet to Lake Steilacoom (latitude 47.1569, longitude -122.5287), including Spanaway Creek to the outlet of Spanaway Lake (latitude 47.1209, longitude -122.4464).	Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 13 Deschutes</b>					
<b>Deschutes River:</b> upstream from the mouth (latitude 47.0436, longitude -122.9091) to, and including, the tributary to Offutt Lake at latitude 46.9236 longitude -122.8123.	Spawning /Rearing	Primary Contact	All	All	-
<b>Deschutes River:</b> upstream of the tributary to Offutt Lake at latitude 46.9236 longitude -122.8123. All waters in or above the national forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Deschutes River:</b> upstream of the tributary to Offutt Lake at latitude 46.9236 longitude -122.8123. All waters below the national forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>McLane Creek:</b> upstream from the mouth (latitude 47.0347, longitude -122.9904), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 14 Kennedy-Goldsborough</b>						
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Campbell Creek:</b> upstream from the mouth (latitude 47.2221, longitude -123.0252), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-	
<b>Coffee Creek:</b> upstream from the mouth (latitude 47.2093, longitude -123.1248), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-	
<b>Cranberry Creek:</b> upstream from the mouth (latitude 47.2625, longitude -123.0159), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Deer Creek:</b> upstream from the mouth (latitude 47.2594, longitude -123.0094), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Goldsborough Creek:</b> upstream from the mouth (latitude 47.2095, longitude -123.0952), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-	
<b>Hiawata Creek:</b> upstream from the mouth (latitude 47.2877, longitude -122.9204), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-	
<b>Jarrell Creek:</b> upstream from the mouth (latitude 47.2771, longitude -122.8909), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-	
<b>John's Creek:</b> upstream from the mouth (latitude 47.2461, longitude -123.043), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Jones Creek:</b> upstream from the mouth (latitude 47.263, longitude -122.9321), including tributaries.	Spawning /Rearing	Primary Contact	All	All	-	
<b>Malaney Creek:</b> upstream from the mouth (latitude 47.2514, longitude -123.0197).	Core Summer Habitat	Primary Contact	All	All	-	
<b>Mill Creek:</b> upstream from the mouth (latitude 47.1955, longitude -122.9964), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-	

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Perry Creek:</b> upstream from the mouth (latitude 47.0492, longitude -123.0052), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Shelton Creek:</b> upstream from the mouth (latitude 47.2139, longitude -123.0952), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Uncle John Creek:</b> upstream from the mouth (latitude 47.2234, longitude -123.029), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Unnamed stream at Peale Passage inlet, on west side of Hartstene Island:</b> upstream from the mouth (latitude 47.2239, longitude -122.9135).	Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 15 Kitsap</b>					
<b>Anderson Creek:</b> upstream from the mouth (latitude 47.5278, longitude -122.6831), including tributaries.	Core Summer Habitat	Primary Contact	All	All	
<b>Barker Creek:</b> upstream from Dyes Inlet (latitude 47.6378, longitude -122.6701) to Island Lake (latitude 47.6781, longitude -122.6603), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Blackjack Creek:</b> upstream from the mouth (latitude 47.5422, longitude -122.6272) and downstream of Square Lake (latitude 47.4826, longitude -122.6847), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Chico Creek:</b> above confluence with Kitsap Creek (latitude 47.5869, longitude -122.7127), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Clear Creek:</b> upstream from Dyes Inlet (latitude 47.6524, longitude -122.6863) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Gamble Creek:</b> upstream from the mouth (latitude 47.8116 longitude -122.5797), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Gorst Creek:</b> upstream from the mouth (latitude 47.5279, longitude -122.6979), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Martha John Creek:</b> upstream from the mouth (latitude 47.8263, longitude -122.5637), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Ross Creek:</b> upstream from the mouth (latitude 47.5387, longitude -122.6565), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Strawberry Creek:</b> upstream from the mouth (latitude 47.6459, longitude -122.6939), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Union River:</b> from the Bremerton Waterworks Dam (latitude 47.5371, longitude -122.7796) to headwaters, including tributaries. <sup>1</sup>	Core Summer Habitat	Primary Contact	All	All	-
<b>Unnamed tributary to Sinclair Inlet</b> (between Gorst and Anderson Creeks): upstream from the mouth (latitude 47.5270 longitude -122.6932).	Core Summer Habitat	Primary Contact	All	All	-
<b>Unnamed tributary to Sinclair Inlet, east of Blackjack Creek:</b> upstream from the mouth (latitude 47.5468, longitude -122.6131).	Spawning /Rearing	Primary Contact	All	All	-
<b>Unnamed tributary, west of Port Gamble Bay:</b> upstream from the mouth (latitude 47.8220, longitude -122.5831).	Core Summer Habitat	Primary Contact	All	All	-
<b>Notes for WRIA 15:</b>					
1. No waste discharge will be permitted.					
<b>WRIA 16 Skokomish-Dosewallips</b>					
Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Dosewallips River:</b> upstream from the mouth (latitude 47.6852, longitude -122.8965), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Duckabush River:</b> upstream from the mouth (latitude 47.6501, longitude -122.936), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hamma Hamma River:</b> upstream from the mouth (latitude 47.547, longitude -123.0453), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Rock Creek and unnamed tributary:</b> upstream from the confluence (latitude 47.3894, longitude -123.3512), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skokomish River:</b> upstream from the mouth (latitude 47.3294, longitude -123.1189), including tributaries, except where designated char.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skokomish River, North Fork:</b> upstream from latitude 47.416 longitude -123.2151 (below Cushman Upper Dam) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skokomish River, South Fork, and Brown Creek:</b> upstream from the confluence (latitude 47.4113, longitude -123.3188), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Vance Creek and Cabin Creek:</b> upstream from the confluence (latitude 47.3651, longitude -123.3837).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 17 Quilcene-Snow</b>					
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Big Quilcene River:</b> upstream from the mouth (latitude 47.8186, longitude -122.8618), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 18 Elwha-Dungeness</b>					
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Boulder Creek and Deep Creek:</b> upstream from the confluence (latitude 47.9835, longitude -123.6441), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Dungeness River mainstem:</b> upstream from the mouth (latitude 48.1524, longitude -123.1294) to Canyon Creek (latitude 47.0254, longitude -123.137).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Dungeness River, tributaries to mainstem:</b> above and between confluence with Matriotti Creek (latitude 48.1384, longitude -123.1349) to Canyon Creek (latitude 47.0254, longitude -123.137).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Dungeness River and Canyon Creek:</b> upstream from the confluence (latitude 47.0254, longitude -123.137), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Elwha River:</b> upstream from the mouth (latitude 48.1421, longitude -123.5646) to Cat Creek (latitude 47.9729, longitude -123.5919), including tributaries, except where designated Char.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Elwha River and Cat Creek:</b> upstream from the confluence (latitude 47.9729, longitude -123.5919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Ennis Creek and White Creek:</b> upstream from the confluence with the Strait of Juan De Fuca (latitude 48.1172, longitude -123.4051) to the Olympic National Park Boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Ennis Creek:</b> all waters lying above the Olympic National Park Boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Griff Creek and unnamed tributary:</b> all waters above the confluence (latitude 48.0134, longitude -123.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Hughes Creek and unnamed tributary:</b> all waters above the confluence (latitude 48.0297, longitude -123.6335), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Little River:</b> upstream from the mouth (latitude 48.063, longitude -123.5772), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Matriotti Creek:</b> upstream from the mouth (latitude 48.1385, longitude -123.1352).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wolf Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.9652, longitude -123.5386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 19 Lyre-Hoko</b>					
There are no specific waterbody entries for this WRIA.					
<b>WRIA 20 Soleduc</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Dickey River:</b> upstream from the mouth (latitude 47.9208, longitude -124.6209), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hoh River:</b> upstream from the mouth (latitude 47.749, longitude -124.429) to the confluence with the South Fork Hoh River (latitude 47.8182, longitude -124.0207).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hoh River and South Fork Hoh River:</b> All waters above the confluence (latitude 47.8182, longitude -124.0207).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Quillayute and Bogachiel Rivers:</b> upstream from the mouth (latitude 47.9198, longitude -124.633).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Soleduck River:</b> upstream from the mouth (latitude 47.9147, longitude -124.542) to Canyon Creek (latitude 47.9513, longitude -123.8271), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Soleduck River:</b> upstream from the confluence with Canyon Creek (latitude 47.9513, longitude -123.8271), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 21 Queets-Quinault</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Clearwater River and unnamed tributary:</b> all waters above the confluence (latitude 47.7272, longitude -124.0365), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Kunamakst Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.7284, longitude -124.0793), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Matheny Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.5589, longitude -123.9548), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Queets River:</b> upstream from the mouth (latitude 47.535, longitude -124.3463) to Tshletsy Creek (latitude 47.6659, longitude -123.9277).		Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Queets River:</b> upstream from the confluence with Tshletsy Creek (latitude 47.6659, longitude -123.9277).		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Quinault River:</b> upstream from the mouth (latitude 47.3488, longitude -124.2926) to the confluence with the North Fork Quinault River (latitude 47.5369, longitude -123.6718).		Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Quinault River and North Fork Quinault:</b> All waters above the confluence (latitude 47.5369, longitude -123.6718), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Salmon River, Middle Fork, and unnamed tributary:</b> all waters above the confluence (latitude 47.5206, longitude -123.9908), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Sams River and unnamed tributary:</b> all waters above the confluence (latitude 47.6055, longitude -123.8939), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Solleks River and unnamed tributary:</b> all waters above the confluence (latitude 47.694, longitude -124.0135), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Stequaleho Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.662, longitude -124.0439), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tsletshy Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.6586, longitude -123.868), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 22 Lower Chehalis</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Andrews Creek:</b> upstream from the confluence with West Fork (latitude 46.823, longitude -124.0234), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Baker Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.3302, longitude -123.4142), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Big Creek and Middle Fork Big Creek:</b> all waters above the confluence (latitude 47.4041, longitude -123.6583), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Canyon River and unnamed tributary:</b> all waters above the confluence (latitude 47.3473, longitude -123.4949), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Chehalis River:</b> from upper boundary of Grays Harbor at Cosmopolis (latitude 46.9579, longitude -123.7625) to latitude 46.6004 longitude -123.1472 on main stem and to latitude 46.6013 longitude -123.1253 on South Fork.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Chester Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.4192, longitude -123.7856), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cloquallum Creek:</b> upstream from the mouth (latitude 46.986, longitude -123.3951).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Decker Creek:</b> upstream from the mouth (latitude 47.0964, longitude -123.4735).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Delezene Creek:</b> upstream from the mouth (latitude 46.9413, longitude -123.3893).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Elk River, West Branch:</b> upstream from latitude 46.8111 longitude -123.9774.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Goforth Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.3559, longitude -123.7325), including tributaries.	Char Spawning/Rearing	Primary Contact	All	All	-
<b>Hoquiam River, East Fork:</b> upstream from the confluence with Lytle Creek (latitude 47.0523, longitude -123.8428), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hoquiam River:</b> upstream from latitude 47.0573 longitude -123.9278 (the approximate upper limit of tidal influence at Dekay Road Bridge), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hoquiam River, Middle Fork:</b> upstream from latitude 47.0418 longitude -123.9052, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hoquiam River mainstem (continues as west fork above east fork):</b> upstream from the mouth (latitude 46.9825, longitude -123.8781) to latitude 47.0573 longitude -123.9278 (the approximate upper limit of tidal influence at Dekay Road Bridge).	Rearing/Migration Only	Primary Contact	All, Except Domestic Water	All	173-200(1)(c)(iv)
<b>Humtulpips River:</b> upstream from the mouth (latitude 47.0413, longitude -124.0522) to latitude 47.0810 longitude -124.0655, including tributaries.	Spawning/Rearing	Primary Contact	All	All	-
<b>Humtulpips River:</b> upstream from latitude 47.0810 longitude -124.0655 to Olympic National Forest boundary, including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	-
<b>Humtulpips River:</b> upstream from Olympic National Forest boundary to headwaters, including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Humtulpis River, East Fork, and unnamed tributary:</b> all waters above the confluence (latitude 47.3816, longitude -123.7175), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Humtulpis River, West Fork, and Petes Creek:</b> all waters above the confluence (latitude 47.4487, longitude -123.7257), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Johns River and North Fork Johns River:</b> all waters above the confluence (latitude 46.8597, longitude -123.9049).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little Hoquiam River, North Fork:</b> upstream from latitude 47.0001 longitude -123.9269, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little Hoquiam River:</b> upstream from latitude 46.9934 longitude -123.9364, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mox Chehalis Creek:</b> upstream from latitude 46.9680 longitude -123.3083, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Newskah Creek:</b> upstream from latitude 46.9163 longitude -123.8235, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Satsop River:</b> upstream from latitude 46.9828 longitude -123.4887 to headwaters, including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Satsop River, West Fork, and Robertson Creek:</b> all waters above the confluence (latitude 47.3324, longitude -123.5557), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Satsop River, Middle Fork, and unnamed tributary:</b> all waters above the confluence (latitude 47.3333, longitude -123.4463), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Wildcat Creek:</b> upstream from the confluence with Cloquallum Creek (latitude 47.0204, longitude -123.3619), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wishkah River, East Fork:</b> upstream from above latitude 47.0801 longitude -123.7560, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wishkah River:</b> upstream from the mouth (latitude 46.9739, longitude -123.8092) to river mile 6 (latitude 47.0337, longitude -123.8023).	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-
<b>Wishkah River:</b> upstream from river mile 6 (latitude 47.0337, longitude -123.8023) to latitude 47.1089 longitude -123.7908.	Spawning /Rearing	Primary Contact	All	All	-
<b>Wishkah River:</b> from latitude 47.1089 longitude -123.7908 to confluence with West Fork (latitude 47.1227, longitude -123.7779), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wishkah River and West Fork:</b> upstream from the confluence (latitude 47.1227, longitude -123.7779) to headwaters, including tributaries. <sup>1</sup>	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wynoochee River:</b> upstream from latitude 46.9709 longitude -123.6252 (near railroad crossing) to Olympic National Forest boundary (latitude 47.3452, longitude -123.6452), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wynoochee River:</b> upstream from Olympic National Forest boundary (latitude 47.3452, longitude -123.6452) to Wynoochee Dam (latitude 47.3851, longitude -123.6055), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wynoochee River:</b> above Wynoochee Dam (latitude 47.3851, longitude -123.6055), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Notes for WRIA 22:</b> 1. No waste discharge will be permitted from south boundary of Sec. 33-T21N-R8W (river mile 32.0) to headwaters.					

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>						Additional info for waterbody
Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 23 Upper Chehalis</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Bunker Creek:</b> upstream from the mouth (latitude 46.6438, longitude -123.1092), including tributaries.	Core Summer Habitat	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Cedar Creek:</b> upstream from latitude 46.8795 longitude -123.2714 (near intersection with Highway 12), including tributaries.	Core Summer Habitat	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Chehalis River, South Fork:</b> upstream from latitude 46.6018 longitude -123.1251 (near junction with State Route 6), including tributaries (except where specifically designated Char).	Core Summer Habitat	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Chehalis River:</b> upstream from latitude 46.6004 longitude -123.1473, including tributaries (except where specifically designated Char).	Core Summer Habitat	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Chehalis River mainstem:</b> upstream from the upper boundary of Grays Harbor at Cosmopolis (latitude 46.95801, longitude -123.76252) to latitude 46.6004 longitude -123.1473 on main stem and to latitude 46.6018 longitude -123.125 on South Fork. <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Chehalis River, South Fork, and unnamed tributary:</b> all waters above the confluence (latitude 46.4514, longitude -123.2919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Chehalis River, West Fork, and East Fork Chehalis River:</b> all waters above the confluence (latitude 46.4514, longitude -123.2919), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Coffee Creek:</b> upstream from the mouth (latitude 46.7313, longitude -122.9656), including tributaries.	Core Summer Habitat	Primary Contact	All	All	All	173-200(1)(c)(iv)
<b>Eight Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.621, longitude -123.4137), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	All	173-200(1)(c)(iv)

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<b>Fall Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.7669, longitude -122.6741), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Garrard Creek, South Fork:</b> upstream from latitude 46.8013 longitude -123.3060, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Hanaford Creek:</b> upstream from the mouth to (latitude 46.7604, longitude -122.8662), including tributaries. <sup>2</sup>	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Hanaford Creek:</b> upstream from (latitude 46.7604, longitude -122.8662) to the unnamed tributary at latitude 46.7301 longitude -122.6829, including tributaries (except where designated Char).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Hanaford Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.7301, longitude -122.6829), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Kearney Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.6255, longitude -122.5699), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Laramie Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.7902, longitude -122.5914), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Lincoln Creek, North Fork:</b> upstream from latitude 46.7371 longitude -123.2462, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Lincoln Creek, South Fork:</b> upstream from latitude 46.7253 longitude -123.2306, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Mima Creek:</b> upstream from latitude 46.8588 longitude -123.0856, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Newaukum River:</b> upstream from the mouth (latitude 46.6512, longitude -122.9815), including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Newaukum River, North Fork, and unnamed tributary:</b> all waters above the confluence (latitude 46.6793, longitude -122.6685), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Newaukum River, South Fork, and Frase Creek:</b> all waters above the confluence (latitude 46.6234, longitude -122.6321), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pheeny Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.7834, longitude -122.6291), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Porter Creek and Jamaica Day Creek:</b> all waters above the confluence (latitude 46.9416, longitude -123.3011).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Rock Creek (upstream of Callow):</b> all waters above confluence with Chehalis River (latitude 46.8805, longitude -123.2946), except where designated otherwise in this table.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Rock Creek (upstream of Pe Ell) and unnamed tributary:</b> all waters above the confluence (latitude 46.5283, longitude -123.3791), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Scatter Creek:</b> upstream from latitude 46.8025 longitude -123.0863 (near mouth) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Seven Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.6192, longitude -123.3736), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Skookumchuck River:</b> upstream from the confluence with Hanaford Creek (latitude 46.7446, longitude -122.9402) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skookumchuck River mainstem:</b> upstream from the mouth (latitude 46.7194, longitude -122.9803) to Hanaford Creek (latitude 46.7446, longitude -122.9402).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Skookumchuck River and Hospital Creek:</b> All waters above the confluence (latitude 46.7194, longitude -122.9803), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stearns Creek's unnamed tributary:</b> upstream from the mouth (latitude 46.5713, longitude -122.9698).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stearns Creek's unnamed tributary to West Fork:</b> upstream from the mouth (latitude 46.5824, longitude -123.0226).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stillman Creek and Little Mill Creek:</b> all waters above the confluence (latitude 46.5044, longitude -123.1407), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Thrash Creek:</b> upstream from the mouth (latitude 46.4751, longitude -123.2996), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Waddel Creek:</b> upstream from the mouth (latitude 46.9027, longitude -123.024), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Notes for WRIA 23:</b> <ol style="list-style-type: none"> <li>1. Chehalis River from Scammon Creek (RM 65.8) to Newaukum River (RM 75.2); dissolved oxygen shall exceed 5.0 mg/L from June 1 to September 15. For the remainder of the year, the dissolved oxygen shall meet standard criteria.</li> <li>2. Dissolved oxygen shall exceed 6.5 mg/L.</li> </ol>					
<b>WRIA 24 Willapa</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Bear River's unnamed south flowing tributary:</b> upstream from the mouth at latitude 46.3342 longitude -123.9394.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Bear River:</b> upstream from latitude 46.3284 longitude -123.9172 to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

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<b>Canon River:</b> upstream from latitude 46.5879 longitude -123.8672, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lower Salmon Creek:</b> upstream from the mouth (latitude 46.7937, longitude -123.851), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Middle Nemah River:</b> upstream from latitude 46.4873 longitude -123.8855, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> upstream from latitude 46.6448 longitude -123.6251, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Naselle River:</b> upstream from O'Conner Creek (latitude 46.3746, longitude -123.7971) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>North Nemah River:</b> upstream from latitude 46.5172 longitude -123.8665, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>North River and Fall River:</b> all waters above the confluence (latitude 46.7773, longitude -123.5038).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pioneer Creek:</b> upstream from latitude 46.8147 longitude -123.5498, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Salmon Creek:</b> upstream from latitude 46.8905 longitude -123.6828, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Smith Creek:</b> upstream from latitude 46.7554 longitude -123.8424, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>South Naselle River:</b> upstream from latitude 46.3499 longitude -123.8093.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>South Nemah River:</b> upstream from latitude 46.4406 longitude -123.8630.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Stringer Creek:</b> upstream from the mouth (latitude 46.5905, longitude -123.6316), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Willapa River South Fork:</b> upstream from latitude 46.6479 longitude -123.7267, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Willapa River and Oxbow Creek:</b> all waters upstream of the confluence (latitude 46.5805, longitude -123.6343).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Williams Creek:</b> upstream from latitude 46.5284 longitude -123.8668, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 25 Grays-Elochoman</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Abernathy Creek and Cameron Creek:</b> all waters above the confluence (latitude 46.197, longitude -123.1632).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Coal Creek:</b> upstream from latitude 46.1836 longitude -123.0338 (just below Harmony Creek), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Elochoman River:</b> upstream from the mouth (latitude 46.2267, longitude -123.4008) to latitude 46.2292 longitude -123.3606, including tributaries.	Spawning /Rearing	Primary Contact	All	All	-
<b>Elochoman River:</b> upstream from latitude 46.2292 longitude -123.3606 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Germany Creek:</b> upstream from latitude 46.1946 longitude -123.1259 (near mouth) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Grays River:</b> upstream from latitude 46.3454 longitude -123.6099 to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hull Creek:</b> upstream from the mouth (latitude 46.3533, longitude -123.6088), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> upstream from latitude 46.1906 longitude -123.1802 (near mouth), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Skomokawa Creek and Wilson Creek:</b> all waters above the confluence (latitude 46.2889, longitude -123.4456).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 26 Cowlitz</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Cispus River:</b> upstream from the mouth (latitude 46.4713, longitude -122.0727), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Coweeman River:</b> upstream from the mouth (latitude 46.1076, longitude -122.8901) to latitude 46.1405 longitude -122.8532, including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Coweeman River:</b> upstream from latitude 46.1405 longitude -122.8532 to Mulholland Creek (latitude 46.1734, longitude -122.7152), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Coweeman River:</b> upstream from Mulholland Creek (latitude 46.1734, longitude -122.7152) to headwaters.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cowlitz River:</b> upstream from the mouth (latitude 46.0967, longitude -122.9173) to latitude 46.2622 longitude -122.9001, including tributaries.	Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Cowlitz River:</b> upstream from latitude 46.2622 longitude -122.9001 to the base of Mayfield Dam (latitude 46.5031, longitude -122.5883).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cowlitz River:</b> upstream from the base of Mayfield Dam (latitude 46.5031, longitude -122.5883) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Green River:</b> upstream from the mouth (latitude 46.3717, longitude -122.586), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Toutle River:</b> upstream from the mouth (latitude 46.3101, longitude -122.9196) to Green River (latitude 46.3717, longitude -122.586) on North Fork, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Toutle River, North Fork:</b> upstream from the Green River (latitude 46.3717, longitude -122.586) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Toutle River, South Fork:</b> upstream from the mouth (latitude 46.3286, longitude -122.7211), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 27 Lewis</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Alec Creek:</b> upstream from the mouth (latitude 46.1757, longitude -121.8534), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Big Creek:</b> upstream from the mouth (latitude 46.097, longitude -121.921), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Chickoon Creek:</b> upstream from the mouth (latitude 46.1534, longitude -121.8843), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Clear Creek:</b> upstream from the mouth (latitude 46.1133, longitude -122.0048), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Clearwater Creek and unnamed creek:</b> all waters above the confluence (latitude 46.1666, longitude -122.0322), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Curly Creek:</b> upstream from the mouth (latitude 46.0593, longitude -121.9732), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cussed Hollow Creek:</b> upstream from the mouth (latitude 46.144, longitude -121.9015), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Kalama River:</b> upstream of Interstate 5 (latitude 46.035, longitude -122.8571) to Kalama River Falls (latitude 46.0207, longitude -122.7323), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Kalama River:</b> upstream of the lower Kalama River Falls (latitude 46.0207, longitude -122.7323) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lewis River:</b> upstream from Houghton Creek (latitude 45.9374, longitude -122.6698) to Lake Merwin (latitude 45.9568, longitude -122.5562), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lewis River and Pass Creek (alternately known as Swamp Creek):</b> all waters above the confluence (latitude 46.201, longitude -121.7085), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Lewis River's unnamed tributaries:</b> upstream from latitude 46.112 longitude -121.9188.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Lewis River, East Fork:</b> upstream from, and including, Mason Creek (latitude 45.8366, longitude -122.6435) to Multon Falls (latitude 45.8314, longitude -122.3896), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lewis River, East Fork:</b> upstream from Multon Falls (latitude 45.8314, longitude -122.3896) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Little Creek:</b> upstream from the mouth (latitude 46.0821, longitude -121.9235), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Panamaker Creek:</b> upstream from the mouth (latitude 46.0595, longitude -122.2936), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pin Creek:</b> upstream from the mouth (latitude 46.2002, longitude -121.712), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pine Creek:</b> upstream from the mouth (latitude 46.0718, longitude -122.0173), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Quartz Creek:</b> upstream from the mouth (latitude 46.1795, longitude -121.847), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Rush Creek:</b> upstream from the mouth (latitude 46.0746, longitude -121.9378), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Spencer Creek:</b> upstream from the mouth (latitude 46.1397, longitude -121.9063), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Steamboat Creek:</b> upstream from the mouth (latitude 46.1945, longitude -121.7293), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tillicum Creek:</b> upstream from the mouth (latitude 46.1803, longitude -121.8329), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 28 Salmon-Washougal</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Burnt Bridge Creek:</b> upstream from the mouth (latitude 45.6752, longitude -122.6925).	Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Duncan Creek and unnamed tributary just east of Duncan Creek:</b> all waters north of highway 14 (latitude 45.6133, longitude -122.0549).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Green Leaf Creek and Hamilton Creek:</b> all waters above the confluence (latitude 45.6416, longitude -121.9775).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hardy Creek:</b> upstream of the lake inlet (latitude 45.6331, longitude -121.9969), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lawton Creek:</b> upstream from latitude 45.5707 longitude -122.2574, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Salmon Creek:</b> upstream from latitude 45.7176 longitude -122.6958 (below confluence with Cougar Creek), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Washougal River:</b> upstream from latitude 45.5883 longitude -122.3711, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Woodward Creek:</b> upstream of highway 14 (latitude 45.6214, longitude -122.0297), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>WRIA 29 Wind-White Salmon</b> Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).					
<b>Bear Creek (tributary to White Salmon River):</b> upstream from latitude 45.98290 longitude -121.52946, and below National Forest boundary.	Spawning/Rearing	Primary Contact	All	All	-
<b>Buck Creek:</b> upstream from the mouth (latitude 46.0754, longitude -121.5667), including tributaries.	Char Spawning/Rearing	Primary Contact	All	All	-
<b>Carson Creek:</b> upstream from the mouth (latitude 45.7134, longitude -121.823).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Catherine Creek:</b> upstream from the mouth (latitude 45.7071, longitude -121.3582), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cave Creek:</b> upstream from the mouth (latitude 45.9886, longitude -121.4928), and below National Forest boundary.	Spawning /Rearing	Primary Contact	All	All	-
<b>Gilmer Creek:</b> upstream from the mouth (latitude 45.8569, longitude -121.5085), including tributaries, except as noted otherwise.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Gilmer Creek's unnamed tributary:</b> upstream from the mouth (latitude 45.8733, longitude -121.4587).	Spawning /Rearing	Primary Contact	All	All	-
<b>Gotchen Creek:</b> upstream from the mouth (latitude 46.0013, longitude -121.5051), including tributaries, except those waters in or above the Gifford Pinchot National Forest.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Gotchen Creek:</b> upstream from latitude 46.04409 longitude -121.51538 (in or above the Gifford Pinchot National Forest), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Green Canyon Creek:</b> upstream from the mouth (latitude 46.0489, longitude -121.5485), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Jewett Creek:</b> upstream from the mouth (latitude 45.7164, longitude -121.4773), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Killowatt Canyon Creek:</b> below National Forest boundary and unnamed creek at latitude 45.963 longitude -121.5154.	Spawning /Rearing	Primary Contact	All	All	-
<b>Little White Salmon River:</b> upstream from the mouth (latitude 45.72077, longitude -121.64081), and downstream of National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little White Salmon River</b> (mouth at latitude 45.72077, longitude -121.64081); waters in or above National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Major Creek:</b> upstream from the mouth (latitude 45.709, longitude -121.3515), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Morrison Creek:</b> upstream from the mouth (latitude 46.0744, longitude -121.5351), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Rattlesnake Creek and unnamed tributary:</b> all waters above the confluence (latitude 45.8471, longitude -121.4123), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Rock Creek:</b> upstream from the mouth (latitude 45.69020, longitude -121.88923) and downstream of Gifford Pinchot National Forest boundaries, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Spring Creek:</b> upstream from the mouth (latitude 45.9908, longitude -121.5687), and below National Forest boundary.	Spawning /Rearing	Primary Contact	All	All	-
<b>Trout Lake Creek:</b> upstream from the mouth (latitude 45.9948, longitude -121.5019), and below Trout Lake (latitude 46.0072, longitude -121.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Trout Lake Creek:</b> at and above Trout Lake (latitude 46.0072, longitude -121.5455), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>White Salmon River:</b> upstream from the mouth (latitude 45.7283, longitude -121.5219), and downstream of the National Forest boundary, including all natural tributaries (not otherwise designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>White Salmon River</b> (mouth at latitude 45.7283, longitude -121.5219; occurring in or upstream of National Forest boundary, including all natural tributaries (not otherwise designated Char).	Core Summer Habitat	Primary Contact	All	All	-
<b>White Salmon River drainage's unnamed tributaries:</b> waters originating in Section 13 T6N R10E; all portions occurring downstream of the Gifford Pinchot National Forest boundary.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>White Salmon River drainage's unnamed tributaries:</b> waters originating in Section 13 T6N R10E; all portions occurring upstream of the Gifford Pinchot National Forest boundary.	Char Spawning /Rearing	Primary Contact	All	All	-

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>		<b>Aquatic Life Uses</b>	<b>Recreation Uses</b>	<b>Water Supply Uses</b>	<b>Misc. Uses</b>	<b>Additional info for waterbody</b>
<b>White Salmon River and Cascade Creek:</b> all waters above the confluence (latitude 46.1042, longitude -121.6081), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Wind River:</b> upstream from the mouth (latitude 45.718, longitude -121.7908) and downstream of Gifford Pinchot National Forest boundaries, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Wind River</b> (mouth at latitude 45.718 longitude -121.7908): waters in or upstream of Gifford Pinchot National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>WRIA 30 Klickitat</b>						
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Clearwater Creek and Trappers Creek:</b> all waters above the confluence (latitude 46.2788, longitude -121.3325), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Cougar Creek and Big Muddy Creek:</b> All waters above the confluence (latitude 46.1294, longitude -121.2895), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Diamond Fork and Cuitin Creek:</b> All waters above the confluence (latitude 46.451, longitude -121.1729), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Diamond Fork's unnamed tributaries:</b> upstream from latitude 46.4205 longitude -121.1562.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Diamond Fork's unnamed tributaries</b> (outlet of Maiden Springs): upstream from the mouth (latitude 46.4353, longitude -121.16).	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Fish Lake Stream:</b> upstream from the mouth (latitude 46.2749, longitude -121.3126), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Frasier Creek and Outlet Creek:</b> all waters above the confluence (latitude 45.9953, longitude -121.2569), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>						
	<b>Aquatic Life Uses</b>	<b>Recreation Uses</b>	<b>Water Supply Uses</b>	<b>Misc. Uses</b>	<b>Additional info for waterbody</b>	
<b>Klickitat River mainstem:</b> upstream from the mouth (latitude 45.6961, longitude -121.292) to the Little Klickitat River (latitude 45.845, longitude -121.0636).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Klickitat River from Little Klickitat River:</b> upstream from the confluence (latitude 45.845, longitude -121.0636) to Diamond Fork (latitude 46.374, longitude -121.1943).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Klickitat River:</b> upstream from the confluence with Diamond Fork (latitude 46.374, longitude -121.1943), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>Little Klickitat River:</b> upstream from the confluence with Cozy Nook Creek (latitude 45.8567, longitude -120.7701), including tributaries.	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Little Muddy Creek:</b> upstream from the mouth (latitude 46.2769, longitude -121.3386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>McCreedy Creek:</b> upstream from the mouth (latitude 46.323, longitude -121.2527), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-	
<b>WRIA 31 Rock-Glade</b>						
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Squaw Creek and unnamed tributary:</b> all waters above confluence (latitude 45.8761, longitude -120.4324).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Rock Creek and Quartz Creek:</b> all waters above confluence (latitude 45.8834, longitude -120.5569).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>WRIA 32 Walla Walla</b>						
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Blue Creek and tributaries:</b> waters above latitude 46.0581 and longitude -118.0971.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)	

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Coppei Creek, North and South Forks:</b> upstream from the confluence (latitude 46.1906, longitude -118.1113), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Dry Creek and tributaries:</b> upstream from the confluence with unnamed creek at latitude 46.1195 longitude -118.1375 (Seaman Rd).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> upstream from the mouth (latitude 46.0383, longitude -118.4795) to 13th Street Bridge in Walla Walla (latitude 46.0666, longitude -118.3565). <sup>1</sup>	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> upstream from the 13th Street Bridge in Walla Walla (latitude 46.0666, longitude -118.3565) to diversion structure at confluence of Mill Creek and unnamed creek (latitude 46.0798, longitude -118.2541).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> upstream from latitude 46.0798 longitude -118.2541 to headwaters, including tributaries (except where otherwise designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek and Railroad Canyon:</b> all waters above the confluence (latitude 46.0066, longitude -118.1185) to the Oregon state line (latitude 46.00061, longitude -118.11525), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mill Creek:</b> waters within Washington that are above the city of Walla Walla Waterworks Dam (latitude 45.9896, longitude -118.0525) to headwaters, including tributaries. <sup>2</sup>	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Touchet River:</b> upstream from latitude 46.3172 longitude -118.0000, including tributaries (not otherwise designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Touchet River, North Fork, and Wolf Creek:</b> all waters above the confluence (latitude 46.2922, longitude -117.9397), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Touchet River, South Fork, and unnamed tributary:</b> all waters above the confluence (latitude 46.2297, longitude -117.9412), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Touchet River, South Fork, and unnamed tributary:</b> all waters above the confluence (latitude 46.2297, longitude -117.9412) that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Walla Walla River:</b> upstream from the mouth (latitude 46.0642, longitude -118.9152) to Lowden (Dry Creek at latitude 46.0506 longitude -118.5944).	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-
<b>Walla Walla River:</b> from Lowden (Dry Creek at latitude 46.0506 longitude -118.5944) to Oregon border (latitude 46, longitude -118.3796). <sup>3</sup>	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Whiskey Creek and unnamed tributary system:</b> all waters above confluence (latitude 46.2176, longitude -118.0661).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Notes for WRIA 32:</b>					
1. Dissolved oxygen concentration shall exceed 5.0 mg/L.					
2. No waste discharge will be permitted for Mill Creek and tributaries in Washington from city of Walla Walla Waterworks Dam (latitude 45.9896, longitude -118.0525) to headwaters.					
3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t=34/(T + 9).					
<b>WRIA 33 Lower Snake</b>					
<b>Snake River:</b> upstream from the mouth (latitude 46.1983, longitude -119.0368) to Washington-Idaho-Oregon border (latitude 45.99599, longitude -116.91705). <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	-
<b>Notes for WRIA 33:</b>					
1. Below Clearwater River (latitude 46.42711, longitude -119.04021). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed t = 34/(T + 9). Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).					
<b>WRIA 34 Palouse</b>					
<b>Palouse River mainstem:</b> upstream from the mouth (latitude 46.5909, longitude -118.2153) to Palouse Falls (latitude 46.6635, longitude -118.2236).	Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Palouse River:</b> upstream from Palouse Falls (latitude 46.6635, longitude -118.2236) to south fork (Colfax, latitude 46.8898 longitude -117.3675).		Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-
<b>Palouse River mainstem:</b> upstream from the confluence with south fork (Colfax, latitude 46.8898 longitude -117.3675) to Idaho border (latitude 46.9124, longitude -117.0395). <sup>1</sup>		Spawning /Rearing	Primary Contact	All	All	-
<b>Notes on WRIA 34:</b>						
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t=34/(T + 9)$ .						
<b>WRIA 35 Middle Snake</b>						
<i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>All streams flowing into Oregon:</b> from North Fork Wenaha River (upstream from latitude 46.0025 longitude -117.85942) east to, and including, Fairview Creek (upstream from latitude 45.999 longitude -117.60893).		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Asotin River and Charley Creek:</b> upstream from the confluence (latitude 46.2887, longitude -117.2785) to the headwaters, including tributaries (not otherwise designated Char).		Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Asotin River, North Fork:</b> upstream of the confluence with Lick Creek (latitude 46.2621, longitude -117.2969), except those waters in or above the Umatilla National Forest, including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Asotin River, North Fork:</b> upstream from the confluence with Lick Creek (latitude 46.2621, longitude -117.2969) and that are in or above the Umatilla National Forest, including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Charley Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.2846, longitude -117.321), except those waters in or above the Umatilla National Forest, including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Charley Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.2846, longitude -117.321) that are in or above the Umatilla National Forest, including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Cottonwood Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.0677, longitude -117.3011).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Crooked Creek:</b> upstream from the Oregon Border (latitude 46, longitude -117.5553) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cummings Creek:</b> upstream from the mouth (latitude 46.3326, longitude -117.675) except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Cummings Creek</b> (mouth at latitude 46.3326 longitude -117.675): waters that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>George Creek:</b> upstream from (latitude 46.1676, longitude -117.2543) and including Coombs Canyon, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>George Creek and unnamed tributary:</b> all waters above confluence (latitude 46.2293, longitude -117.1879) not otherwise designated Char.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Grande Ronde River:</b> upstream from the mouth (latitude 46.08, longitude -116.9802) to the Oregon border (latitude 46, longitude 117.3798). <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	-
<b>Grouse Creek:</b> upstream from the Oregon border (latitude 46, longitude -117.413), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Grub Canyon:</b> upstream from the mouth (latitude 46.2472, longitude -117.6795), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Hixon Canyon:</b> upstream from the mouth (latitude 46.2397, longitude -117.6924), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Little Tucannon River:</b> upstream from the mouth (latitude 46.2283, longitude -117.7226), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Menatchee Creek and West Fork Menatchee Creek:</b> all waters above the confluence (latitude 46.0457, longitude -117.386), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pataha Creek and Dry Pataha Creek:</b> all waters above the confluence (latitude 46.3611, longitude -117.5562), except those waters in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pataha Creek and Dry Pataha Creek:</b> all waters above the confluence (latitude 46.3611, longitude -117.5562) that are in or above the Umatilla National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Snake River:</b> from mouth (latitude 45.99900, longitude -117.60893) to Washington-Idaho-Oregon border (latitude 45.99599, longitude -116.91705). <sup>2</sup>	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tenmile Creek:</b> all waters above confluence with unnamed creek (latitude 46.2154, longitude -117.0388).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tucannon River:</b> upstream from latitude 46.4592 longitude -117.8461 to Panjab Creek (latitude 46.2046, longitude -117.7061), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tucannon River mainstem:</b> upstream from the confluence with Little Tucannon River (latitude 46.2284, longitude -117.7223) to the confluence with Panjab Creek (latitude 46.2046, longitude -117.7061).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tucannon River and Panjab Creek:</b> all waters above the confluence (latitude 46.2046, longitude -117.7061), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Tucannon River's unnamed tributaries (South of Marengo):</b> all waters in Sect. 1 T10N R40E and in Sect. 35 T11N R40E above their forks.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tumalum Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.3592, longitude -117.6498), except those waters in or above the Umatilla National Forest including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tumalum Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.3592, longitude -117.6498) that are in or above the Umatilla National Forest including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Willow Creek and unnamed tributary:</b> all waters above the confluence (latitude 46.4181, longitude -117.8328) including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<p><b>Notes for WRIA 35:</b></p> <ol style="list-style-type: none"> <li>Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t=34/(T + 9)</math>.</li> <li>The following two notes apply:             <ol style="list-style-type: none"> <li>Below Clearwater River (latitude 46.4269, longitude -117.0372). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t = 34/(T + 9)</math>. Special condition - special fish passage exemption as described in WAC 173-201A-200 (1)(f).</li> <li>Above Clearwater River (latitude 46.4269, longitude -117.0372). Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increases will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed 0.3°C due to any single source or 1.1°C due to all such activities combined.</li> </ol> </li> </ol>					
<b>WRIA 36 Esquatzel Coulee</b>					
There are no specific waterbody entries for this WRIA.					
<b>WRIA 37 Lower Yakima</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Ahtanum Creek North Fork's unnamed tributaries:</b> upstream from the mouth (latitude 46.5458, longitude -120.8869).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Ahtanum Creek North Fork's unnamed tributaries:</b> upstream from the mouth (latitude 46.5395, longitude -120.9864).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Ahtanum Creek:</b> between confluence with South Fork (latitude 46.5232, longitude -120.8548) and confluence of North and Middle Forks (latitude 46.5177, longitude -121.0152), including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Ahtanum Creek, North Fork, and Middle Fork Ahtanum Creek:</b> All waters above the confluence (latitude 46.5177, longitude -121.0152), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Ahtanum Creek, South Fork:</b> upstream from the mouth (latitude 46.5232, longitude -120.8548), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Carpenter Gulch:</b> upstream from the mouth (latitude 46.5432, longitude -120.9671), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Foundation Creek:</b> upstream from the mouth (latitude 45.5321, longitude -120.9973), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Nasty Creek:</b> upstream from the mouth (latitude 46.5641, longitude -120.918), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Sulphur Creek:</b> upstream from the mouth (latitude 46.3815, longitude -119.9584).	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-
<b>Yakima River:</b> upstream from the mouth (latitude 46.248, longitude -119.2422) to Cle Elum River (latitude 47.17883, longitude -120.99756) except where specifically designated otherwise in Table 602. <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	-
<p><b>Notes for WRIA 37:</b></p> <p>1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t=34/(T + 9)</math>.</p>					
<p><b>WRIA 38 Naches</b>  <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i></p>					
<b>American River:</b> upstream from the mouth (latitude 46.9756, longitude -121.1574), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Barton Creek:</b> upstream from the mouth (latitude 46.8725, longitude -121.2934), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Bumping Lake's unnamed tributaries:</b> upstream from the mouth (latitude 46.8464, longitude -121.3106).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Bumping River's unnamed tributaries:</b> upstream from latitude 46.9316 longitude -121.2078 (outlet of Flat Iron Lake).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Bumping River:</b> upstream from the mouth (latitude 46.9853, longitude -121.0931) to the upper end of Bumping Lake (latitude 46.8394, longitude -121.3662), including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Bumping River:</b> upstream of Bumping Lake (latitude 46.8394, longitude -121.3662), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cedar Creek:</b> upstream from the mouth (latitude 46.8411, longitude -121.3644), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Clear Creek:</b> upstream from the mouth (latitude 46.6352, longitude -121.2856), including tributaries (including Clear Lake).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Crow Creek:</b> upstream from the mouth (latitude 47.0153, longitude -121.1341), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Deep Creek:</b> upstream from the mouth (latitude 46.8436, longitude -121.3175), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Goat Creek:</b> upstream from the mouth (latitude 46.9173, longitude -121.2243), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Granite Creek:</b> upstream from the mouth (latitude 46.8414, longitude -121.3253), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Indian Creek:</b> upstream from the mouth (latitude 46.6396, longitude -121.2487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little Naches River and Bear Creek:</b> all waters above the confluence (latitude 47.0732, longitude -121.2413), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Little Naches River, South Fork:</b> upstream from the mouth (latitude 47.0659, longitude -121.2265), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Naches River:</b> upstream from latitude 46.7641 longitude -120.8284 (just upstream of Cougar Canyon) to the Snoqualmie National Forest boundary (latitude 46.9007, longitude -121.0135), including tributaries (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Naches River:</b> upstream from the Snoqualmie National Forest boundary (latitude 46.9007, longitude -121.0135) to headwaters (except where designated Char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pileup Creek:</b> upstream from the mouth (latitude 47.0449, longitude -121.1829), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Quartz Creek:</b> upstream from the mouth (latitude 47.0169, longitude -121.1351), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Rattlesnake Creek:</b> all waters above the confluence with North Fork Rattlesnake Creek (latitude 46.8096, longitude -121.0679).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Rattlesnake Creek, North Fork:</b> all waters above latitude 46.8107 longitude 121.0694 (from and including the unnamed tributary just above confluence with mainstem).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Sand Creek:</b> upstream from the mouth (latitude 47.0432, longitude -121.1923), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Sunrise Creek:</b> upstream from the mouth (latitude 46.9045, longitude -121.2431), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tieton River:</b> upstream from the mouth (latitude 46.7463, longitude -120.7871), including tributaries (except where otherwise designated).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Tieton River, North Fork:</b> upstream from the confluence with Clear Lake (latitude 46.6278, longitude -121.2711), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tieton River, South Fork:</b> upstream from the mouth (latitude 46.6261, longitude -121.133), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>WRIA 39 Upper Yakima</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Cle Elum River:</b> upstream from the mouth (latitude 47.1771, longitude -120.9982) to latitude 47.3805 longitude -121.0979 (above Little Salmon la Sac Creek).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Cle Elum River:</b> upstream from the confluence with unnamed tributary (latitude 47.3807, longitude -121.0975) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Indian Creek:</b> upstream from the mouth (latitude 47.2994, longitude -120.8581) and downstream of Wenatchee National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Indian Creek</b> (mouth at latitude 47.2994 longitude -120.8581): waters in or above the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Jack Creek:</b> upstream from the mouth (latitude 47.3172, longitude -120.8561) and downstream of Wenatchee National Forest boundary, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Jack Creek</b> (mouth at latitude 47.3172 longitude -120.8561): waters in or above National Forest boundary, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Little Kachess Lake:</b> upstream from the narrowest point dividing Kachess Lake from Little Kachess Lake (latitude 47.3542, longitude -121.2378), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Manastash Creek mainstem:</b> upstream from the mouth (latitude 46.9941, longitude -120.5814) to confluence of North and South Forks (latitude 46.9657, longitude -120.7359).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Manastash Creek, tributaries to mainstem:</b> between the mouth (latitude 46.9941, longitude -120.5814) and the confluence of North and South Forks (latitude 46.9657, longitude -120.7359).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Manastash Creek:</b> all waters above the confluence of the North and South Forks (latitude 46.9657, longitude -120.7359) and downstream of the Wenatchee National Forest boundary.	Core Summer Habitat	Primary Contact	All	All	-
<b>Manastash Creek:</b> all waters above the confluence of the North and South Forks (latitude 46.9657, longitude -120.7359) that are in or above the Wenatchee National Forest.	Core Summer Habitat	Primary Contact	All	All	-
<b>Swauk Creek mainstem:</b> upstream from the mouth (latitude 47.1239, longitude -120.7381) to confluence with First Creek (latitude 47.2081, longitude -120.7007).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Swauk Creek:</b> upstream from the confluence with First Creek (latitude 47.2081, longitude -120.7007) to Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Taneum Creek mainstem:</b> upstream from the mouth (latitude 47.0921, longitude -120.7092) to Wenatchee National Forest boundary (latitude 47.1134, longitude -120.8997).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Taneum Creek, tributaries to mainstem:</b> between the mouth (latitude 47.0921, longitude -120.7092) and Wenatchee National Forest boundary (latitude 47.1134, longitude -120.8997).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Teaway River mainstem:</b> upstream from the mouth (latitude 47.1672, longitude -120.835) to West Fork Teaway River (latitude 47.2567, longitude -120.8981).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Teanaway River, tributaries to mainstem:</b> between the mouth (latitude 47.1672, longitude -120.835) and West Fork Teanaway River (latitude 47.2567, longitude -120.8981).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Teanaway River, West Fork and Middle Fork:</b> upstream from the mouth (latitude 47.2567, longitude -120.8981) and downstream of the Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Teanaway River, West Fork and Middle Fork</b> (confluence at latitude 47.2567, longitude -120.8981): upstream of the Wenatchee National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Teanaway River, North Fork:</b> upstream from mouth (latitude 47.2514, longitude -120.8785) to Jungle Creek (latitude 47.3328, longitude -120.8564) and downstream of the Wenatchee National Forest boundary, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Teanaway River, North Fork:</b> upstream from the mouth (latitude 47.2514, longitude -120.8785) to Jungle Creek (latitude 47.3328, longitude -120.8564) and in or above the Wenatchee National Forest boundary, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Teanaway River, North Fork, and Jungle Creek:</b> upstream from the confluence (latitude 47.3328, longitude -120.8564), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Yakima River mainstem:</b> upstream from the mouth (latitude 46.25010, longitude -119.24668) to the confluence with the Cle Elum River (latitude 47.1768, longitude -120.9976) except where specifically designated otherwise in Table 602. <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Yakima River:</b> upstream from the confluence with the Cle Elum River (latitude 47.1768, longitude -120.9976) to headwaters, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Yakima River:</b> upstream from the confluence with, but not including, Cedar Creek (latitude 47.2892, longitude -121.2947) including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

**Notes for WRIA 39:**

- Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed  $t=34/(T + 9)$ .

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 40 Alkaki-Squilchuck</b>						
There are no specific water body entries for this WRIA.						
<b>WRIA 41 Lower Crab</b>						
<b>Crab Creek:</b> upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-	
<b>WRIA 42 Grand Coulee</b>						
<b>Crab Creek:</b> upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-	
<b>WRIA 43 Upper Crab-Wilson</b>						
<b>Crab Creek:</b> upstream from the mouth (latitude 47.1452, longitude -119.2655), including tributaries.	Rearing /Migration Only	Primary Contact	All, Except Domestic Water	All	-	
<b>WRIA 44 Moses Coulee</b>						
There are no specific waterbody entries for this WRIA.						
<b>WRIA 45 Wenatchee</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>						
<b>Chiwaukum Creek:</b> upstream from the confluence with Skinny Creek (latitude 47.6865, longitude -120.7351) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)	
<b>Chiwawa River:</b> upstream from the mouth (latitude 47.7883, longitude -120.6594) to Chikamin Creek (latitude 47.9036, longitude -120.7307), including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)	

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Chiwawa River and Chikamin Creek:</b> upstream from the confluence (latitude 47.9036, longitude -120.7307), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Chumstick Creek:</b> upstream from the mouth (latitude 47.6026, longitude -120.6444) and downstream of the National Forest boundary, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Chumstick Creek</b> (mouth at latitude 47.6026 longitude -120.6444): in or above the National Forest boundary, including tributaries (not otherwise designated char).	Core Summer Habitat	Primary Contact	All	All	-
<b>Dry Creek and Chumstick Creek:</b> all waters above the confluence (latitude 47.7151, longitude -120.5734), except those waters in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Dry Creek and Chumstick Creek:</b> all waters above the confluence (latitude 47.7151, longitude -120.5734) that are in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Eagle Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.6544, longitude -120.5165) except those waters in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Eagle Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.6544, longitude -120.5165) that are in or above the Wenatchee National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Icicle Creek:</b> upstream from the mouth (latitude 47.5799, longitude -120.6664) to the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Icicle Creek:</b> upstream from the National Forest boundary to confluence with Jack Creek (latitude 47.6081, longitude -120.8991), including tributaries.	Core Summer Habitat	Primary Contact	All	All	
<b>Icicle Creek and Jack Creek:</b> upstream from the confluence (latitude 47.6081, longitude -120.8991), including all tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Ingalls Creek:</b> upstream from the mouth (latitude 47.4635, longitude -120.6611), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mission Creek:</b> upstream from latitude 47.4496 longitude -120.4944 to headwaters and downstream of the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mission Creek:</b> upstream from latitude 47.4496 longitude -120.4944 to headwaters and in, or above, the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Peshastin Creek:</b> upstream from the National Forest boundary (latitude 47.4898, longitude -120.6502) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All, Except Aesthetics	173-200(1)(c)(iv)
<b>Peshastin Creek:</b> upstream from the confluence with Mill Creek (latitude 47.5105, longitude -120.6319) to the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All, Except Aesthetics	173-200(1)(c)(iv)
<b>Second Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.7384, longitude -120.5946), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Van Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.6719, longitude -120.5385), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Wenatchee River mainstem:</b> between Peshastin Creek (latitude 47.5573, longitude -120.5741) and the boundary of the Wenatchee National Forest (latitude 47.5851, longitude -120.6902).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wenatchee River:</b> from Wenatchee National Forest boundary (latitude 47.5851, longitude -120.6902) to Chiwawa River (latitude 47.7883, longitude -120.6594), including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Wenatchee River:</b> upstream from the confluence with Chiwawa River (latitude 47.7883, longitude -120.6594), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>						Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 46 Entiat</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>										
<b>Brennegan Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.9096, longitude -120.4199), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Entiat River:</b> occurring below the National Forest boundary from, and including, the Mad River (latitude 47.7358, longitude -120.3633) to Wenatchee National Forest boundary on the mainstem Entiat River (latitude 47.84815, longitude -120.42051), including tributaries.						Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Entiat River:</b> upstream from the unnamed creek at latitude 47.9135 longitude -120.4942 (below Fox Creek), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Entiat River's unnamed tributaries:</b> upstream of latitude 47.9107 longitude -121.5012 (below Fox Creek).						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Gray Canyon, North Fork, and South Fork Gray Canyon:</b> all waters above the confluence (latitude 47.8133, longitude -120.399), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Hornet Creek:</b> upstream from the mouth (latitude 47.771, longitude -120.4332), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Mad River:</b> upstream from latitude 47.8015 longitude -120.4920 (below Young Creek), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Mud Creek and Switchback Canyon:</b> all waters above the confluence (latitude 47.7802, longitude -120.3073), including tributaries.						Char Spawning /Rearing	Primary Contact	All	All	-
<b>Potato Creek and Gene Creek:</b> all waters above the confluence (latitude 47.8139, longitude -120.3424).						Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Preston Creek and South Fork Preston Creek:</b> all waters above the confluence (latitude 47.8835, longitude -120.4241), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Stormy Creek and unnamed tributary:</b> all waters above the confluence (latitude 47.8383, longitude -120.3877), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tillicum Creek and Indian Creek:</b> all waters above the confluence (latitude 47.7291, longitude -120.4322), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 47 Chelan</b>					
<b>Stehekin River:</b> upstream from the mouth (latitude 48.3202, longitude -120.6791).	Core Summer Habitat	Primary Contact	All	All	-
<b>WRIA 48 Methow</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>					
<b>Bear Creek:</b> upstream from the mouth (latitude 48.4484, longitude -120.161) to the headwaters and in or above the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Bear Creek:</b> upstream from the mouth (latitude 48.4484, longitude -120.161) to the headwaters and downstream of the National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Beaver Creek and South Fork Beaver Creek:</b> all waters above the confluence (latitude 48.435, longitude -120.0215), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Big Hidden Lake and outlet stream to the East Fork Pasayten River:</b> upstream from the mouth (latitude 48.9375, longitude -120.509), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Boulder Creek and Pebble Creek:</b> all waters above the confluence (latitude 48.5878, longitude -120.1069), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Buttermilk Creek:</b> upstream from the mouth (latitude 48.3629, longitude -120.3392), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Chewuch River:</b> upstream from the mouth (latitude 48.4753, longitude -120.1808) to headwaters, including tributaries (except where designated otherwise).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(v)
<b>Chewuch River:</b> upstream from the confluence with Buck Creek (latitude 48.7572, longitude -120.1317), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Eagle Creek:</b> upstream from the mouth (latitude 48.359, longitude -120.3907), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Early Winters Creek:</b> upstream from the mouth (latitude 48.6013, longitude -120.4389) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Eureka Creek:</b> upstream from the mouth (latitude 48.7004, longitude -120.4921), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Goat Creek:</b> upstream from the confluence with Roundup Creek (latitude 48.6619, longitude -120.3282) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Gold Creek:</b> upstream from the mouth (latitude 48.1879, longitude -120.0953), except those waters in or above the Okanogan National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Gold Creek:</b> upstream from the mouth (latitude 48.1879, longitude -120.0953) and in, or above, the Okanogan National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)
<b>Lake Creek:</b> upstream from the mouth (latitude 48.7513, longitude -120.1371), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(v)

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Libby Creek and Hornel Draw:</b> all waters above the confluence (latitude 48.2564, longitude -120.1879), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Little Bridge Creek:</b> upstream of the mouth (latitude 48.379, longitude -120.286), including tributaries	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Lost River Gorge:</b> upstream from the confluence with Sunset Creek (latitude 48.728, longitude -120.4518), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Methow River:</b> upstream from the mouth (latitude 48.0505, longitude -119.9025) to the confluence with Twisp River (latitude 48.368, longitude -120.1188).	Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Methow River:</b> upstream from the confluence with Twisp River (latitude 48.368, longitude -120.1188) to Chewuch River (latitude 48.475, longitude -120.1812).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Methow River:</b> upstream from the confluence with Chewuch River (latitude 48.475, longitude -120.1812) to headwaters, including tributaries (except where designated char).	Core Summer Habitat	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Methow River, West Fork:</b> upstream from the confluence with, and including, Robinson Creek (latitude 48.6595, longitude -120.5389) to headwaters, including tributaries (except unnamed tributary above mouth at latitude 48.6591 longitude -120.5493).	Char Spawning /Rearing	Primary Contact	All	All	173-200(1)(c)(iv)
<b>Pipestone Canyon Creek:</b> upstream from the mouth (latitude 48.397, longitude -120.058) and below Campbell Lake (latitude 48.4395, longitude -120.0656), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Pipestone Canyon Creek:</b> upstream from, and including, Campbell Lake (latitude 48.4395, longitude -120.0656), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Smith Canyon Creek and Elderberry Canyon:</b> all waters above the confluence (latitude 48.2618, longitude -120.1682), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

<b>Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)</b>							<b>Additional info for waterbody</b>
	<b>Aquatic Life Uses</b>	<b>Recreation Uses</b>	<b>Water Supply Uses</b>	<b>Misc. Uses</b>			
<b>Twisp River:</b> upstream from the mouth (latitude 48.368, longitude -120.1188) to War Creek (latitude 48.3612, longitude -120.396).	Core Summer Habitat	Primary Contact	All	All			173-200(1)(c)(iv)
<b>Twisp River and War Creek:</b> all waters above the confluence (latitude 48.3612, longitude -120.396), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All			173-200(1)(c)(iv)
<b>Wolf Creek and unnamed tributary:</b> upstream from the confluence (latitude 48.4848, longitude -120.3178) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All			173-200(1)(c)(iv)
<b>WRIA 49 Okanogan</b> <i>Note: This WRIA contains waters requiring supplemental spawning and incubation protection for salmonid species. See WAC 173-200(1)(c)(iv).</i>							
<b>Okanogan River:</b> upstream from the mouth (latitude 48.1011, longitude -119.7207).	Spawning /Rearing	Primary Contact	All	All			173-200(1)(c)(iv)
<b>WRIA 50 Foster</b>							
There are no specific waterbody entries for this WRIA.							
<b>WRIA 51 Nespelem</b>							
There are no specific waterbody entries for this WRIA.							
<b>WRIA 52 Sanpoil</b>							
There are no specific waterbody entries for this WRIA.							
<b>WRIA 53 Lower Lake Roosevelt</b>							
There are no specific waterbody entries for this WRIA.							
<b>WRIA 54 Lower Spokane</b>							
<b>Spokane River:</b> upstream from the mouth (latitude 47.8937, longitude -118.3345) to Long Lake Dam (latitude 47.837, longitude -117.8394). <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All			-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)		Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Spokane River:</b> upstream from Long Lake Dam (latitude 47.837, longitude -117.8394) to Nine Mile Bridge (latitude 47.777, longitude -117.5449). <sup>2</sup>		Core Summer Habitat	Primary Contact	All	All	-
<b>Spokane River:</b> upstream from Nine Mile Bridge (latitude 47.777, longitude -117.5449) to the Idaho border (latitude 47.69747, longitude -117.04185). <sup>3</sup>		Spawning /Rearing	Primary Contact	All	All	-
<b>Notes for WRIA 54:</b>						
<ol style="list-style-type: none"> <li>Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t=34/(T+9)</math>.</li> <li> <ol style="list-style-type: none"> <li>The average euphotic zone concentration of total phosphorus (as P) shall not exceed 25µg/L during the period of June 1 to October 31.</li> <li>Temperature shall not exceed a 1-DMax of 20.0°C, due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed <math>t=34/(T+9)</math>.</li> </ol> </li> <li>Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed <math>t=34/(T+9)</math>.</li> </ol>						
<b>WRIA 55 Little Spokane</b>						
There are no specific waterbody entries for this WRIA.						
<b>WRIA 56 Hangman</b>						
There are no specific waterbody entries for this WRIA.						
<b>WRIA 57 Middle Spokane</b>						
<b>Lake Creek:</b> upstream from the Idaho border (latitude 47.5603, longitude -117.0409), including tributaries.		Char Spawning /Rearing	Primary Contact	All	All	-
<b>Spokane River:</b> upstream from Nine Mile Bridge (latitude 47.777, longitude -117.5449) to the Idaho border (latitude 47.69747, longitude -117.04185). <sup>1</sup>		Spawning /Rearing	Primary Contact	All	All	-
<b>Notes on WRIA 57:</b>						
<ol style="list-style-type: none"> <li>Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed <math>t=34/(T+9)</math>.</li> </ol>						

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>WRIA 58 Middle Lake Roosevelt</b>					
There are no specific waterbody entries for this WRIA.					
<b>WRIA 59 Colville</b>					
<b>Colville River:</b> upstream from the mouth (latitude 48.5738, longitude -118.1115).	Spawning /Rearing	Primary Contact	All	All	-
<b>WRIA 60 Kettle</b>					
There are no specific waterbody entries for this WRIA.					
<b>WRIA 61 Upper Lake Roosevelt</b>					
There are no specific waterbody entries for this WRIA.					
<b>WRIA 62 Pend Oreille</b>					
<b>All streams flowing into Idaho:</b> from Bath Creek (latitude 48.5866 longitude 117.0346) to the Canadian border (latitude 49.000, longitude -117.0308).	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Calispell Creek:</b> upstream from the confluence with Small Creek (latitude 48.3205, longitude -117.3081) to Calispell Lake (latitude 48.2902, longitude -117.3212), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Calispell Lake:</b> upstream from (latitude 48.2902, longitude -117.3212), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cedar Creek:</b> upstream from the mouth (latitude 48.7432, longitude -117.4176) to latitude 48.7502 longitude -117.4346, in or above Colville National Forest boundary, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Cedar Creek:</b> upstream from the mouth (latitude 48.7432, longitude -117.4176) to latitude 48.7502 longitude -117.4346, and downstream of the Colville National Forest, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Cedar Creek:</b> upstream from latitude 48.7502 longitude -117.4346 to headwaters, and in the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Cedar Creek:</b> upstream from latitude 48.7502 longitude -117.4346 to headwaters, and outside the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Harvey Creek (also called Outlet Creek) and Paupac Creek:</b> all waters above the confluence (latitude 48.7708, longitude -117.2978), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Indian Creek:</b> upstream from the mouth (latitude 48.2445, longitude -117.1515) to headwaters.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Le Clerc Creek, East Branch, and West Branch Le Clerc Creek:</b> all waters above the confluence (latitude 48.5337, longitude -117.2827), except those waters in or above the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Le Clerc Creek, East Branch, and West Branch Le Clerc Creek:</b> All waters above the confluence (latitude 48.5337, longitude -117.2827) that are in or above the Colville National Forest, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Le Clerc Creek:</b> upstream from the mouth (latitude 48.5189, longitude -117.2821) to the confluence with West Branch Le Clerc Creek (latitude 48.5337, longitude -117.2827), including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Mill Creek:</b> from mouth (latitude 48.4899, longitude -117.2645) to headwaters, including tributaries.	Core Summer Habitat	Primary Contact	All	All	-
<b>Pend Oreille River:</b> from Canadian border (latitude 49.000, longitude -117.3534) to Idaho border (latitude 48.1998, longitude -117.0389). <sup>1</sup>	Spawning /Rearing	Primary Contact	All	All	-
<b>Slate Creek:</b> from mouth (latitude 48.924, longitude -117.3292) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Small Creek:</b> from mouth (latitude 48.3206, longitude -117.3087) to the National Forest (latitude 48.8462, longitude -117.2884), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

Table 602: Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses	Recreation Uses	Water Supply Uses	Misc. Uses	Additional info for waterbody
<b>Small Creek</b> in or above the National Forest (latitude 48.32680, longitude -117.39423), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>South Salmo River:</b> upstream from latitude 48.9990, longitude -117.1365, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Sullivan Creek:</b> upstream of confluence with Harvey Creek (latitude 48.8462, longitude -117.2884) to headwaters, including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tacoma Creek, South Fork:</b> upstream of confluence with Tacoma Creek (latitude 48.3938, longitude -117.3238) and downstream of the Colville National Forest boundary (latitude 48.3989, longitude -117.3487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-
<b>Tacoma Creek, South Fork:</b> upstream of the Colville National Forest boundary (latitude 48.3989, longitude -117.3487), including tributaries.	Char Spawning /Rearing	Primary Contact	All	All	-

**Notes for WRIA 62:**

1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed  $t=34/(T + 9)$ .

AMENDATORY SECTION (Amending WSR 03-14-129, filed 7/1/03, effective 8/1/03)

**WAC 173-201A-610 Use designations—Marine waters.** All marine surface waters have been assigned specific uses for protection under Table 612.

**Table 610 (Key to Table 612)**

Abbreviation	General Description
<b>Aquatic Life Uses:</b>	(see WAC 173-201A-210(1))
Extraordinary	Extraordinary quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Excellent	Excellent quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Good	Good quality salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Fair	Fair quality salmonid and other fish migration.
<b>Shellfish Harvesting:</b>	(see WAC 173-201A-210(2))
Shellfish Harvest	Shellfish (clam, oyster, and mussel) harvesting.
<b>Recreational Uses:</b>	(see WAC 173-201A-210(3))
Primary <del>((Cont.))</del> <u>Contact</u>	Primary contact recreation.
<del>((Secondary Cont.</del>	<del>Secondary contact recreation.)</del>
<b>Miscellaneous Uses:</b>	(see WAC 173-201A-210(4))
Wildlife Habitat	Wildlife habitat.
Harvesting	Salmonid and other fish harvesting, and crustacean and other shellfish (crabs, shrimp, scallops, etc.) harvesting.
Com./Navig.	Commerce and navigation.

Abbreviation	General Description
Boating	Boating.
Aesthetics	Aesthetic values.

AMENDATORY SECTION (Amending WSR 03-14-129, filed 7/1/03, effective 8/1/03)

**WAC 173-201A-612 Table 612—Use designations for marine waters.** (1) Table 612 lists uses for marine waters. Only the uses with the most stringent criteria are listed. The criteria notes in Table 612 take precedence over the criteria in WAC 173-201A-210 for the same parameter.

(2) All marine waters listed in Table 612 are protected for the miscellaneous uses of aesthetics, boating, commerce/navigation, and wildlife habitat.

(3) Table 612 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their web site, Table 612 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 612 at the department of ecology's web site at (~~www.ecy.wa.gov~~) www.ecology.wa.gov, or request a paper copy of the rule with Table 612 from the department of ecology or the office of the code reviser.

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Table 612 Use Designations for Marine Waters	Aquatic Life Uses				Shellfish Harvest	Recreational Uses		Misc. Uses				
	Extraordinary	Excellent	Good	Fair		Primary Cont	Secondary Cont	Wildlife Habitat	Harvesting	Com/Navig	Boating	Aesthetics
Budd Inlet south of latitude 47°04'N (south of Priest Point Park).			✓				✓	✓	✓	✓	✓	✓
Coastal waters: Pacific Ocean from Ilwaco to Cape Flattery.	✓				✓	✓		✓	✓	✓	✓	✓
Commencement Bay south and east of a line bearing 258° true from "Brown's Point" and north and west of line bearing 225° true through the Hylebos waterway light.		✓			✓	✓		✓	✓	✓	✓	✓
Commencement Bay, inner, south and east of a line bearing 225° true through Hylebos waterway light except the city waterway south and east of south 11th Street.			✓				✓	✓	✓	✓	✓	✓
Commencement Bay, city waterway south and east of south 11th Street.				✓			✓	✓		✓	✓	✓
Drayton Harbor, south of entrance.		✓			✓	✓		✓	✓	✓	✓	✓
Dyes and Sinclair inlets west of longitude 122°37'W.		✓			✓	✓		✓	✓	✓	✓	✓
Elliott Bay east of a line between Pier 91 and Duwamish Head.		✓			✓	✓		✓	✓	✓	✓	✓
Everett Harbor, inner, northeast of a line bearing 121° true from approximately 47°59'5"N and 122°13'44"W (southwest corner of the pier).			✓				✓	✓	✓	✓	✓	✓
Grays Harbor west of longitude 123°59'W.		✓			✓	✓		✓	✓	✓	✓	✓
Grays Harbor east of longitude 123°59'W to longitude 123°45'45"W (Cosmopolis Chehalis River, river mile 3.1). Special condition - dissolved oxygen shall exceed 5.0 mg/L.			✓				✓	✓	✓	✓	✓	✓
Guemes Channel, Padilla, Samish and Bellingham bays east of longitude 122°39'W and north of latitude 48°27'20"N.		✓			✓	✓		✓	✓	✓	✓	✓
Hood Canal.	✓				✓	✓		✓	✓	✓	✓	✓
Mukilteo and all North Puget Sound west of longitude 122°39'W (Whidbey, Fidalgo, Guemes and Lummi islands and State Highway 20 Bridge at Deception Pass), except as otherwise noted.	✓				✓	✓		✓	✓	✓	✓	✓
Oakland Bay west of longitude 123°05'W (inner Shelton harbor).			✓				✓	✓	✓	✓	✓	✓

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Table 612 Use Designations for Marine Waters	Aquatic Life Uses				Shellfish Harvest	Recreational Uses		Misc. Uses				
	Extraordinary	Excellent	Good	Fair		Primary Cont	Secondary Cont	Wildlife Habitat	Harvesting	Com/Navig	Boating	Aesthetics
Port Angeles south and west of a line bearing 152° true from buoy "2" at the tip of Ediz Hook.		✓			✓	✓		✓	✓	✓	✓	✓
Port Gamble south of latitude 47°51'20"N.		✓			✓	✓		✓	✓	✓	✓	✓
Port Townsend west of a line between Point Hudson and Kala Point.		✓			✓	✓		✓	✓	✓	✓	✓
Possession Sound, south of latitude 47°57'N.	✓				✓	✓		✓	✓	✓	✓	✓
Possession Sound, Port Susan, Saratoga Passage, and Skagit Bay east of Whidbey Island and State Highway 20 Bridge at Deception Pass between latitude 47°57'N (Mukilteo) and latitude 48°27'20"N (Similk Bay), except as otherwise noted.		✓			✓	✓		✓	✓	✓	✓	✓
Puget Sound through Admiralty Inlet and South Puget Sound, south and west to longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island).	✓				✓	✓		✓	✓	✓	✓	✓
Sequim Bay southward of entrance.	✓				✓	✓		✓	✓	✓	✓	✓
South Puget Sound west of longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island, except as otherwise noted).		✓			✓	✓		✓	✓	✓	✓	✓
Strait of Juan de Fuca.	✓				✓	✓		✓	✓	✓	✓	✓
Totten Inlet and Little Skookum Inlet, west of longitude 122°56'32" (west side of Steamboat Island).	✓				✓	✓		✓	✓	✓	✓	✓
Willapa Bay seaward of a line bearing 70° true through Mailboat Slough light (Willapa River, river mile 1.8).		✓			✓	✓		✓	✓	✓	✓	✓

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**Table 612**

Use Designations for Marine Waters	Aquatic Life Use	Recreational Use	Harvest Use
<u>Budd Inlet south of latitude 47°04'N (south of Priest Point Park).</u>	<u>Good</u>	<u>Primary Contact</u>	<u>Excludes Shellfish</u>
<u>Coastal waters: Pacific Ocean from Ilwaco to Cape Flattery.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Commencement Bay south and east of a line bearing 258° true from "Brown's Point" and north and west of a line bearing 225° true through the Hylebos waterway light.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>

<u>Use Designations for Marine Waters</u>	<u>Aquatic Life Use</u>	<u>Recreational Use</u>	<u>Harvest Use</u>
<u>Commencement Bay, inner, south and east of a line bearing 225° true through Hylebos waterway light except the city waterway south and east of south 11th Street.</u>	<u>Good</u>	<u>Primary Contact</u>	<u>Excludes Shellfish</u>
<u>Commencement Bay, city waterway south and east of south 11th Street.</u>	<u>Fair</u>	<u>Primary Contact</u>	<u>No Harvest Use Supported</u>
<u>Drayton Harbor, south of entrance.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Dyes and Sinclair inlets west of longitude 122°37'W.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Elliott Bay east of a line between Pier 91 and Duwamish Head.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Everett Harbor, inner, northeast of a line bearing 121° true from approximately 47°59'5"N and 122°13'44"W (southwest corner of the pier).</u>	<u>Good</u>	<u>Primary Contact</u>	<u>Excludes Shellfish</u>
<u>Grays Harbor west of longitude 123°59'W.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Grays Harbor east of longitude 123°59'W to longitude 123°45'45"W (Cosmopolis Chehalis River, river mile 3.1). Special condition - Dissolved oxygen shall exceed 5.0 mg/L.</u>	<u>Good</u>	<u>Primary Contact</u>	<u>Excludes Shellfish</u>
<u>Guemes Channel, Padilla, Samish and Bellingham bays east of longitude 122°39'W and north of latitude 48°27'20"N.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Hood Canal.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Mukilteo and all North Puget Sound west of longitude 122°39'W (Whidbey, Fidalgo, Guemes and Lummi islands and State Highway 20 Bridge at Deception Pass), except as otherwise noted.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Oakland Bay west of longitude 123°05'W (inner Shelton harbor).</u>	<u>Good</u>	<u>Primary Contact</u>	<u>Excludes Shellfish</u>
<u>Port Angeles south and west of a line bearing 152° true from buoy "2" at the tip of Ediz Hook.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Port Gamble south of latitude 47°51'20"N.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Port Townsend west of a line between Point Hudson and Kala Point.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Possession Sound, south of latitude 47°57'N.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Possession Sound, Port Susan, Saratoga Passage, and Skagit Bay east of Whidbey Island and State Highway 20 Bridge at Deception Pass between latitude 47°57'N (Mukilteo) and latitude 48°27'20"N (Similk Bay), except as otherwise noted.</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>
<u>Puget Sound through Admiralty Inlet and South Puget Sound, south and west to longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island).</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Sequim Bay southward of entrance.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>South Puget Sound west of longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island, except as otherwise noted).</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>

<u>Use Designations for Marine Waters</u>	<u>Aquatic Life Use</u>	<u>Recreational Use</u>	<u>Harvest Use</u>
<u>Strait of Juan de Fuca.</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Totten Inlet and Little Skookum Inlet, west of longitude 122°56'32"W (west side of Steamboat Island).</u>	<u>Extraordinary</u>	<u>Primary Contact</u>	<u>All</u>
<u>Willapa Bay seaward of a line bearing 70° true through Mailboat Slough light (Willapa River, river mile 1.8).</u>	<u>Excellent</u>	<u>Primary Contact</u>	<u>All</u>

**WSR 18-15-077**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Division of Consumer Services)  
 [Filed July 17, 2018, 3:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-07-095.

Title of Rule and Other Identifying Information: Chapter 208-620 WAC implementing the Consumer Loan Act, chapter 31.04 RCW, specifically including amendments to provisions on student education loan servicing.

Hearing Location(s): On August 21, 2018, at 10:00-11:00 a.m., at the Department of Financial Institutions (DFI), 150 Israel Road S.W., Room 220, Tumwater, WA 98501.

Date of Intended Adoption: August 30, 2018.

Submit Written Comments to: Sara Rietcheck, P.O. Box 41200, Olympia, WA 98504-1200, email sara.rietcheck@dfi.wa.gov, sign up for the GovDelivery email subscription system from the DFI web site. Access the rule-making page on the DFI web site at www.dfi.wa.gov, by August 7, 2018, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Sara Rietcheck, phone 360-902-8793, TTY 360-664-8126, email sara.rietcheck@dfi.wa.gov, sign up for the GovDelivery email subscription system from the DFI web site. Access the rule-making page on the DFI web site at www.dfi.wa.gov, by August 7, 2018, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules must be amended to implement chapter 62, Laws of 2018, to add student education loan servicing and student education loan servicers to those activities and persons regulated under the Consumer Loan Act.

Reasons Supporting Proposal: Student education loan servicing will have a number of consumer protections which will help student education loan borrowers. Also, the rules will enable the agency to monitor servicers' activities and provide clear guidance on what activities are required or disallowed, which will be helpful to the industry.

Statutory Authority for Adoption: RCW 43.320.040, 31.04.165. Proposed in compliance with OFM Guidance 3.a. dated October 12, 2011.

Statute Being Implemented: Chapter 31.04 RCW.

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

Name of Proponent: DFI, division of consumer services, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8800; Implementation and Enforcement: Charlie Clark, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-0511.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to these rules.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

July 18, 2018  
 Charles Clark, Director  
 Division of Consumer Services

**AMENDATORY SECTION** (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-010 Definitions.** The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

"Act" means the Consumer Loan Act, chapter 31.04 RCW.

"Advertise, advertising, and advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; internet pages, social media, instant messages, or electronic bulletin boards.

~~("Affiliate" means any person who controls, is controlled by, or is under common control with another.)~~

"Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. Part 1026, implementing the Truth in Lending Act.

"Application" means the submission of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan, which includes the borrower's name, monthly income, Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. An application may be submitted in writing or electronically and includes a written record of an oral application. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

"Bank Secrecy Act" means the Bank Secrecy Act (BSA), 31 U.S.C. 1051 et seq. and 31 C.F.R. Part 103.

"Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

~~("Borrower." See WAC 208-620-011.)~~

"Business day" means Monday through Friday excluding federally recognized bank holidays.

"Commercial context" or "commercial purpose" means actions taken for the purpose of obtaining anything of value for oneself, or for an entity or individual for which the individual acts, rather than exclusively for public, charitable, or family purposes.

"Common ownership" exists if an entity or entities possess an ownership or equity interest of five percent or more in another entity.

"Creditor" has the same meaning as in the Truth in Lending Act, 15 U.S.C. 1602(f) and Regulation Z, 12 C.F.R. Part 1026.

~~("Department" means the department of financial institutions.~~

~~"Depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act on the effective date of this section, and includes credit unions.)~~

"Depository Institutions Deregulatory and Monetary Control Act" means the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDMCA), 12 U.S.C. Sec. 1735f-7a.

~~("Director" means the director of the department of financial institutions or his or her designated representative.)~~

"Dwelling" means the same as in Regulation Z implementing the Truth in Lending Act which is a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile or manufactured home, and trailer, if it is used as a residence. See 12 C.F.R. Sec. 1026.2.

"Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 and Regulation B, 12 C.F.R. Part 1002.

"Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

"Fair Debt Collection Practices Act" means the Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692, 12 C.F.R. Part 1006.

~~("Federal banking agencies" means the Board of Governors of the Federal Reserve System, Comptroller of the Currency, National Credit Union Administration, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau.)~~

"Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

"Filing" means filing, recording, releasing or reconveying mortgages, deeds of trust, security agreements or other documents, or transferring certificates of title to vehicles.

"Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

"Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the council for higher education. RCW 28B.07.020(4).

"Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Secs. 2801 through 2810 and 12 C.F.R. Part 1003 (formerly Part 203).

"Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes step-parents, stepchildren, stepsiblings, and adoptive relationships.

~~("Individual servicing a mortgage loan" means a person who on behalf of a lender or servicer licensed by this state, or a lender or servicer exempt from licensing, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed or exempt lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process.~~

For purposes of this definition "on behalf of a lender or servicer" means that the individual person is employed by the lender or servicer and does not receive any compensation or gain directly or indirectly from the borrower for performing the described activities.

~~"Insurance" means life insurance, disability insurance, property insurance, insurance covering involuntary unemployment and such other insurance as may be authorized by the insurance commissioner in accordance with Title 48 RCW.)~~

"Lender" means any person that extends money to a borrower with the expectation of being repaid.

~~("License" means a license issued under the authority of this chapter with respect to a single place of business.)~~

"License number" means your NMLS unique identifier displayed as prescribed by the director. Some examples of the way you may display your license number are: NMLS ID 12345, NMLS 12345, NMLS #12345, MB-12345, or MLO-12345.

~~("Licensee" means a person who holds one or more current licenses.)~~

"Live check" means a loan solicited through the mail in the form of a check, which, when endorsed by the payee, binds the payee to the terms of the loan agreement contained on the check.

~~("Loan" means a sum of money lent at interest or for a fee or other charges and includes both open end and closed end transactions.)~~

"Loan originator" means the same as mortgage loan originator.

~~("Loan processor." See WAC 208-620-011.)~~

"Long-term subordinated debt" means for the purposes required in RCW 31.04.045 outstanding promissory notes or other evidence of debt with initial maturity of at least seven years and remaining maturity of at least two years.

~~("Making a loan" means advancing, offering to advance, or making a commitment to advance funds for a loan.)~~

"Material litigation" means proceedings that differ from the ordinary routine litigation incidental to the business. Litigation is ordinary routine litigation if it ordinarily results from the business and does not deviate from the normal business litigation. Litigation involving five percent of the licensee's assets or litigation involving the government would constitute material litigation.

~~("Mortgage broker" means the same as in RCW 19.146.010. A licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a mortgage broker in the same transaction.~~

~~"Mortgage loan originator" or "loan originator" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain (1) takes a residential mortgage loan application; or (2) offers or negotiates terms of a residential mortgage loan, including short sale transactions. An individual "offers or negotiates terms of a residential mortgage loan" if the individual:~~

~~(a) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms; or~~

~~(b) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms.~~

~~Mortgage loan originator also includes an individual who for compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.~~

~~Mortgage loan originator also includes an individual who holds himself or herself out as being able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages~~

~~in any of the activities of a loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.~~

~~Mortgage loan originator does not include any individual who performs purely administrative or clerical tasks and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code.~~

~~For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.~~

~~Mortgage loan originator does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law to conduct those activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. See the definition of real estate brokerage activity in this subsection.~~

~~This definition does not apply to employees of a housing counseling agency approved by the United States department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.)~~

"NMLS" means the Nationwide Multistate Licensing System and Registry, Nationwide Mortgage Licensing System, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the state regulatory registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries.

"Out-of-state licensee" means a licensee that does not maintain a physical presence within the state, or a licensee that maintains headquarters or books and records outside Washington.

~~("Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.~~

~~"Principal" means either (1) any person who controls, directly or indirectly through one or more intermediaries, a ten percent or greater interest in a partnership, company, association or corporation; or (2) the owner of a sole proprietorship.)~~

"Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

"Principal balance" means the principal amount plus any allowable origination fee.

"RCW" means the *Revised Code of Washington*.

"Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; (2) bringing together parties interested in the sale, pur-

chase, lease, rental, or exchange of real property; (3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction; (4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (5) offering to engage in any activity, or act in any capacity, described in (1) through (4) of this definition.

"Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Secs. 2601 et seq., and Regulation X, 12 C.F.R. Part 1024.

"Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

"Referring a delinquent loan to foreclosure" means taking any step in furtherance of foreclosure. Examples include, but are not limited to: Sending a referral to a foreclosure trustee or attorney inside or outside of the servicing entity requesting they begin the foreclosure process; making a record in written or electronic form that flags, comments, blocks, suspends or in any way indicates in the electronic record of a mortgage loan that foreclosure has begun; any such marking of an electronic record that impairs the record in a way that payments will not be applied or will be routed into a suspense account.

~~("Registered mortgage loan originator" means any individual who (1) meets the definition of mortgage loan originator and is an employee of: A depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration; and (2) is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system.~~

~~"Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling.~~

~~"Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include, but are not limited to, forbearances; repayment plans; changes in interest rates, loan terms (length), or loan types; capitalizations of arrearages; or principal reductions.~~

~~"Residential mortgage loan modification services." See WAC 208-620-011.~~

~~"S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 ("HERA"), Public Law No. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.~~

~~"Senior officer" means an officer of a consumer loan company at the vice president level or above.~~

~~"Service or servicing a loan." See WAC 208-620-011.~~

~~"Simple interest method." See WAC 208-620-011.)~~

~~"State" means the state of Washington.~~

"Student education loan borrower" means:

(a) Any resident of this state who has received or agreed to pay a student education loan; or

(b) Any person who shares responsibility with such resident for repaying the student education loan.

"Student education loan servicing" or "service a student education loan" means:

(a) Receiving any scheduled periodic payments from a student education loan borrower pursuant to the terms of a student education loan;

(b) Applying the payments of principal and interest and such other payments with respect to the amounts received from a student education loan borrower, as may be required pursuant to the terms of a student education loan;

(c) Working with the student education loan borrower to collect data, or collecting data, to make decisions to modify the loan; or

(d) Performing other administrative services with respect to a student education loan including collection activities. "Student education loan servicing" does not include third-party student education loan modification services.

"Subsidiary" means a person that is controlled by another.

"Table funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

"Telemarketing and Consumer Fraud and Abuse Act" means the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. Sec. 6101 to 6108.

"Telemarketing Sales Rule" means the rules promulgated in 16 C.F.R. Part 310.

~~("Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.~~

~~"Third-party service provider" means any person other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.)~~

"Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Secs. 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026.

~~("Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.~~

~~"Underwriter." See WAC 208-620-011.)~~

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-011 How does the department interpret certain definitions in RCW 31.04.015? "Borrower"** means an individual who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan for personal, family or household use, or a residential mortgage loan modification, regardless of whether the individual actually obtains a loan or

residential mortgage loan modification. "Borrower" also includes a "student education loan borrower."

"Director" means the director of the department of financial institutions or his or her designated representative.

"Educational institution" means:

(a) An entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level;

(b) Any location where an entity is offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession; and

(c) Any establishment that offers curriculum of instruction in the practice of cosmetology, hair design, barbering, esthetics, master esthetics, manicuring, or instructor-trainee to students and is licensed under chapter 18.16 RCW.

"Federal banking agencies" means the Board of Governors of the Federal Reserve System, Comptroller of the Currency, National Credit Union Administration, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau.

"Individual servicing a mortgage loan" means a person who on behalf of a lender or servicer licensed by this state, or a lender or servicer exempt from licensing, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed or exempt lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process.

For purposes of this definition "on behalf of a lender or servicer" means that the individual person is employed by the lender or servicer and does not receive any compensation or gain directly or indirectly from the borrower for performing the described activities.

"License" means a license issued under the authority of this chapter with respect to a single place of business.

"Loan processor" or "underwriter" means an individual who performs clerical or support duties as an employee (not as an independent contractor) of a person licensed or exempt from licensing and at the direction of and subject to the supervision and instruction of an individual licensed, or exempt from licensing, under this chapter. A residential mortgage loan processor or underwriter engaged as an independent contractor by a licensee must hold a mortgage loan originator license.

"Mortgage loan originator" or "loan originator" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain:

(a) Takes a residential mortgage loan application; or

(b) Offers or negotiates terms of a residential mortgage loan, including short sale transactions. An individual "offers or negotiates terms of a residential mortgage loan" if the individual:

(i) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms; or

(ii) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms.

Mortgage loan originator also includes an individual who for compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

Mortgage loan originator also includes an individual who holds himself or herself out as being able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.

Mortgage loan originator does not include any individual who performs purely administrative or clerical tasks and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in Title 11 U.S.C. Sec. 101(53D).

For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

Mortgage loan originator does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law to conduct those activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. See the definition of real estate brokerage activity in this subsection.

This definition does not apply to employees of a housing counseling agency approved by the United States Department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.

"Residential mortgage loan modification services" means activities conducted for compensation or gain by persons not engaged in servicing the borrower's existing residential mortgage loan. The activities may include negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform residential mortgage loan modification services. The activities may also include the collection of data for submission to another person performing mortgage loan modification services or to a residential mortgage loan servicer.

"S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.

"Service" or "servicing a loan" means, with respect to residential mortgage loans:

(a) Collecting or attempting to collect payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due;

(b) Collecting fees due to the servicer for the servicing activities;

(c) Working with the borrower to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; or

(d) Otherwise finalizing collection through the foreclosure process.

"Simple interest method" means the method of computing interest payable on a loan by applying the rate of interest specified in the note or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. Interest may not be compounded or payable in advance.

(a) Each payment must be applied as directed in the loan documents. No more than forty-five days of prepaid interest may be collected at the time of the loan closing.

(b) The prohibition on compounding interest does not apply to reverse mortgage loans made in compliance with the Washington State Reverse Mortgage Act within this chapter.

**"Student education loan" means:**

(a) Any loan solely for personal, family, or household use to finance postsecondary education and costs of attendance at an educational institution, or any subsequent loan to refinance the former; and

(b) Any loan to refinance a payment plan or accounts receivable with a higher education institution if the student is not enrolled in the higher education institution.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-104 Who is exempt from licensing as a consumer loan company?** (1) See RCW 31.04.025 (2)(a), (b), (d), (g) through (i), and (k) through (m).

(2) Under RCW 31.04.025 (2)(c), entities conducting transactions under chapter 63.14 RCW (Retail installment sales of goods and services); however, the entity is not exempt if the transactions are an extension of credit to purchase merchandise certificates, coupons, open or closed loop stored value, or any other item issued and redeemable by a retail seller other than the entity extending the credit.

(3) Under RCW 31.04.025 (2)(e), any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling.

(4) Under RCW 31.04.025 (2)(f), a person selling property they own, that does not contain a dwelling, when the property serves as security for the financing. The exemption is not available to individuals subject to the federal S.A.F.E. Act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings. See also WAC 208-620-232.

(5) Under RCW 31.04.025 (2)(j), a nonprofit housing organization seeking exemption must meet the following standards:

(a) Has the status of a tax-exempt organization under Section 501 (c)(3) of the Internal Revenue Code of 1986;

(b) Promotes affordable housing or provides home ownership education, or similar services;

(c) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;

(d) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;

(e) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;

(f) Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and

(g) Meets other standards as prescribed by the director.

(6) Under RCW 31.04.025(3), individuals who make loans or extend credit, secured or unsecured, to immediate family members.

(7) Under RCW 31.04.025(3), individuals who extend credit on the sale of their primary dwelling.

(8) Under RCW 31.04.420:

(a) Trade, technical, vocational, or apprentice programs that teach skills related to a specific job, and postsecondary schools that service their own student education loans;

(b) Persons servicing five or fewer student education loans;

(c) Guarantors of federal student loans that do not also service federal student loans;

(d) The United States or any department or agency thereof, to the extent it is servicing student education loans that it originated;

(e) Any state, county, city, or any department or agency thereof, but only to the extent it is servicing student education loans that it originated; and

(f) Persons providing third-party student education loan modification services. See RCW 31.04.015(38).

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

**WAC 208-620-230 Do I need a consumer loan license to lend money, extend credit ((☞)), service or modify the terms of residential mortgage loans, or service student education loans?** (1) Yes. If you do not qualify for an exemption under RCW 31.04.025 or 31.04.420, you must hold a license to:

(a) Be located in Washington and lend money, extend credit, ((☞)) service or modify residential mortgage loans, or service student education loans;

(b) Be located outside Washington and lend money or extend credit to Washington residents ((☞)), service or modify residential mortgage loans on Washington real estate, or service student education loans for Washington residents;

(c) From any location solicit or advertise by any means to Washington residents including but not limited to mail,

brochure, telephone, print, radio, television, internet, or any other electronic means;

(d) From any location conduct business under the act with Washington residents by mail or internet;

(e) Hold yourself out as able to conduct any of the activities in (a) through (d) of this subsection.

(2) If you violate subsection (1) of this section, on non-residential loans, you must refund to the borrower the interest and nonthird-party fees charged in the transaction. On residential mortgage loans, you must refund to the borrower non-third-party fees charged in the transaction.

(3) See also WAC 208-620-232 for residential mortgage loans.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-240** ~~Once I am licensed, ((does the act apply to all loans I broker or make)) what activities I provide to Washington residents are covered under the act?~~ What activities I provide to Washington residents are covered under the act? ~~((Yes. All loans you broker or make to Washington residents, secured and unsecured,))~~ (1) Making secured or unsecured loans.

(2) Brokering or servicing residential mortgage loans.

(3) Servicing student education loans.

(4) Activities in subsections (1) through (3) of this section are subject to the authority and restrictions of the act, including the provisions relating to the calculation of the annual assessment.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-300** **If I want to operate my business from more than one office, do I have to license each location?** Yes. You must submit a branch office application through the NMLS for each branch office, residential mortgage loan servicing location, student education loan servicing location, or direct solicitation location. You must provide evidence of surety bond coverage for each branch and meet all other license requirements. You may not operate until a license is granted for that location.

AMENDATORY SECTION (Amending WSR 17-01-124, filed 12/20/16, effective 1/1/18)

**WAC 208-620-320** **What is the amount of the surety bond required for my consumer loan license?** (1) Surety bond amounts are based on ~~((loan origination))~~ the volume of your activity from prior years. If there is no prior year volume, the surety bond amount required at application is thirty thousand dollars. For purposes of this section, "loan origination volume" means a volume of closed loans.

(2) Nonresidential loan origination. If you originate non-residential loans the surety bond amount is based on the annual dollar amount of loans you originate. See the following chart:

1. Zero to twenty million in loans originated:	\$30,000
2. Twenty million to forty million:	\$50,000
3. Forty million to fifty million:	\$100,000
4. Fifty million and above:	\$150,000

(3) Residential mortgage loans ~~((origination))~~.

(a) Origination. If you only originate residential mortgage loans, the surety bond amount is based on the annual dollar amount of residential mortgage loans you originate. Use the chart in subsection (2) of this section for the bond amount.

(b) Servicing. If you only service residential mortgage loans, a bond requirement may only arise if you elect a surety bond in lieu of the required net worth in WAC 208-620-322.

(c) Origination and servicing. If you originate and service residential mortgage loans, your surety bond amount will be based on your origination volumes. See the table in subsection (2) of this section.

(d) Brokering. If you only broker residential mortgage loans, your surety bond amount ~~((at application is thirty thousand dollars. There after subject to annual adjustment the surety bond amount))~~ will be based on the total annual principal amount of the loans brokered. See the table in subsection (2) of this section.

(4) Combined nonresidential and residential loan origination. If you originate both nonresidential and residential loans, your bond amount will be based on the combined origination volume. See the table in subsection (2) of this section.

(5) Third-party residential loan modification services. If you only offer third-party residential mortgage loan modification services, your bond amount is thirty thousand dollars.

(6) Student education loan servicing. If you only service student education loans, the surety bond amount is thirty thousand dollars.

AMENDATORY SECTION (Amending WSR 17-01-124, filed 12/20/16, effective 1/1/18)

**WAC 208-620-322** **What are the capital requirements for a nondepository residential mortgage loan servicer applicant and licensee servicing loans not guaranteed by a government sponsored entity (GSE) and/or government corporation?** (1)(a) An applicant or licensee servicing residential mortgage loans not including any GSE or government corporation loans must maintain a minimum tangible net worth, based on its nationwide servicing portfolio, as follows:

0-199 loans	\$100,000
200-299 loans	\$200,000
300-399 loans	\$300,000
400-499 loans	\$400,000
500-599 loans	\$500,000
600-699 loans	\$600,000

700-799 loans	\$700,000
800-899 loans	\$800,000
900-999 loans	\$900,000
1,000 plus loans	\$1,000,000

(b) Alternatively the applicant or licensee may maintain a one million dollar surety bond in lieu of tangible net worth.

(c) In addition, the applicant or licensee must maintain liquidity (to include operating reserves) of .00035 times the unpaid principal balance of the portfolio.

(2) An applicant or licensee (~~(with)~~) servicing twenty-five or fewer (~~(loans)~~) Washington residential mortgage accounts may apply to the director to waive or adjust one or more of these capital requirements. In considering such a request the director will consider whether the licensee has a positive net worth and adequate operating reserves. For purposes of this section, "operating reserves" are funds set aside in anticipation of future payments or obligations and are included in liquidity.

(3) Licensees must annually or more frequently report, as prescribed by the director, on liquidity (including operating reserves) and tangible net worth.

(4) Any licensee that does not maintain the standards in this section is subject to action by the director including that authority in RCW 31.04.165(4).

(5) The following definitions apply to this section:

(a) Tangible net worth means total equity minus receivables due from affiliated entities, minus goodwill and other intangible assets, and minus the carrying value of pledged assets net of the associated liabilities of the pledged assets.

(b) Liquidity means unrestricted cash and cash equivalents, investment grade securities that are available for sale or held for trade, and unused/available portion of committed servicing advance lines.

#### NEW SECTION

**WAC 208-620-324 What are the capital requirements for a student education loan servicer?** (1)(a) An applicant or licensee servicing student education loans must maintain a minimum tangible net worth of two hundred fifty thousand dollars.

(b) In addition, the applicant or licensee must maintain liquidity (to include operating reserves) of .00035 times the unpaid principal balance of the nationwide portfolio.

(2) An applicant or licensee servicing twenty-five or fewer student education loans for Washington state borrowers may apply to the director to waive or adjust the capital requirements. In considering such a request, the director will consider whether the licensee has a positive net worth and adequate operating reserves. For purposes of this section, "operating reserves" are funds set aside in anticipation of future payments or obligations and are included in liquidity.

(3) Licensees servicing student education loans must annually or more frequently report, as prescribed by the director, on liquidity (including operating reserves) and tangible net worth.

(4) Any licensee servicing student education loans that does not maintain the standards in this section is subject to

action by the director, including that authority in RCW 31.04.165(4).

(5) The following definitions apply to this section:

(a) Tangible net worth means total equity minus receivables due from affiliated entities, minus goodwill and other intangible assets, and minus the carrying value of pledged assets net of the associated liabilities of the pledged assets.

(b) Liquidity means unrestricted cash and cash equivalents, investment grade securities that are available for sale or held for trade, and the unused/available portion of committed servicing advance lines (funding facilities).

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

**WAC 208-620-327 How often will my bond amount change?** Your bond amount may change annually depending on your volume of (~~loan origination and residential mortgage loans serviced in Washington. See RCW 31.04.045(6))~~) Washington activity. By March 1st of each year, you must determine your required bond amount and provide DFI with proof of having an adequate bond.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-328 For purposes of the annual assessment and surety bond calculation, how often must I report my (~~loan origination and residential mortgage loan servicing volume~~) Washington activity?** You must report your (~~loan origination and residential mortgage loan servicing volume~~) volume of activity as directed and on the form prescribed by the director.

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

**WAC 208-620-370 What are the grounds for denying or conditioning my consumer loan company license application?** The director may deny or condition approval of a license application if you or any principal, officer, or board director of the applicant:

(1) Fails to pay a fee due the department or the NMLS;

(2) Fails to demonstrate financial responsibility, experience, character, and general fitness to operate a business honestly, fairly, and efficiently within the purposes of the Consumer Loan Act. The director may find that the person has failed to make the demonstration if, among other things:

(a) Is or has been subject to an injunction or an administrative action issued pursuant to the Consumer Loan Act, the Consumer Protection Act, the Mortgage Broker Practices Act, the Insurance Code, the Securities Act, or similar laws in this or another state; or

(b) Is reported to have a history of unpaid debts as reported by an independent credit report issued by a recognized credit reporting agency; or

(c) Is the subject of a criminal felony indictment, or a criminal gross misdemeanor charge involving dishonesty or financial misconduct (RCW 31.04.055 (1)(d)); or

(d) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceeds its assets or in the sense

that the applicant or licensee cannot meet its obligations as they mature; or

(e) Has had a license to conduct lending, residential mortgage loan servicing, ~~((or))~~ to provide settlement services associated with lending or residential mortgage loan servicing, or student education loan servicing revoked or suspended by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license (see RCW 31.04.093 (6)(c)).

(3) Has misrepresented, omitted or concealed a material fact from the department or has misrepresented a material fact to the department;

(4) Has been found to have committed an act of misrepresentation or fraud in any aspect of ~~((the conduct of the lending or brokering business or profession))~~ providing financial services;

(5) Has failed to complete its application as defined in WAC 208-620-280, within a reasonable time after being notified that the department considers the file abandoned for failure to provide requested information or documentation;

(6) Fails to maintain a bond or bond alternative that is compliant with the act.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-371 May I employ someone to work with Washington residents or Washington property who has been convicted of a gross misdemeanor or felony, or who has had a ~~((lending-related))~~ financial services-related license revoked or suspended?** No. (1) Pursuant to RCW 31.04.093(6), the director may prohibit any officer, principal, or employee from participating in the affairs of any licensee if that officer, principal, or employee has been convicted of or pled guilty or nolo contendere to:

(a) A gross misdemeanor involving dishonesty or financial misconduct; or

(b) A felony in a domestic, foreign, or military court:

(i) During the seven-year period preceding the date of the proposed employment; or

(ii) At any time preceding the date of the proposed employment, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(2) For purposes of this section, "participating in the affairs of any licensee" means an officer, principal, or employee or independent contractor who will or does originate loans, supervise employees or independent contractors, or manage the loan production or other activities of the licensee.

(3) Additionally, the director may prohibit participation in the affairs of the licensee by any officer, principal, or employee or independent contractor, or person subject to the act, who has had a license to ~~((engage in lending, or performance of a settlement service related to lending, including loan modifications;))~~ provide financial services revoked or suspended in this state or any state.

(4) The department considers it to be a deceptive practice in violation of RCW 31.04.027(2) for any licensee to employ an officer, principal, or employee or independent contractor

to conduct any of the activities described in subsection (3) of this section without first conducting a background check.

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

**WAC 208-620-431 What are my quarterly call report filing requirements ~~((if I make, broker, or service residential mortgage loans))~~?** You are required to file accurate and complete call reports on the dates and in a form prescribed by the NMLS (see RCW 31.04.277).

NEW SECTION

**WAC 208-620-442 How do I calculate the annual assessment for my student education loan servicing activity in Washington?** (1) **Calculation of the annual assessment for student education loans serviced.** The amount of the annual assessment is determined by multiplying the adjusted total loan value of the loans in the year being assessed by .0000384616.

(2) **All loans counted in assessment calculation.** The "adjusted total loan value" is the sum of:

(a) The principal loan balance of Washington student education loans in your loan portfolio on December 31st of the prior year; plus

(b) The total principal loan balance of Washington student education loans you added to your servicing portfolio during the assessment year.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-490 What are my reporting responsibilities when something of significance happens to my business?** (1) **Prior notification required.** You must amend your NMLS record at least ten days prior to a change of your:

(a) Principal place of business or any of branch offices;

(b) Name or legal status (e.g., from sole proprietor to corporation, etc.);

(c) ~~((Name and mailing address of your registered agent if you are located outside the state;~~

~~((d)))~~ Legal or trade name; or

~~((e)))~~ (d) Ownership control of ten percent or more ~~((or~~

~~((f)))~~ A closure or surrender of the license. See WAC 208-620-499).

(2) ~~((Post notification))~~ **NMLS update within ten days.** You must amend your NMLS record within ten days after an occurrence of any of the following:

(a) A change in mailing address, telephone number, fax number, or email address;

(b) A change in the name and mailing address of your registered agent if you are located outside the state;

(c) A closure of surrender of your license. See WAC 208-620-499;

(d) Termination of sponsorship of a loan originator;

(e) A change in primary company contact or primary consumer complaint contact; or

(f) A change in your response to a disclosure question within NMLS. You must upload the document that is the basis for your changed response.

**(3) Written notice to the department within ten days.** You must notify the department in writing within ten days after an occurrence of any of the following:

(a) A cancellation or expiration of your Washington state business license;

~~((e))~~ (b) A change in standing with the state of Washington secretary of state, including the resignation or change of the registered agent;

~~((d))~~ (c) Failure to maintain the appropriate unimpaired capital under WAC 208-620-340. See WAC 208-620-360;

~~((e))~~ (d) Receipt of notification of cancellation of your surety bond;

~~((f) Termination of sponsorship of loan originator;~~

~~((g))~~ (e) Receipt of notification of a claim against your bond;

~~((h) A change in primary company contact or primary consumer complaint contact; or~~

~~((i) A change in your response to a disclosure question within NMLS. You must upload the document that is the basis for your changed response))~~ (f) For student education loan servicers servicing for the federal government, the occurrence of any event that alters the condition of the business to the extent it would no longer qualify for a federal contract; or

(g) For student education loan servicers servicing for the federal government, receipt of notification of a breach of contract, waiver, nonperformance, or termination notice from the federal government.

~~((3) Post notification))~~ (4) **NMLS update within twenty days.** You must amend your NMLS record within twenty days after the occurrence of any of the following developments:

(a) Receipt of notification of license revocation procedures against your license in any state;

(b) The filing of a felony indictment or information related to lending or brokering activities against you or any officer, board director, or principal or an indictment or information involving dishonesty against you or any officer, board director, or principal; or

(c) Conviction of you or any officer, director, or principal for a felony, or a gross misdemeanor involving lending, brokering or financial misconduct~~((e))~~.

**(5) Written notice to the department within twenty days.** You must notify the department in writing twenty days after the filing of any material litigation against the company.

~~((4))~~ (6) See WAC 208-620-499 for the requirements when you close your business.

~~((5))~~ (7) Within forty-five days of a data breach you must notify the director in writing. This notification requirement may change based on directives or recommendations from law enforcement. See also WAC 208-620-573.

**AMENDATORY SECTION** (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-505 In addition to the Consumer Loan Act, what other laws do I have to comply with?** You must ensure you are in compliance with all federal and state laws, regulations and programs that apply to lending or brokering

loans, ~~((e))~~ servicing residential mortgage loans, including applicable reverse mortgage, or servicing student education loans including, but not limited to, the Truth in Lending Act, the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Bank Secrecy Act, the Real Estate Settlement Procedures Act, the Gramm-Leach-Bliley Act, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Federal Trade Commission Act, the Telemarketing and Consumer Fraud and Abuse Act, the Washington State Fair Housing Act, the S.A.F.E. Act, the Federal Trade Commission Telemarketing Sales Rule, and the Mortgage Acts and Practices - Advertising statute, Regulation N, 12 C.F.R. Part 1014.

**AMENDATORY SECTION** (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-510 What are my disclosure obligations to consumers?** Some types of loans may not be covered by the integrated TILA-RESPA rule. Examples include: Reverse mortgages and HELOCS. Creditors originating these types of mortgages must continue to use, as applicable, the federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures. Creditors are not prohibited from using the integrated TILA-RESPA disclosures. However, they cannot replace the required federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures.

(1) **Content requirements.** In addition to complying with the applicable disclosure requirements in the federal and state statutes referred to in WAC 208-620-505 if the loan will be secured by a lien on real property, you must also provide the borrower or potential borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three business days of receipt of a loan application.

(2) **Proof of delivery.** The licensee must be able to prove that the disclosures under subsection (1) of this section were provided within the required time frames. For purposes of determining the timeliness of the required early disclosures, the department may use the date of the credit report or may use the date of an application received from a broker. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an established system of disclosure tracking that includes a disclosure and correspondence log, checklists, and a reasonable system for determining if a borrower did receive the documents, the licensee will be presumed to be in compliance.

(3) **Residential mortgage loans—Rate locks.** Within three business days of receipt of a residential mortgage loan application you must provide the borrower with the following disclosure about the interest rate:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance.

(b) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company other than your company, you must provide the name of that

company, whether and under what conditions any rate lock fees are refundable to the borrower, and:

- (i) The number of days in the rate lock period;
- (ii) The date of the rate lock and expiration date of the rate lock;
- (iii) The rate of interest locked;
- (iv) Any other terms and conditions of the rate lock agreement; and
- (v) The date the rate lock agreement was provided to the borrower.

(c) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.

(d) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(e) You may rely on a broker's rate lock agreement if it complies with this subsection.

**(4) Residential mortgage loans—Loans brokered to other creditors.** Within three business days following receipt of a residential mortgage loan application you must provide to each borrower or potential borrower:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance with this subsection;

(b) An estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty;

(c) A good faith estimate or loan estimate that conforms with RESPA, Regulation X, 12 C.F.R. Part 1024 and TILA, Regulation Z, 12 C.F.R. Part 1016;

(d) A rate lock disclosure containing the following:

(i) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, the name of the company providing the guarantee, whether and under what conditions any rate lock fees are refundable to the borrower, and:

- (A) The number of days in the rate lock period;
- (B) The date of the rate lock and the expiration date of the rate lock;
- (C) The rate of interest locked;
- (D) The date the rate lock was provided to the borrower; and

(E) Any other terms and conditions of the rate lock agreement.

(ii) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date. The rate lock agreement must include the items from (d) of this subsection.

(e) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(f) You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

**(5) Residential mortgage loans—Shared appreciation mortgages (SAM) or mortgages with shared appreciation provisions.** Within three business days following receipt of a loan application for a shared appreciation mortgage, or a mortgage with a shared appreciation provision, in addition to the disclosures required by federal law or by this chapter, you must provide each borrower with a written disclosure containing at a minimum the following:

(a) The percentage of shared equity or shared appreciation you will receive (or a formula for determining it);

(b) The value the borrower will receive for sharing his or her equity or appreciation;

(c) The conditions that will trigger the borrower's duty to pay;

(d) The conditions that may cause the lender to terminate the mortgage or shared appreciation provision early;

(e) The procedure for including qualifying major home improvements in the home's basis (if any);

(f) Whether a prepayment penalty applies or other conditions applicable, if a borrower wishes to repay the loan early, including but not limited to, any date certain after which the borrower can repay the loan by paying back the lender's funds plus accrued equity; and

(g) The date on which the SAM terminates and the equity or appreciation becomes payable if no triggering event occurs.

**(6) Residential mortgage loan modifications.** You must immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

**(7) Student education loans.** In addition to the disclosures required for all consumer loans made by a licensee, for all consumer loans made by a licensee that are a refinance of a federal student education loan, the licensee must provide to the borrower a clear and conspicuous disclosure that some repayment and forgiveness options available under federal student education loan programs, including without limitation, income-driven repayment plans, economic hardship deferments, or public service loan forgiveness, will no longer be available to the borrower if he or she chooses to refinance federal student education loans with one or more consumer loans.

**(8)** Each licensee must maintain in its files sufficient information to show compliance with state and federal law.

**AMENDATORY SECTION** (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-515 What authority do I have after my license has been issued?** Once your license has been issued you may:

(1) Lend money with a note rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed. This applies only to nonmortgage loans, junior lien mortgage loans, and to lenders that are not "creditors" under the Depository Institutions Deregulatory and Monetary Control Act when making

first lien mortgage loans. The requirement for the simple interest method of calculating interest does not apply to reverse mortgages.

(2) Make open-end loans as authorized in RCW 31.04.115 provided that:

(a) The annual fee allowed in RCW 31.04.115(3) may not exceed fifty dollars; and

(b) The annual fee must be charged in advance as a lump sum. It must not be charged monthly and must not be financed.

(3) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, covering the involuntary unemployment of the borrower, or other insurance products approved by the Washington state office of the insurance commissioner.

(4) Service residential mortgage loans. See also WAC 208-620-320, 208-620-325, 208-620-550, 208-620-551, and 208-620-900.

(5) Provide third-party loan modification services for residential mortgage loans. See also WAC 208-620-320, 208-620-325, 208-620-545, 208-620-550, and 208-620-552.

(6) Service student education loans.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-520 How long must I maintain my records under the Consumer Loan Act? What are the records I must maintain? Licensees must maintain the following records for a minimum of three years, or the period of time required by federal law whichever is longer, after making the final entry on a loan at a licensed location.**

(1) **General records.** Each licensee must maintain electronic or hard copy books, accounts, records, papers, documents, files, and other information relevant to making loans or servicing residential mortgage loans.

(2) **Advertising records.** These records include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any electronic advertising distributed by facsimile computer, or other electronic or wireless network.

(3) **Other specific records.** The records required under subsection (1) of this section include, but are not limited to:

(a) All loan agreements or notes and all addendums, riders, or other documents that supplement the final loan agreements;

(b) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(c) The initial rate sheet or other supporting rate information, if applicable;

(d) The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement, if applicable;

(e) Rate lock agreements and the supporting rate sheets or other rate supporting document, if applicable;

(f) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures include, but are not limited to: The good faith estimate

or loan estimate or other Truth in Lending Act disclosures, Equal Credit Opportunity Act disclosures, and affiliated business arrangement and other disclosures under RESPA;

(g) Documents and records of compensation paid to employees and independent contractors;

(h) An accounting of all funds received in connection with loans with supporting data;

(i) Settlement statements (for example, the final HUD-1, HUD-1A or federal closing disclosure);

(j) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, yield spread premium, loan type and terms;

(k) Records of any fees refunded to applicants for loans that did not close;

(l) All file correspondence and logs;

(m) All mortgage broker contracts with lenders and all other correspondence with the lenders;

(n) All documents used to support the underwriting approval, if applicable; and

(o) All documents that evidence a financial commitment made to protect a rate of interest during a rate lock period.

(4) **Loan servicing documents.** See subsection (1) of this section.

(5) **Student education loan servicers.** In addition to keeping records in compliance with the act and this section, servicers of student education loans must also collect, maintain, and report to the department specific information about the loans in their portfolio. Such information shall include, but not be limited to: Loan volume; default, refinance, and modification information; loan type (subsidized, deferred, etc.) information; and collection practices.

(6) **Abandoned records.** If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format, or proper destruction of the records.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-550 What business practices are prohibited?** In addition to RCW 31.04.027, the following constitute an "unfair or deceptive" act or practice:

(1) Failure to provide the exact pay-off amount as of a certain date within seven business days after being requested in writing to do so by a borrower of record or their authorized representative;

(2) Failure to record a borrower's payment as received on the day it is delivered to any of the licensee's locations during its regular working hours;

(3) Collecting more than forty-five days of prepaid interest at the time of loan closing;

(4) Soliciting or entering into a contract with a borrower that provides in substance that the licensee may earn a fee or commission through its "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) **Engaging in unfair or deceptive advertising practices.** Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace. See also WAC 208-620-630;

(6) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department;

(7) Making any payment, directly or indirectly, or withholding or threatening to withhold any payment, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(8) Leaving blanks on a document that is signed by the borrower or providing the borrower with documents with blanks;

(9) Failing to clearly disclose to a borrower whether the payment advertised or offered for a real estate loan includes amounts for taxes, insurance or other products sold to the borrower;

(10) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower, unless mail has been previously returned as undeliverable from the address, in order to verify that the asset is not otherwise insured;

(11) Willfully filing a lien on property without a legal basis to do so;

(12) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction;

(13) Failing to reconvey title to collateral, if any, within thirty business days when the loan is paid in full unless conditions exist that make compliance unreasonable;

(14) ~~(Intentionally)~~ Failing to timely and completely comply with any directive, subpoena, or order issued by the department;

(15) Negligently delaying the closing of a residential mortgage loan ((for the sole purpose of increasing)) which results in increased interest, costs, fees, or charges payable by the borrower;

~~((15))~~ (16) Negligently delaying the refinance or modification of a student education loan which results in increased interest, costs, fees, or other charges payable by the borrower or which results in the proposed refinancing or modification becoming unavailable, or both;

(17) Steering a borrower to a residential mortgage loan with less favorable terms than they qualify for in order to increase the compensation paid to the company or mortgage loan originator. An example is counseling, or directing a borrower to accept a residential mortgage loan product with a risk grade less favorable than the risk grade the borrower would qualify for based on the licensee or other regulated person's then current underwriting guidelines, prudently applied, considering the information available to the licensee or other regulated person, including the information provided by the borrower;

~~((16))~~ (18) Failing to indicate on all residential mortgage loan applications, initial and revised, the company's unique identifier, the loan originator's unique identifier, and the date the application was taken or revised;

~~((17))~~ (19) Receiving compensation or anything of value from any party for assisting in real estate "flopping."

Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter;

~~((18))~~ (20) Receiving compensation for making the loan and for brokering the loan in the same transaction~~((~~

~~(19))~~;

(21) Charging a fee in a residential mortgage loan transaction that is more than the fees allowed by the state or federal agency overseeing the specific type of loan transaction. Examples include, but are not limited to, loans insured or guaranteed by the Veterans Administration, Home Equity Conversion Mortgages insured by HUD, and loans offered through the United States Department of Agriculture Rural Development~~((~~

~~(20))~~;

(22) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan. An example is advertising a discounted rate without clearly and conspicuously disclosing in the advertisement the cost of the discount to the borrower and that the rate is discounted~~((~~

~~(21))~~;

(23) Servicing a usurious loan.

#### NEW SECTION

**WAC 208-620-569 What fees can I charge when servicing student education loans?** (1) You may charge servicing fees authorized by the loan documents, by the act, or by the borrower. Examples include, but are not limited to, late fees as authorized by the loan documents, insufficient fund fees as authorized by the loan documents or as allowed under WAC 208-620-560(2), and wire transfer fees for wire transfers requested by the borrower.

(2) You may only charge a fee for a default related service that is usual and customary or reasonable in light of the service provided.

(3) You may not charge a consumer for fees you paid to third parties in excess of the fee you paid to the third party.

(4) Fees which are not timely charged to a borrower's account pursuant to RCW 31.04.405 must be waived, or if already collected, must be returned to the borrower within fifteen calendar days.

#### **STUDENT EDUCATION LOAN SERVICING REQUIREMENTS**

#### NEW SECTION

**WAC 208-620-950 Servicing student education loans—General requirements.** (1) Other applicable laws, regulations, and programs. A violation of an applicable state or federal law, regulation, or program is a violation of this act. In addition to complying with all other provisions of this act and

rules, you must comply with the following: All applicable federal program requirements.

(2) Communications. You must provide to the borrower in a specific, separate document seeking the borrower's authorization to receive all communications electronically. If the borrower responds affirmatively (agreeing), you must retain the borrower's agreement to receive electronic communications.

(3) Payment processing and fees.

(a) You must assess any incurred fees to a borrower's account within forty-five days of the date on which the fee was incurred. You must clearly and conspicuously explain the fee in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(b) You must accept and credit, or treat as credited, all amounts received within one business day of receipt when the borrower has made the payment to the address where instructed, provided that the borrower has provided sufficient information to credit the account. If you use the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. You must apply the payment as specified in the loan documents.

(c) You must notify the borrower if a payment is received but not credited, or treated as credited. You must mail the notification to the borrower within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the student education loan current. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(4) You must provide, free of charge on your web site, information or links to information regarding repayment and loan forgiveness options that may be available to borrowers, as well as the availability of the student loan advocate to provide assistance. This information or these links shall be prominently placed and provided via written correspondence or email with the borrower at least once per calendar year.

#### NEW SECTION

**WAC 208-620-960 Servicing student education loans—Requests for information.** (1) You must make a reasonable attempt to comply with a borrower's request for information about the student education loan account and to respond to any dispute initiated by the borrower about the loan account. A reasonable attempt includes, but is not limited to:

(a) Maintaining written or electronic records of each written request for information involving the borrower's

account until the student education loan is paid in full, sold, or otherwise satisfied;

(b) Providing a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply.

(2) You must provide, at a minimum, the following information to a borrower's request described in this section:

(a) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(b) The current balance due on the student education loan, including the principal due, the amount of funds, if any, held in a suspense account, if any, and whether there are any shortages known to the servicer;

(c) The identity, address, and other relevant information about the current holder, owner, or assignee of the student education loan; and

(d) The telephone number and mailing address of an individual servicer representative with the information and authority to answer questions and resolve disputes.

(3) You must promptly correct any errors and refund any fees assessed to the borrower resulting from an error you made.

(4) If the borrower applies for or attempts to certify progress toward a discharge or refund of amounts paid on their federal student education loans with the United States Department of Education, you must provide explanations to the borrower on any decision made with respect to their application.

(5) In addition to the statement described in subsection (2) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower, this statement must also include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note, with all endorsements; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan servicing transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the student education loan including suspense account activity, if any.

(c) The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the student education loan for the entire two-year time period, the servicer must provide the information going back to the date on which the servicer began servicing the loan and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the loan

prior to the two-year period or the period during which the servicer has serviced the student education loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums that are owed on the student education loan up to the date of the request for the information.

(d) If the borrower requests this statement, you must provide it free of charge; but the borrower is only entitled to one free statement annually. If the borrower requests more than one statement annually, you may charge thirty dollars for the second and subsequent statements.

#### NEW SECTION

**WAC 208-620-970 Servicing student education loans—Acquiring, transferring, or selling servicing activities.** (1) When acquiring servicing rights from another servicer you must:

(a) Notify the student education loan borrowers in writing no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which you will begin to accept payments relating to the loan, if different;

(ii) The name, mailing address, and toll-free telephone number for your designated points of contact, as well as the designated points of contact for the transferring servicer, at which the borrower can obtain answers to inquiries.

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan;

(iv) Information about how to obtain a payment history from you or the transferring servicer, including a count of payments that qualify toward any forgiveness options, as applicable;

(v) A notification indicating whether an alternative repayment plan or loan consolidation application is pending; and

(vi) Information about how to appropriately direct and submit a complaint to the United States Department of Education, the student loan advocate, student loan ombuds, and other relevant federal or state agencies that collect borrower complaints, in the event of a servicing error.

(b) Continue processing loan modification requests, including applications for income-driven repayment, loan forgiveness, or loan consolidation received by you or the transferring servicer during the transfer process; and

(c) Retain records necessary to maintain the borrower's uninterrupted enrollment in their existing repayment plan.

(2) When transferring or selling the servicing of loans you must:

(a) Notify the student education loan borrowers in writing no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which you will no longer accept payments relating to the loan, if different;

(ii) The name, mailing address, and toll-free telephone number for your designated points of contact, as well as the designated points of contact for the receiving servicer, at which the borrower can obtain answers to inquiries; and

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan; and

(b) Inform the receiving servicer if a loan modification request is pending.

#### **WSR 18-15-081**

#### **PROPOSED RULES**

#### **DEPARTMENT OF COMMERCE**

[Filed July 18, 2018, 6:49 a.m.]

Supplemental Notice to WSR 18-07-112 and 18-10-105.

Preproposal statement of inquiry was filed as WSR 17-14-065.

Title of Rule and Other Identifying Information: Chapter 194-26 WAC, Determination of the average greenhouse gas emission output from new, commercially available combined cycle combustion turbines.

Hearing Location(s): On August 23, 2018, at 10 a.m., at the Washington State Department of Commerce, Columbia Room, 1011 Plum Street S.E., Olympia, WA 98501. A courtesy call-in line will be available to allow for comments to be provided by phone during the hearing. The call-in number is 360-407-3780 and PIN Code is 402223#. Participants choosing to provide oral comments via the conference line are advised to also submit written comments, in the event of technical difficulties.

Date of Intended Adoption: August 29, 2018.

Submit Written Comments to: Greg Nothstein, P.O. Box 42525, Olympia, WA 98504-2525, email [greg.nothstein@commerce.wa.gov](mailto:greg.nothstein@commerce.wa.gov), by 5 p.m., August 24, 2018.

Assistance for Persons with Disabilities: Contact Carolee Sharp, phone 360-725-3118, TTY 360-586-0772, email [carolee.sharp@commerce.wa.gov](mailto:carolee.sharp@commerce.wa.gov), by August 16, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the average greenhouse gas emission output from new, commercially available combined cycle combustion turbines.

Reasons Supporting Proposal: Updating the average greenhouse gas emission output from new, commercially available combined cycle combustion turbines every five years is required by statute.

Statutory Authority for Adoption: RCW 80.80.050.

Statute Being Implemented: RCW 80.80.040, 80.80.050.

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

Name of Proponent: Washington state department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Greg Nothstein, 1011 Plum Street S.E., Olympia, WA 98501, 360-725-3112.

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

A cost-benefit analysis is not required under RCW 34.05.328. Commerce is not an agency listed in RCW 34.05-328 (5)(a)(i) as one to which that statute applies.

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

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

Explanation of exemptions: RCW 80.80.050 requires commerce to update the average greenhouse gas emission output from new, commercially available combined cycle combustion turbines every five years.

July 18, 2018  
Jaime Rossman  
Rules Coordinator

**Chapter 194-26 WAC**

**AVERAGE AVAILABLE GREENHOUSE ((GAS)) GASES EMISSIONS OUTPUT FOR EMISSIONS PERFORMANCE STANDARD**

AMENDATORY SECTION (Amending WSR 13-06-074, filed 3/6/13, effective 4/6/13)

**WAC 194-26-010 Authority.** This chapter is promulgated pursuant to ~~((the authority granted in RCW 80.80.040, requiring the department of commerce to adopt the average available greenhouse gases emissions output as determined under RCW 80.80.050 as the greenhouse gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments))~~ RCW 80.80.050, which requires the energy division of the department of commerce to survey new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States to determine the average rate of emissions of greenhouse gases for these turbines and adopt the average available greenhouse gases emissions output by rule every five years beginning five years after July 22, 2007.

AMENDATORY SECTION (Amending WSR 13-06-074, filed 3/6/13, effective 4/6/13)

**WAC 194-26-020 Average available greenhouse ((gas)) gases emissions output.** (1) The energy ~~((policy))~~ division of the department of commerce has surveyed new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States, and finds the average ~~((rate of emissions of))~~ available greenhouse gases ((for these turbines)) emissions output to be nine hundred ((and seventy)) twenty-five pounds per megawatt-hour as of the effective date of this section.

(2) The purpose of this subsection is to provide historical values for the average available greenhouse gases emissions output established in WAC 194-26-020.

<u>Average available greenhouse gases emissions output (lb GHG/MWh) - Historical Values</u>	<u>Start date</u>	<u>End date</u>
970	4/6/13	Effective date of this section

**WSR 18-15-086  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed July 18, 2018, 8:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-08-079.

Title of Rule and Other Identifying Information: Chapter 16-301 WAC, General seed regulations and chapter 16-302 WAC, General rules for seed certification, the department is proposing the following amendments to these chapters:

- Adding Palmers amaranth to the prohibited noxious weed seed list in WAC 16-301-045 and the seed certification prohibited noxious weed seed list in WAC 16-302-100;
- Changing phytosanitary field inspection and seed certification application due dates for perennials and stecklings or transplants in WAC 16-301-200 and 16-302-050 to conform with current industry practices;
- Adding definitions for previously undefined terms in WAC 16-301-005; and
- Correcting errors in seed standards for prairie sand-reed in WAC 16-302-470.

Hearing Location(s): On August 27, 2018, at 11:00 a.m., at the Department of Agriculture, Conference Room 238, 21 North 1st Avenue, Yakima, WA 98902.

Date of Intended Adoption: September 10, 2018.

Submit Written Comments to: Henri Gonzales, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email [wdsarulescomments@agr.wa.gov](mailto:wdsarulescomments@agr.wa.gov), fax 360-902-2092, by August 27, 2018.

Assistance for Persons with Disabilities: Contact Jeff Larsen, Commodity Inspection Rules Coordinator, phone 360-902-1960, fax 360-902-2085, TTY 800-833-6388, email [jlarsen@agr.wa.gov](mailto:jlarsen@agr.wa.gov), by August 20, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 16-301 WAC provides general regulations for the seed industry, including definitions, lists of prohibited and restricted noxious weed seeds, and phytosanitary field inspection requirements, among other topics. Chapter 16-302 WAC provides regulations for seed certification, including seed certification standards and lists of prohibited and objectionable noxious weed seeds for the purpose of seed certification, among other topics. The purpose of this proposal is to:

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

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

#### Reasons Supporting Proposal:

- Adding Palmers amaranth to the prohibited noxious weed seed lists helps maintain Washington state's weed-free status for Palmers amaranth: Since Palmers amaranth is not currently on the prohibited noxious weed seed lists, it could potentially enter Washington state in seed lots originating from outside the state. Palmers amaranth is herbicide-resistant and difficult-to-control, therefore adding it to the noxious weed lists increases protections against it and protects the Washington seed industry.
- By allowing applications for phytosanitary field inspection and seed certification to be received earlier and adjusting application due dates, the inspection timeline more accurately reflects crop maturity and growth cycle. Additionally, accepting applications earlier provides a larger inspection window and a longer opportunity for industry to correct issues within a field before harvest, and more accurately reflects current industry practices.
- Adding definitions helps the rules better align with Association of Official Seed Certifying Agencies (AOSCA) standards.
- Correcting errors in existing seed standards for prairie sand-reed eliminates confusion.

Statutory Authority for Adoption: RCW 15.49.005, [15.49].021, [15.49].310, [15.49].370, and chapter 34.05 RCW.

Statute Being Implemented: RCW 15.49.005.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Larsen, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1960; Implementation and Enforcement: Victor Shaul, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, 509-249-6950.

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

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The portion of the proposed amendment regarding correcting errors in existing seed standards for prairie sand-reed in WAC 16-302-470 only makes corrections to typographical errors without changing the effect of the rule. This change will provide clarity and eliminate potential confusion for industry stakeholders trying to understand and apply program requirements. The portion of the proposed amendment regarding adding definitions to WAC 16-301-005 incorporates national consensus codes of AOSCA.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Adding Palmers amaranth to the noxious weed seed lists in WAC 16-301-045 and 16-302-100 would not increase costs to businesses, whereas not adding it to these lists would cause farmers to incur additional costs to control it if introduced into Washington state in a lot of seed.

Adjusting due dates in WAC 16-301-200 and 16-302-050 would not increase costs to businesses. The proposed due dates benefit industry by providing more flexibility for when crops can be planted, as well as increasing the amount of time industry has to resolve identified field issues prior to harvest. Additionally, changing the due dates will improve the timeliness of service to the customers of the seed program.

July 18, 2018

J. Allenton

Acting Assistant Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) For seed certified by the department: Alfalfa, clover, grasses and rapeseed (seedling applications) - Within sixty days of planting. Seedling applications will not be accepted if received more than one hundred five days after planting.
- (b) Hybrid canola or hybrid rapeseed - Fall plantings February 1st; Spring plantings - Twenty-one days after planting.
- (c) Sunflower twenty-one days after planting.
- (d) Notification of a seedling field to be harvested for certification the same year of planting is due July 31st with the required fees.

- (i) Bean - ~~((July 1st))~~ Twenty-one days after planting.
- (ii) Corn - June 1st.
- (iii) Industrial hemp - Twenty-one days after planting.
- (2) For seed certified by the Washington state crop improvement association (WSCIA) seed certification application due dates are:
  - (a) Fall planted small grains, peas and lentils - April 1st.
  - (b) Spring planted small grains, peas, lentils, and millet - June 1st.
  - (c) Chickpeas - Within twenty-eight days of planting.
  - (d) Hybrid small grains - Fall plantings February 1st; spring plantings - Twenty-one days after planting.
  - (e) Buckwheat and soybean - July 1st.
  - (f) Sorghum - July 15th.
  - (g) Forest tree seed certification - Refer to specific crop requirements in chapter 16-319 WAC.
- (3) An application for seed certification must be submitted to the certifying agency each year a grower plans to produce seed for certification of annual crops (beans, peas, grain).
- (4) A renewal application for seed certification must be submitted to the certifying agency after a stand is established each year that a grower plans to produce seed for certification of perennial crops (alfalfa, clover, grass). Due dates for renewal applications are as follows:
  - (a) Alfalfa and clover - ~~((June))~~ April 15th.
  - (b) Grass - ~~((May 1st))~~ April 15th.
- (5) Applications received after the due date are assessed a late application fee.
- (6) No renewal application for seed certification may be accepted after the due date if a field inspection cannot be conducted prior to harvest except at the discretion of the certifying agency.

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

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

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

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial sowthistle	<i>Sonchus arvensis</i>
Quackgrass	<i>Elymus repens</i>
Knapweed complex	
Bighead	<i>Centaurea macrocephala</i>
Vochin	<i>Centaurea nigrescens</i>
Black	<i>Centaurea nigra</i>
Brown	<i>Centaurea jacea</i>
Diffuse	<i>Centaurea diffusa</i>
Meadow	<i>Centaurea x moncktonii</i>
Russian	<i>Rhaponticum repens</i>
Spotted	<i>Centaurea stoebe</i> subsp. <i>australis</i>
Purple starthistle	<i>Centaurea calcitrapa</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Serrated tussock	<i>Nassella trichotoma</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i> Cav.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Sorghum perennial such as, but not limited to, johnson-grass, sorghum almum, and perennial sweet sudangrass	<i>Sorghum</i> spp.
Tansy ragwort	<i>Jacobaea vulgaris</i>
Yellow-flowering skeleton weed	<i>Chondrilla juncea</i>
White cockle	<i>Silene latifolia</i> (only in timothy)
Bladder campion	<i>Silene vulgaris</i> (only in timothy)
Lepyrodielis	<i>Lepyrodielis holsteoides</i>
Velvetleaf	<i>Abutilon theophrasti</i>

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

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

SEED STANDARDS

Crop	Minimum % Germination		Minimum % Pure seed		Maximum % Inert		Maximum % Weeds (a)		Maximum % Other crops	
	F/R	C	F/R	C	F/R	C	F/R	C	F/R	C
Small burnet	80	80	95	95	5	5	0.10	.2	.1	.25
Purple prairie clover	60(b)	60(b)	95	95	5	5	0.20	.5	.1	.25
Bitterbrush, antelope	75	75	95	95	5	5	0.10(a)	0.20	0.40 0.15(g)	1.25 0.50(g)
Balsamroot, arrowleaf sclerotinia	85	85	99	98	1.00 0	2.00 1/lb	0.02	0.04	0.10	0.20
Saltbush, four-wing	30	30	85	85	15	15	0.25(a)	.5(a)	.40 .15(g)	1.25 .50(g)
Gallardia(d)	60	60	90	90	10	10	0.20(a)	1.00(a)	.20 .10(g)	2.00 .25(g)
Prairie blazingstar or Gay-feather, thickspike ( <i>Liatris pycnostachya</i> )(d)	60	60	85	80	15	20	0.30(a)	0.30(a)	0.20 0.10(g)	2.00 0.25(g)
Kochia, prostrate, forage Restricted noxious weeds	35	35	65	65	35	35	0.10 45/lb	0.20 91/lb	9/lb	25/lb
Artemesia sage, Louisiana sagebrush, big mountain	30 50	30 50	80 10	80 10	20 90	20 90	0.25 0.25(a)	0.50(a) 0.50(a)	0.40 0.40 0.25(g)	1.25 1.25 0.75(g)
sage, pitcher's ( <i>Salvia</i> )	25	25	90	90	10	10	0.30(a)	0.30(a)	0.20(c) 0.10(g)	2.00(c) 25(g)
Milkvetch, cicor Alfalfa & sweet clover Restricted noxious Sclerotia	75	70	99	98	1 0.10	2 0.10	0.01(a) None	0.20(a) 9/lb	0.01 9/lb 0.10(g)	0.20 45/lb 0.50(g)

Crop	Minimum % Germination		Minimum % Pure seed		Maximum % Inert		Maximum % Weeds (a)		Maximum % Other crops	
	F/R	C	F/R	C	F/R	C	F/R	C	F/R	C
Lupine Restricted noxious	80	80	98	98	2	2	0.25 0	0.50 9/lb	0.10	0.40
Mountain mahogany	60	60	85	85	15	15	0.25(a)	0.50(a)	0.40 0.15(g)	1.25 0.75(g)
<i>Penstemon</i> spp.	80(d)	80(d)	90	90	10	10	0.20	1.00	0.20(c) 90/lb(e)	2.00(c) 180/lb(e)
Prairie-coneflower	60	60	90	90	10	10	0.20(a)	1.00 (a)	0.20(c) 0.10(g)	2(c) 2.00(g)
Safflower	-	85	-	99	-	1	-(a)	10(a)	- 1 in 2lbs(f)	0.10 1 in 1 lb(f)
Sainfoin Restricted noxious weeds	-	80	99	99	1	2	0.10(a)	0.20 9/lb	0	0.10
Sand-reed, prairie	70	70	90	90	((0-10)) 10	((0-10)) 10	0.10	0.25	0.10	0.50
Winterfat	40	40	60	60	40	40	0.25	0.50	40 0.15(g)	1.25 0.75(g)

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

**WSR 18-15-087**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed July 18, 2018, 8:36 a.m.]

Supplemental Notice to WSR 18-06-099.

Preproposal statement of inquiry was filed as WSR 18-02-092.

Title of Rule and Other Identifying Information: Chapter 504-49 WAC, Renewable energy system incentive program.

Hearing Location(s): On August 23, 2018, at 4:00 p.m., at Lighty 401, WSU Pullman, Pullman, Washington; SAC 501, WSU Spokane, Spokane, Washington; TEST 212, WSU Tri-Cities, Richland, Washington; VDEN 301, WSU Vancouver, Vancouver, Washington; Everett Seminar Room 340, WSU Everett, Everett, Washington; Conference Room 1, WSU West, Seattle, Washington; and Conference Room 400, WSU Energy Program, Olympia, Washington. Attending by phone, dial 509-358-7935, enter meeting ID 5094 when prompted.

Date of Intended Adoption: September 21, 2018.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, fax 509-335-3969, by August 23, 2018.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, fax 509-335-3969, email prf.forms@wsu.edu, by August 21, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university is adding new rules regarding the administration of the state

renewable energy system incentive program for citizens, businesses, and utilities.

Due to comments received during the public commenting period ending April 12, 2018, the WSU energy program has made changes to six sections of the permanent rules, as included in this supplemental proposal. The sections changed from the previous proposal are WAC 504-04-165, 504-04-195, 504-04-210, 504-04-225, 504-04-305, and 504-04-520.

Reasons Supporting Proposal: In accordance with the renewable energy system incentive program law, ESSB 5939, signed into law on July 7, 2017, the state renewable energy system incentive program is to be administered by the Washington State University (WSU) energy program. The new rules are needed to provide procedures and requirements for the administration of this program.

Statutory Authority for Adoption: RCW 28B.30.150.

Statute Being Implemented: ESSB 5939.

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

Name of Proponent: [WSU], governmental.

Name of Agency Personnel Responsible for Drafting: Seth Kolodziejcki, Energy Program Coordinator, WSU Energy Program, 905 Plum Street S.E., Olympia, WA 98504-3165, 509-956-2000; Implementation: Jacob Fey, Director, WSU Energy Program, 905 Plum Street S.E., Olympia, WA 98504-3165, 509-956-2000; and Enforcement: Dan Bernardo, Provost, WSU, French Administration 436, Pullman, Washington 99164-1046, 509-335-5581.

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

A cost-benefit analysis is not required under RCW 34.05.328. The rule has no impact on small business.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

July 18, 2018

Deborah L. Bartlett, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

### Chapter 504-49 WAC

#### RENEWABLE ENERGY SYSTEM INCENTIVE PROGRAM

##### NEW SECTION

**WAC 504-49-010 Introduction.** (1) The rules in this chapter explain the renewable energy system incentive program, which is administered by the Washington State University energy program (hereinafter referred to as "energy program"). It is the legislature's intent to provide the incentives as described in RCW 82.16.130 in order to ensure the sustainable job growth and vitality of the state's renewable energy sector. The purpose of the incentive is to reduce the costs associated with installing and operating renewable energy systems by persons or entities receiving the incentive. This incentive program authorizes an incentive payment based on electricity generated by renewable energy systems located in Washington state. Qualified renewable energy systems include:

- (a) Solar energy systems;
  - (b) Wind generators; and
  - (c) Certain types of anaerobic digesters that process manure from livestock into biogas and dried manure using microorganisms in a closed oxygen-free container, in which the biogas (such as methane) fuels a generator that generates electricity.
- (2) The rules in this chapter are divided into seven parts based on subject matter, as follows:
- (a) Part I: Definitions;
  - (b) Part II: Participation and application requirements, and incentive levels by project type;
  - (c) Part III: Calculation of incentives;
  - (d) Part IV: General topics;
  - (e) Part V: Manufactured in Washington state;
  - (f) Part VI: Application process for currently certified renewable energy systems in the cost recovery incentive program; and
  - (g) Part VII: Appeals rights.

## PART I

### DEFINITIONS

#### NEW SECTION

**WAC 504-49-100 Overview.** The definitions in Part I of this chapter (this section and WAC 504-49-103 through 504-49-195) apply throughout this chapter unless the context clearly requires otherwise.

#### NEW SECTION

**WAC 504-49-103 Administrator.** The term "administrator" has the following two meanings in this chapter:

(1) For purposes of a shared commercial solar project, the administrator is a utility or a business under contract with a utility which administers a shared commercial solar project that meets the eligibility requirements specified in this chapter. The administrator applies for certification on behalf of each of the project participants. In addition, the administrator performs administrative tasks on behalf of the owners as may be necessary, such as:

- (a) Receiving the renewable energy incentive payments;
- (b) Allocating and paying appropriate amounts of such payments to owners; and
- (c) Communicating with the energy program about any changes in participants.

(2) For purposes of a community solar project as defined in WAC 504-49-120, the administrator is the utility, non-profit, or local housing authority (as defined in RCW 35.82.-020) that organizes and administers the community solar project. The administrator is responsible for applying for the renewable energy system incentive on behalf of the system's owners. In addition, the administrator performs administrative tasks on behalf of the owners as may be necessary, such as:

- (a) Receiving the renewable energy incentive payments;
- (b) Allocating and paying appropriate amounts of such payments to owners; and
- (c) Communicating with the energy program about any changes in participants.

#### NEW SECTION

**WAC 504-49-105 Caps and limits.** "Caps and limits" are defined as follows:

(1) "Annual incentive limits" means the annual limits on total incentives paid per person, business, or household for a given fiscal year of electricity generation from the four project types described in chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939). Each incentive recipient may qualify for payments up to the incentive cap within each project type. However, incentive recipients who have multiple projects within one project type are subject to the cap for the applicable project type. These caps are as follows:

- (a) Residential-scale systems: Five thousand dollars;
- (b) Commercial-scale systems: Twenty-five thousand dollars;
- (c) Shared commercial solar projects: Up to thirty-five thousand dollars per year per project participant, as deter-

mined by the terms specified in chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939); and

(d) Community solar projects: Five thousand dollars per project participant.

(2) "Utility credit cap" means that the maximum annual incentives paid by an electrical utility may not exceed one and one-half percent of the businesses' taxable power sales generated in calendar year 2014 and due under RCW 82.16.-020 (1)(b) or two hundred fifty thousand dollars, whichever is greater, up to the utility's public utility tax liability.

(3) "Project type cap" has the following two meanings in this chapter:

(a) For commercial-scale systems, the project type cap is twenty-five percent of the remaining funds for credit available to a utility as of July 1, 2017; and

(b) For community solar and shared commercial solar projects combined, the project type cap is fifty percent of the remaining funds for credit available to a utility as of July 1, 2017.

(4) "Incentive rate limit" for shared commercial solar project participants means that the incentive rate must not exceed the difference between the levelized cost of energy output and the participant's retail rate.

(5) "Total program limit" means that the total incentive payments made under this program (in this chapter) may not exceed one hundred ten million dollars.

#### NEW SECTION

**WAC 504-49-108 Certification.** "Certification" means the authorization issued by the energy program establishing a system's eligibility and the eligibility of a person, business, or household to receive annual incentive payments from the serving utility for the incentive program term.

#### NEW SECTION

**WAC 504-49-110 Commercial-scale system.** "Commercial-scale system" means a renewable energy system or system other than a community solar project or a shared commercial solar project with a direct current combined nameplate capacity greater than twelve kilowatts that meets the applicable system eligibility requirements established in section 6, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

#### NEW SECTION

**WAC 504-49-115 Community solar project.** "Community solar project" means a solar energy system that:

(1) Has a nameplate generating capacity that is no larger than one thousand kilowatts direct current;

(2) Must have at least ten participants or one participant for every ten kilowatts direct current nameplate capacity, whichever is greater; and

(3) Meets the applicable eligibility requirements established in sections 6 and 7, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

#### NEW SECTION

**WAC 504-49-120 Consumer-owned utility.** "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

#### NEW SECTION

**WAC 504-49-125 Customer-owner.** "Customer-owner" means the owner of a residential-scale or commercial-scale renewable energy system, where such owner:

(1) Is not a utility;

(2) Is the primary account holder of the utility account; and

(3) Either owns or occupies the premises where the renewable energy system is installed.

#### NEW SECTION

**WAC 504-49-130 Direct current.** "Direct current" means the unidirectional flow of electric charge.

#### NEW SECTION

**WAC 504-49-135 Electric utility or utility.** "Electric utility" or "utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.-020.

#### NEW SECTION

**WAC 504-49-140 Fiscal year.** "Fiscal year" means July 1st through June 30th of the following year for the purposes of this rule. For example, fiscal year 2018 goes from July 1, 2017, through June 30, 2018.

#### NEW SECTION

**WAC 504-49-145 Nonprofit organization.** "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the federal Internal Revenue Code of 1986, as amended, as of January 1, 2009.

#### NEW SECTION

**WAC 504-49-150 Person, business, and household.** "Person, business, and household" means any individual, firm, partnership, corporation, company, association, agency, or any other legal entity that resides on a property or has a business located on a property within the service area of the utility where the renewable energy system is located.

(1) No person, business, or household is eligible to receive incentive payments provided under section 1, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939) of more than:

(a) Five thousand dollars per year for residential-scale systems or community solar projects;

(b) Twenty-five thousand dollars per year for commercial-scale systems; or

(c) Thirty-five thousand dollars per year for shared commercial solar projects.

(2) Example: Two or more individuals living together in one household, with one customer account with the partici-

pating utility, constitutes a household. Although they may each individually participate in this incentive program, these same individuals living together in one household receive incentives in accordance with this chapter.

#### NEW SECTION

**WAC 504-49-155 Program term.** "Program term" means eight years, or until cumulative incentive payments for electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first. Eight years is equivalent to ninety-six months of electricity generation from the time of certification.

#### NEW SECTION

**WAC 504-49-160 Project participant.** "Project participant" has the two following meanings:

(1) For purposes of community solar projects, a utility customer who participates in a community solar project in order to obtain a beneficial interest. Eligible participants of a community solar project that are business entities, such as a limited liability company or a corporation, are analyzed for participant eligibility and applicable incentive caps and limits by looking through the business entity to the members or stockholders that own the business entity.

(2) For purposes of shared commercial solar projects, a customer of a utility and located in the state of Washington.

#### NEW SECTION

**WAC 504-49-165 Renewable energy system.** "Renewable energy system" means a grid-connected:

- (1) Solar energy system;
- (2) Anaerobic digester as defined in RCW 82.08.900; or
- (3) Wind generator.

#### NEW SECTION

**WAC 504-49-170 Residential-scale system.** "Residential-scale system" means a renewable energy system or systems located at a single situs with combined nameplate capacity of twelve kilowatts direct current or less that meets the applicable system eligibility requirements established in section 6, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

#### NEW SECTION

**WAC 504-49-175 Shared commercial solar project.** "Shared commercial solar project" means a solar energy system, owned or administered by an electric utility, which:

- (1) Has a combined nameplate capacity of greater than one megawatt direct current and not more than five megawatts direct current;
- (2) Has at least five participants; and
- (3) Meets the applicable eligibility requirements established in sections 6 and 8, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

#### NEW SECTION

**WAC 504-49-180 Solar energy system.** "Solar energy system" means any device or combination of devices or elements that rely on direct sunlight as an energy source for use in the generation of electricity.

#### NEW SECTION

**WAC 504-49-185 Solar inverter.** "Solar inverter" means the device used to convert direct current to alternating current in a solar energy system.

#### NEW SECTION

**WAC 504-49-190 Solar module.** "Solar module" means the smallest nondivisible, self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

#### NEW SECTION

**WAC 504-49-195 Total system price.** (1) "Total system price" includes only the renewable energy system components and fees that are integral and necessary for the generation of electricity. Components and fees include:

(a) Renewable energy system equipment (depends on system type):

- (i) Solar energy system: Solar modules, inverter(s);
- (ii) Wind generator: Turbine(s), tower(s), inverter(s);
- (iii) Anaerobic digester: Digester/reactor, electrical generator.

(b) Balance of system (such as racking, wiring, switch gear, meter base);

(c) Nonhardware costs incurred up to the date of the final electrical inspection (such as fees associated with engineering, permitting, interconnection, application);

- (d) Labor;
- (e) Sales tax (as applicable).

(2) Total system price does not include structures and fixtures that are not integral and necessary to the generation of electricity, such as carports, roofing, and energy storage.

## PART II

### PARTICIPATION AND APPLICATION REQUIREMENTS, AND INCENTIVE LEVELS BY PROJECT TYPE

#### NEW SECTION

**WAC 504-49-200 Participation by a utility in the renewable energy system incentive program is voluntary.**

(1) A utility electing to participate in the incentive program must notify the energy program of such election in writing.

(2) The utility may terminate its voluntary participation in the incentive program by providing notice in writing to the energy program to cease issuing new certifications for renewable energy systems that would be served by that utility.

(3) Such notice of termination of participation is effective after fifteen days, at which point the energy program may

not accept new applications for certification of renewable energy systems that would be served by that utility.

(4) Upon receiving a utility's notice of termination of participation in the incentive program, the energy program must report on its web site that customers of that utility are no longer eligible to receive new certifications under the incentive program.

(5) A utility's termination of participation does not affect the utility's obligation to continue to make annual incentive payments for electricity generated by systems that were certified prior to the effective date of the notice. The energy program must continue to process and issue certifications for renewable energy systems that were received by the energy program before the effective date of the notice of termination.

(6) A utility that has terminated participation in the program may resume participation upon filing notice with the energy program.

#### NEW SECTION

**WAC 504-49-205 Certification restrictions.** No new certification may be issued under this chapter for a system which an applicant received notice of eligibility from the department of revenue under the cost recovery program (RCW 82.16.120), or for a renewable energy system served by a utility that has elected not to participate in the incentive program, as provided in WAC 504-49-200.

#### NEW SECTION

**WAC 504-49-210 Renewable energy project requirements.** Any person, business, or household, as defined in WAC 504-49-150, that participates in any of the four types of renewable energy projects defined in sections 5 through 8, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939), must meet the specified participation requirements and is subject to the system capacity limits, application requirements, and incentive limits, as follows:

(1) Residential-scale:

(a) Participation: The participant must be an owner of a residential-scale renewable energy system that is not a utility and:

(i) Is a customer of the utility that serves that location and has established an interconnection agreement with the utility for the renewable energy system; and

(ii) Either owns or occupies the premises where the renewable energy system is installed.

(b) Capacity: Twelve kilowatts direct current or less, combined:

(i) Example 1: A property with a six kilowatts direct current solar system on one structure and a five kilowatts direct current system on the same or separate structure qualifies for the residential-scale incentive rate because the total capacity is less than twelve kilowatts direct current, combined.

(ii) Example 2: A property with a six kilowatts direct current solar system on one structure and a seven kilowatts direct current system on the same or separate structure does not qualify for the residential-scale incentive rate because the total capacity is greater than twelve kilowatts direct current, combined. This combined system instead qualifies for the commercial-scale incentive rate.

(iii) Example 3: A property with a twelve kilowatt direct current solar system, production metered and applying for the incentive, and any additional direct current system, production metered or not, and not applying for the incentive, on the same or separate structure, does not qualify for the residential-scale incentive rate because the combined capacity is greater than twelve kilowatts direct current. This combined system instead qualifies for the commercial-scale incentive rate.

(iv) In the case of multiple renewable energy systems on a structure such as a condominium or commercial building, each having a separate customer-owner and separate utility and production meters, each system, if under twelve kilowatts direct current, would qualify for the residential-scale rate.

(c) Application: The owner submits a completed application to the energy program for certification per requirements specified in WAC 504-49-220.

(d) Annual incentive limit: Five thousand dollars per person, business, or household.

(2) Commercial-scale:

(a) Participation: The participant must be an owner of a commercial-scale renewable energy system that is not a utility and:

(i) Is a customer of the utility that serves that location and has established an interconnection agreement with the utility for the renewable energy system; and

(ii) Either owns or occupies the premises where the renewable energy system is installed.

(b) Capacity: Greater than twelve kilowatts direct current, combined.

(i) Example 1: A property with a six kilowatts direct current solar system on one structure and a seven kilowatts direct current system on the same or separate structure qualifies for the commercial-scale incentive rate because the total capacity is greater than twelve kilowatts direct current, combined.

(ii) Example 2: A property with a six kilowatts direct current solar system on one structure and a five kilowatts direct current system on the same or separate structure qualifies for the residential-scale incentive rate because the total capacity is less than twelve kilowatts direct current, combined.

(c) Application: The owner submits a completed application to the energy program for certification per requirements specified in WAC 504-49-220.

(d) Annual incentive limit: Twenty-five thousand dollars per person, business, or household.

(3) Shared commercial solar:

(a) Administration: Administrators of this project type must be a utility or a business under contract with a utility;

(b) Participation: Projects must have at least five project participants, each of which is a customer of the utility and located in the state of Washington;

(c) Capacity: Combined nameplate capacity greater than one megawatt direct current and not more than five megawatts direct current;

(d) Application:

(i) Precertification. Prior to applying for certification, a shared commercial solar administrator must apply for precertification against the remaining funds available for incentive

payments as of July 1, 2017. Precertification application requirements include, but are not limited to:

(A) The name of the utility serving the project location;

(B) Contact information for the project administrator and technical management personnel; and

(C) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable;

(D) Additional information regarding deployment of projects in low- and moderate-income communities, as those terms are defined in RCW 43.63A.510, as requested.

(ii) Certification. The application for certification may not exceed the precertified system capacity. An application for certification must be completed by the shared commercial solar project administrator and approved by the energy program within one year of precertification issuance. Extensions past the three hundred sixty-five-day period are not granted. Projects that do not meet this deadline lose precertification status.

(e) Incentive rate: The incentive rate is set at the date of precertification approval;

(f) Annual incentive limit: Thirty-five thousand dollars per participant (person, business, household), consistent with their share of participation.

(4) Community solar project:

(a) Administration: A utility, nonprofit, or local housing authority that organizes or administers a solar project;

(b) Participation: The project must have at least ten participants, or one participant for every ten kilowatts direct current nameplate capacity, whichever is greater; and all participants must be customers of the participating utility;

(c) Capacity: Nameplate capacity that is no more than one thousand kilowatts direct current;

(d) There are no limitations on location unless stated in this section: Community solar project systems must be located in the state of Washington;

(e) Application:

(i) Precertification. Prior to applying for certification, a community solar project administrator must apply for precertification against the remaining funds available for incentive payments as of July 1, 2017. Precertification application requirements include, but are not limited to:

(A) The name of the utility serving the project location;

(B) Contact information for the project administrator and technical management personnel; and

(C) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(ii) Certification. The application for certification may not exceed the precertified system capacity. An application for certification must be completed by the community solar project administrator and approved by the energy program within one year of precertification issuance. Extensions past the three hundred sixty-five-day period are not granted. Projects that do not meet this deadline lose precertification status.

(f) Incentive rate: The incentive rate is set at the date of precertification approval;

(g) Annual incentive limit: Five thousand dollars per participant (person, business, household), consistent with their share of participation.

#### NEW SECTION

**WAC 504-49-215 Department of revenue-certified renewable energy systems.** To continue to be eligible to receive incentive payments under the renewable energy system cost recovery program (as described in WAC 458-20-273), the applicants (as defined in WAC 458-20-273) with the department of revenue certification must reapply with the energy program. This reapplication process is described in Part VI of this chapter and must be completed by April 30, 2018.

(1) Participation: Only applicants with renewable energy systems previously certified by the department of revenue may reapply for continued incentives.

(2) Application: Submit a completed reapplication to the energy program for certification in accordance with the requirements specified in Part VI of this chapter. For community solar projects, also submit a list of participants in the project.

(3) Annual incentive limit: Five thousand dollars per individual, household, business, or local governmental entity.

(4) Deadline: Reapplications must be submitted by April 30, 2018.

#### NEW SECTION

**WAC 504-49-220 Requirements to apply for certification—Residential-scale and commercial-scale projects.** The application must contain, but is not limited to, the following information; additional requirements are specified in WAC 504-49-210.

(1) The name and address of the customer-owner and location of the renewable energy system.

(2) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(3) An executed interconnection agreement with the serving utility.

(4) The date and supporting documentation verifying that the local jurisdiction issued its final electrical inspection of the renewable energy system.

(5) Documentation, including final sales invoice, and details of the total system price as defined in WAC 504-49-195.

(6) A signed statement that the applicant understands that this information is true, complete, and correct to the best of applicant's knowledge and belief under penalty of perjury.

(7) A signed statement that the applicant has not previously received a notice of eligibility from the department of revenue under RCW 82.16.120 entitling the applicant to receive annual incentive payments for electricity generated by the renewable energy system.

(8) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

(9) Payment of the one hundred twenty-five dollar application fee.

(10) Provisional certification. The energy program may grant provisional certification prior to proof of final electrical inspection. Provisional certification expires one hundred eighty days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction, or the energy program extends the certification for a term or terms of thirty days due to extenuating circumstances.

#### NEW SECTION

**WAC 504-49-225 Requirements to apply for certification—Shared commercial and community solar projects.** The application must contain, but is not limited to, the information detailed below. Additional requirements are specified in WAC 504-49-210.

(1) The name and address of the project administrator and location of the renewable energy system.

(2) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(3) An executed interconnection agreement with the serving utility.

(4) The date and supporting documentation verifying that the local jurisdiction issued its final electrical inspection of the renewable energy system.

(5) Documentation, including final sales invoice, and details of total system price as defined in WAC 504-49-195.

(6) A signed statement that the administrator understands that this information is true, complete, and correct to the best of administrator's knowledge and belief under penalty of perjury.

(7) A signed statement that the administrator has not previously received a notice of eligibility from the department of revenue under RCW 82.16.120 entitling the community solar project participants to receive annual incentive payments for electricity generated by the solar energy system.

(8) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

(9) Payment of the one hundred twenty-five dollar application fee.

(10) Additional information required for certification of shared commercial solar and community solar projects includes, but is not limited to:

(a) Shared commercial solar projects:

(i) Project design details;

(ii) Levelized cost of energy output of the system over its production life, and the calculations used to determine such cost;

(iii) A list of participants, including:

(A) Name;

(B) Address;

(C) Retail rate; and

(D) Utility account number;

(iv) Interconnection information; and

(v) Details regarding the majority of the installation work. If the majority of the installation of a shared commercial solar project is awarded to out-of-state contractors, the administrator must submit to the energy program:

(A) The reasons for using out-of-state contractors;

(B) The percentage of installation work performed by out-of-state contractors; and

(C) A cost comparison of the installation services performed by out-of-state contractors compared to the same services performed by Washington-based contractors.

(b) Community solar projects:

(i) System ownership information and business address;

(ii) Project design details;

(iii) Proof of registration with the utilities and transportation commission, as defined in commission rules;

(iv) A list of participants, including:

(A) Name;

(B) Address; and

(C) Utility account number.

(v) Subscription information, including:

(A) Rates;

(B) Fees;

(C) Terms and conditions.

(vi) Executed interconnection agreement if the project size is greater than five hundred kilowatts direct current; and

(vii) Updated information regarding deployment of projects in low- and moderate-income communities, as those terms are defined in RCW 43.63A.510, as requested.

#### NEW SECTION

**WAC 504-49-230 Response from the energy program.** Within thirty days of receipt of the application for pre-certification or certification, the energy program must notify the customer-owner or administrator, electronically or by mail, whether the renewable energy system qualifies for incentive payments. This notice must state the rate to be paid per kilowatt-hour of electricity generated by the renewable energy system, as provided in section 6(12), chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939), subject to any applicable caps and limits on total annual payment as defined in this chapter.

#### NEW SECTION

**WAC 504-49-235 Public disclosure.** System certifications and the information contained therein are subject to public disclosure. In addition, all energy generation and incentive payment information associated with the certified system (as collected by the energy program) is subject to public disclosure.

#### NEW SECTION

**WAC 504-49-240 Denial or revocation of system certification.** The energy program may deny or revoke the approval of a system's certification and an appeal of this final determination may be initiated. The appeal provisions under Part VII of this chapter apply here.

NEW SECTION

**WAC 504-49-245 Utility liability.** A utility is not liable for incentive payments to a customer-owner if the utility has disconnected the customer due to a violation of a customer service agreement, such as nonpayment of the customer's bill or a violation of an interconnection agreement.

NEW SECTION

**WAC 504-49-250 Modification to system.** Modification details must be provided to the energy program. Examples are provided in WAC 504-49-305.

**PART III**

**CALCULATION OF INCENTIVES**

NEW SECTION

**WAC 504-49-300 Incentive payment rate.** The incentive payment rate is the sum of the base rate and the made-in-Washington bonus, if applicable. To determine the incentive payment, the incentive payment rate is then multiplied by the system's gross kilowatt-hours generated during the fiscal year to determine the incentive payment.

(1) Determining the base rate. The first step in computing the incentive payment is to determine the correct base rate to apply. This rate depends on the fiscal year in which the system was certified and the type of renewable energy project under consideration, as defined in the table in subsection (2) of this section.

(2) Made-in-Washington bonus. The bonus rate is determined by whether all applicable system components (solar modules, wind turbines or towers) are manufactured in Washington state. See additional manufacturing details in Part V of this chapter. Bonus rates vary depending on the fiscal year in which the system is certified, as provided in the table below.

Fiscal year of system certification	Base rate: Residential-scale	Base rate: Commercial-scale	Base rate: Community solar	Base rate: Shared commercial solar	Made-in-Washington bonus
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
2021	\$0.10	\$0.02	\$0.10	\$0.02	\$0.02

(3) Examples: A renewable energy system certified in fiscal year 2019 and generate:

(a) Residential-scale system: Two thousand five hundred kilowatt-hours; commercial-scale system: Fourteen thousand kilowatt-hours.

(i) If a residential-scale or commercial-scale renewable energy system has only solar modules manufactured out-of-state, the computation is as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(ii) If a residential-scale or commercial-scale renewable energy system has all solar modules manufactured in Washington state, the computation is as follows:

(A) Residential-scale:  $(0.14 + 0.04) \times 2,500 = \$450.00$ ;

(B) Commercial-scale:  $(0.04 + 0.04) \times 14,000 = \$1,120.00$ .

(iii) If a residential-scale or commercial-scale renewable energy system has a solar module manufactured in Washington state combined with additional solar modules manufactured out-of-state, the computation would be as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(iv) If residential-scale or commercial-scale wind generator equipment has an out-of-state turbine combined with a tower manufactured in Washington state, the computation is as follows:

(A) Residential-scale:  $(0.14 + 0.04) \times 2,500 = \$450.00$ ;

(B) Commercial-scale:  $(0.04 + 0.04) \times 14,000 = \$1,120.00$ .

(v) If residential-scale wind generator equipment has both an out-of-state turbine and tower, the computation is as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(b) Shared commercial solar project system: Four million kilowatt-hours.

(i) If a shared commercial system has out-of-state solar modules, the computation is as follows:  $0.04 \times 4,000,000 = \$160,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$160,000.00 \times 0.05 = \$8,000.00$  (contingent on the rates, fees, terms or conditions of the project).

(ii) If a shared commercial system has all solar modules manufactured in Washington state, the computation is as follows:  $(0.04 + 0.04) \times 4,000,000 = \$320,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$320,000.00 \times 0.05 = \$16,000.00$  (contingent on the rates, fees, terms or conditions of the project).

(c) Community solar project system: Fifty thousand kilowatt-hours.

(i) If a community solar energy system has all solar modules manufactured in Washington state combined with an out-of-state inverter, the computation is as follows:  $(0.14 + 0.04) \times 50,000 = \$9,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$9,000.00 \times 0.05 = \$450.00$  (contingent on the rates, fees, terms or conditions of the project).

(ii) If a community solar energy system has some solar modules manufactured in Washington state combined with additional solar modules manufactured out-of-state, the computation is as follows:  $0.14 \times 50,000 = \$7,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$7,000.00 \times 0.05 = \$350.00$  (contingent on the rates, fees, terms or conditions of the project).

#### NEW SECTION

**WAC 504-49-305 Additions or changes to existing certified systems.** (1) All additions or changes to existing certified systems may be subject to existing utility standards and policies.

(2) If a residential-scale or commercial-scale customer-owner makes investments that result in an expansion of capacity, the applicant must provide this information to the energy program. The energy program may:

(a) Issue a new certification for an additional system installed with a previously certified system, as long as the new system meets the program requirements and its production can be measured separately from the previously certified system. These systems may be subject to additional annual reporting requirements including, but not limited to, production meter readings from each system.

(b) Issue a recertification if the additional capacity is not measured separately. Such recertification expires on the same day as the original certification for the residential-scale or commercial-scale system, and applies the incentive rates and program rules that are in effect as of the date of the recertification.

(3) The following examples illustrate how increases in system capacity may affect incentive payments:

(a) A five kilowatts direct current residential-scale system is certified in February 2019 and is eligible for the fourteen cents incentive rate. Two kilowatts direct current of capacity is added in February 2021 without a separate production meter and the system is recertified in the same fiscal year. The incentive rate of ten cents per kilowatt-hour applies to all future incentive payments of the entire seven kilowatts direct current system. Incentive payments end in 2027 or when cumulative incentive payments reach fifty percent of the total system price plus the expansion price, including applicable sales tax, whichever comes first;

(b) A five kilowatts direct current residential-scale system is certified in February 2019 and is eligible for the fourteen cents incentive rate. If two kilowatts direct current of capacity is added in February 2021 with its own production meter, the addition may be certified separately and the ten

cent rate applies only to the production from this separate system and ends in 2029. The originally certified five kilowatts direct current system continues to be certified at the fourteen cents rate, with those payments ending in 2027. Cumulative incentive payments of fifty percent of the total system price, including applicable sales tax, apply separately to the five kilowatts direct current and two kilowatts direct current installations;

(c) An increase in nameplate capacity, production metered or not, results in the total capacity being greater than twelve kilowatts direct current. Recertification is required and the applicable commercial-scale incentive rate will apply.

#### NEW SECTION

**WAC 504-49-310 Cumulative limit on incentive payments.** Incentive payments continue for eight years or until cumulative incentive payments for electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

### PART IV

#### MANUFACTURED IN WASHINGTON STATE

#### NEW SECTION

**WAC 504-49-400 What constitutes manufactured in Washington?** The energy program must, in consultation with the department of commerce, establish a list of equipment that is eligible for the bonus rates described in this chapter.

(1) In order for a solar module, or a wind turbine or tower, to qualify as manufactured in Washington state, the manufactured component must meet the following definitions:

(a) "Solar module" means the smallest nondivisible, self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output. The lamination of the modules must occur in Washington state;

(b) "Wind turbine" refers to a device that converts the wind's kinetic energy into electrical energy and "tower" refers to the supporting structure.

(2) Is combining products considered to be manufacturing? When determining whether a solar module, or a wind turbine or tower, are manufactured in Washington, the energy program considers various factors to determine if a manufacturer combining various items into a single package is engaged in a manufacturing activity. Any one of the following factors is not considered conclusive evidence of a manufacturing activity:

(a) The ingredients are purchased from various suppliers;

(b) The manufacturer combining the ingredients attaches his or her own label to the resulting product;

(c) The ingredients are purchased in bulk and broken down to smaller sizes;

(d) The combined product is marketed at a substantially different value from the selling price of the individual components; and

(e) The manufacturer combining the items does not sell the individual items except within the package.

#### NEW SECTION

**WAC 504-49-405 What is the process for a manufacturer to get its product qualified as made in Washington?** The manufacturer must request certification from the energy program that its product, such as a module, or wind turbine or tower, qualifies as made in Washington.

(1) Manufacturer's statement. The manufacturer must supply the energy program with a statement specifying what processes were carried out in Washington state to qualify the product.

(2) Penalty of perjury. The manufacturer's statement must be made under penalty of perjury.

(3) Field visit to view manufacturing process. The energy program performs a field visit to view the manufacturing process for the product, which may also include, but is not limited to:

(a) An inspection of the process by an engineer or other technical expert;

(b) Testing and evaluation of a product pulled off the production line;

(c) Review of purchase invoices to verify the vendor sources for the parts used in the manufacturing of the product;

(d) Inspection of the production line; and

(e) Requests for clarification concerning questions, if any, discovered during the inspection.

(4) Approval or disapproval of manufacturer's certification. Within thirty days of the field visit, the energy program issues a written decision to the manufacturer on its product's qualification as made in Washington state. The energy program makes the decision available to the public.

(5) Change in manufacturing process. The manufacturer must notify the energy program of any change in the manufacturing process for previously certified products within ten days of such a change.

(6) Inspection of previously certified product's manufacturing process. The energy program reserves the right to perform an inspection of the manufacturing processes for each product, such as a solar module, or a wind tower or turbine, that has been previously certified as manufactured in Washington state. The inspection is conducted to verify that the product continues to qualify as manufactured in Washington state.

(7) Denial or revocation of approval of certification. The energy program may revoke the approval of certification that a product, such as a module, or a wind turbine or tower, is made in Washington state when it finds that the product does not qualify for certification as manufactured in Washington state.

(8) The appeal provisions under Part VII of this chapter apply here.

(9) Document retention. The manufacturer must retain the documentation of the made in Washington certification

process for five years after the application period for the related incentive program closes.

## PART V

### GENERAL TOPICS

#### NEW SECTION

**WAC 504-49-500 Is there a time limit on when incentive payment may be made for a system's generated electricity?** Yes. Incentive payments may only be made for kilowatt-hours generated on or after July 1, 2017, and for the following eight years, or until cumulative incentive payments for electricity generated by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

(1) Authorization of incentive payments. No incentive payments may be authorized or accrued until the final electrical inspection and executed interconnection agreement are submitted to the energy program.

(2) Certification is valid for the incentive program term. This certification entitles the person, business, or household to receive incentive payments for electricity generated from the date the renewable energy system commences operation, or the date the system is certified, whichever date is later.

(3) Changes to incentive rates. Incentive rates determined by certification date may not be retroactively changed except to correct errors that were made during the original application or certification process and that are discovered later.

(4) Incentive schedule. Incentives are issued based on the gross kilowatt-hours generated during the fiscal year beginning on July 1st and ending on June 30th. For the last year of incentive payments, the payment is the balance of the last year of generation less the first year of generation. A negative balance for the last year results in nonpayment.

(5) Certification date. Certification date is determined by the date when the energy program completes its review of a submitted application. However, due to the timing of this program, the following administrative processes apply:

(a) For applications submitted from July 1, 2017, to December 31, 2017:

(i) For purposes of systems that commenced operation on or after July 1, 2017: The certification date is assigned based on the date that the local jurisdiction issued its final approval of the electrical inspection of the renewable energy system.

(ii) For purposes of systems that commenced operation before July 1, 2017: The certification date is assigned as July 1, 2017.

(b) For applications submitted on or after January 1, 2018: The certification date is assigned on the date when the energy program completes its review of a submitted application. The energy program encourages customer-owners to submit all applications on the date the local jurisdiction issues its final approval of the electrical inspection of the renewable energy system. In instances where the certification date might follow the final electrical inspection by more than thirty days, the customer-owner or the serving utility must

provide additional information to ascertain the correct initial electrical generation amount to use in calculating the first year of incentive payments.

NEW SECTION

**WAC 504-49-505 Must the customer-owner or administrator keep records regarding incentive payments?** (1) Customer-owners or administrators receiving incentive payments must keep and preserve, for a period of five years after the receipt of the last incentive payment from the utility, suitable records as may be necessary to determine the amount of incentive received.

(2) Examination of records. Such records must be open for examination at any time upon notice by the energy program.

NEW SECTION

**WAC 504-49-510 How to determine if community solar or shared commercial solar projects located on the same property are one combined system or separate systems for determining the applicable limit?** In determining if a community solar or shared commercial solar project is within the applicable limit when more than one community solar or shared commercial solar project is located on one property, the energy program treats each project's system as separate from the other projects if there are separate production meters and separate certification applications have been submitted to the energy program.

NEW SECTION

**WAC 504-49-515 Are the renewable energy system's environmental attributes transferred when ownership of the renewable energy system changes?** The nonpower attributes of the renewable energy system belong to the utility customer who owns or hosts the system or, in the case of a community solar project or a shared commercial solar project, the participant. The attributes may be kept, sold, or transferred at the utility customer's discretion unless, in the case of a utility-owned community solar or shared commercial solar project, a contract between the customer and the utility clearly specifies that the utility retains the attributes.

NEW SECTION

**WAC 504-49-520 What do I have to do if I purchase property that has an existing renewable energy system?** If a person, business, or household purchases a property that has a renewable energy system certified in the renewable energy system incentive program, the new customer-owner must (at a minimum) notify the energy program of the transfer of ownership and provide an executed interconnection agreement with the utility serving the premises.

NEW SECTION

**WAC 504-49-525 What if I sell my share in a community solar or shared commercial solar project?** The administrator of a community solar project or shared com-

mercial solar project must provide notice to the energy program of any changes or transfers in project participation.

**PART VI**

**APPLICATION PROCESS FOR CURRENTLY CERTIFIED RENEWABLE ENERGY SYSTEMS IN THE COST RECOVERY INCENTIVE PROGRAM**

NEW SECTION

**WAC 504-49-600 Requirements to reapply for certification.** The reapplication for continued incentive payments through June 30, 2020, must be submitted to the energy program by April 30, 2018. This reapplication must contain, but is not limited to, the following information as specified in the applicant and eligibility requirements in WAC 458-20-273:

- (1) The name and address of the applicant and location of the renewable energy system;
- (2) The applicant's tax registration number;
- (3) The utility name and utility account number;
- (4) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable;
- (5) A signed statement that the applicant understands that this information is true, complete, and correct to the best of their knowledge and belief under penalty of perjury; and
- (6) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

NEW SECTION

**WAC 504-49-605 May a renewable energy system that has already been certified by the department of revenue be certified in the new program for incentive payments beyond June 30, 2020?** No. If the applicant's renewable energy system has already been certified by the department of revenue for cost recovery incentives, that system is ineligible for the new incentive program.

NEW SECTION

**WAC 504-49-610 May I increase the capacity of a department of revenue-certified system?** The person, business, or household may not increase the capacity of a department of revenue-certified system to receive additional cost recovery program incentive payments.

NEW SECTION

**WAC 504-49-615 Is there a fee to reapply?** No. There is no fee for reapplication for a department of revenue-certified renewable energy system.

## PART VII

## APPEALS RIGHTS

**WSR 18-15-094**  
**PROPOSED RULES**  
**BIG BEND**  
**COMMUNITY COLLEGE**

[Filed July 18, 2018, 9:27 a.m.]

NEW SECTION

**WAC 504-49-700 What are the appeal rights under the renewable energy system incentive payment program?** (1) The energy program may take four different types of actions that may result in a right to an appeal:

- (a) Denying a system's precertification or certification;
- (b) Revoking a system's precertification or certification;
- (c) Denying a manufacturer's statement of a product as qualifying as made in Washington state; and
- (d) Revoking a previously approved certification of a product qualifying as made in Washington.

(2) The same appeal procedures apply to all four types of action. All appeals involving the renewable energy system incentive program in this chapter are conducted as formal adjudicative proceedings under RCW 34.05.413 through 34.05.476 and chapter 10-08 WAC.

(3) The notice issued by the energy program provides an explanation of the reasons for the denial or revocation, and advises the recipient about how to appeal the decision if the recipient disagrees.

(4) The energy program's action is final unless the recipient files an appeal petition with the energy program within thirty days of service (receipt) of the notice of the energy program's action. RCW 34.05.010(19) defines "service" and includes service by postal mail, electronic mail, and personal service.

NEW SECTION

**WAC 504-49-705 Presiding officer—Final order—Review.** For both a denial of an application for certification and a notice of intent to revoke a previously approved certification, the presiding officer of a formal adjudicative proceeding is the Washington state office of administrative hearings. The presiding officer makes the final decision and enters a final order as provided in RCW 34.05.461 (1)(b).

NEW SECTION

**WAC 504-49-710 Petitions for reconsideration.** RCW 34.05.470 governs petitions for reconsideration. Petitions for reconsideration must be addressed to or delivered to the presiding officer at the address provided in the final order. The petition for reconsideration must be filed and served as required by WAC 10-08-110.

NEW SECTION

**WAC 504-49-715 Judicial review.** Judicial review of the final order of the presiding officer is governed by RCW 34.05.510 through 34.05.598.

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-08-042.

Title of Rule and Other Identifying Information: WAC 132R-136-080.

Hearing Location(s): On August 22, 2018, at 2:00 p.m., at 7662 Chanute Street N.E., ATEC Building, Hardin Community Room, Moses Lake, WA.

Date of Intended Adoption: August 23, 2018.

Submit Written Comments to: Melinda Dourte, 7662 Chanute Street N.E., Moses Lake, WA 98837, email melindad@bigbend.edu, fax 509-762-6355, by August 15, 2018.

Assistance for Persons with Disabilities: Contact Loralynn Allen, phone 509-793-2027, fax 509-762-6355, email lora@bigbend.edu, by August 7, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correct and clarify WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Name of Proponent: Big Bend Community College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Matt Killebrew, Administrative Building, 7662 Chanute Street N.E., Moses Lake, WA, 509-793-2003.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

July 18, 2018  
 Melinda Dourte  
 Executive Assistant  
 to the President

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-136-080 Posting of materials.** The college encourages free expression. Use of college facilities as provided herein, however, does not accord users the opportunity

to post commercial solicitations, advertising or promotional materials without permission.

Permission for posting (~~(literature))~~ printed or graphic material in the various restricted areas provided, therefore, shall be obtained from the (~~(vice president of student services or his/her designee))~~ office of communications. Permission to post (~~(literature))~~ printed or graphic material does not accord users immunity from legal action (~~(which))~~ that may occur from posting said material.

~~((ASB campaign rules govern special poster and sign locations for ASB elections. Information on these special policies, restricted areas and regulations is available in the office of student programs.))~~

Posting of posters, signs and other publicity or promotional materials is permitted only in (~~(locations))~~ specified ((above)) locations. All materials sought to be posted in restricted posting areas must have the identity of its sponsorship appearing on its face and be stamped in approval from the office of communications. Any materials not carrying this stamp, will be removed.

The college has designated one bulletin board that is accessible during business hours to all or most employees and students, upon which any person who is lawfully on campus may post materials without prior approval. The location of this board is outside of the inside entrance to the campus bookstore and is labeled "Community Bulletin Board."

**WSR 18-15-095**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed July 18, 2018, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-15-052.

Title of Rule and Other Identifying Information: New chapter 110-16 WAC, License-Exempt care—Family, friend and neighbor (FFN) in-home/relative child care providers: WAC 110-16-0001 Purpose and authority, 110-16-0005 Definitions, 110-16-0010 Provider approval, 110-16-0015 Provider responsibilities, 110-16-0025 Health and safety training, 110-16-0030 Health and safety activities, 110-16-0035 Health and safety practices, and 110-16-0040 Compliance.

Hearing Location(s): On August 23, 2018, at 1:00 p.m., at 1110 Jefferson Street S.E., Cascade Conference Room, Olympia, WA.

Date of Intended Adoption: August 31, 2018.

Submit Written Comments to: Rules Coordinator, P.O. Box 40975, email [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov), fax 360-902-7903, <https://del.wa.gov/PolicyProposalComment/Detail.aspx>, by August 22, 2018.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-902-7956, fax 360-902-7903, email [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov), by August 14, 2018.

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

rules establish preapproval requirements for license-exempt family members, friends, and neighbors who provide authorized working connections child care (WCCC), health and safety requirements these child care providers must comply with, and the consequences of noncompliance.

Reasons Supporting Proposal: The department of children, youth, and families (DCYF) is the lead agency for administering the federal child care development fund (CCDF program governed by 42 U.S.C. 9858 et seq.). One of DCYF's primary responsibilities as the lead agency is to ensure Washington state complies with all federal requirements necessary for the continued receipt of CCDF funds. The proposed rules comply with the CCDF requirement that DCYF establish design, implement, and enforce requirements to protect the health and safety of children in license-exempt FFN child care.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065; chapter 43.216 RCW.

Statute Being Implemented: Chapter 43.216 RCW.

Rule is necessary because of federal law, 45 C.F.R. Part 98.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Judy Jaramillo, license exempt services administrator, Olympia, Washington, 360-725-4431; Implementation and Enforcement: DCYF, state-wide.

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

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 45 C.F.R. Part 98 establishes minimum health and safety requirements that each lead agency must implement (45 C.F.R. 98.41) and enforce (45 C.F.R. 98.42). Not adopting rules to comply with the CCDF requirements may jeopardize WCCC program funding.

Is exempt under RCW 19.18.030.

Explanation of exemptions: A small business economic impact statement is not required under RCW 19.85.030(1) because the proposed rules impact individuals rather than businesses.

July 18, 2018

Brenda Villarreal  
Rules Coordinator

## Chapter 110-16 WAC

LICENSE-EXEMPT CARE—FAMILY, FRIEND, AND  
NEIGHBOR (FFN) IN-HOME/RELATIVE CHILD  
CARE PROVIDERS

## PART I

## INTRODUCTION

NEW SECTION

**WAC 110-16-0001 Purpose and authority.** (1) The purpose of this chapter is to establish rules for the administration of child care subsidy funds through the working child care connections (WCCC) program for family, friend, and neighbor (FFN) in-home/relative child care providers. The department of children, youth, and families (DCYF) is the lead agency for the federal Child Care Development Fund (CCDF) program, governed by 42 U.S.C. 9858 et. seq., (CCDF authorization and implementation statutes) and 45 C.F.R. Part 98 (CCDF regulations). This chapter addresses CCDF health and safety requirements and WCCC program requirements for family, friend, and neighbor (FFN) in-home/relative child care providers.

(2) In addition to the requirements contained in this chapter, providers and other beneficiaries of CCDF funds must comply with applicable provisions of chapter 43.216 RCW (department of children, youth, and families), chapter 110-06 WAC (background check rules), and chapter 110-15 WAC (WCCC) subsidy program rules.

(3) The requirements contained in this chapter are consistent with and support the department's commitment to promoting the health, safety, and well-being of children, expanding access to quality early learning opportunities to improve outcome in young children and promoting school readiness.

(4) The department recognizes that a child's parents and family are the child's first and most important teachers and decision makers. The department is committed to working alongside parents to promote the overall well-being of their children, providing technical assistance and resource referral at the request of parents or providers, and using a variety of methods to communicate with parents and providers about program changes and relevant resources and information.

NEW SECTION

**WAC 110-16-0005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **"Benefit"** means a regular payment made by a government agency to or on behalf of a person eligible to receive it.

(2) **"Child"** or **"children,"** except when otherwise specified, means a child or children eligible for WCCC benefits under chapter 110-15 WAC.

(3) **"Days"** means calendar days unless otherwise specified.

(4) **"Department"** or **"DCYF"** means the department of children, youth, and families.

(5) **"In-home/relative provider"** or **"family, friend, and neighbor (FFN) provider"** means an individual who is exempt from child care licensing standards and is approved for WCCC payments under WAC 110-15-0125. Reference in this chapter to the term "provider" must be considered a reference to an in-home/relative or FFN provider, except when otherwise specified.

(6) **"In loco parentis"** means the adult caring for a child eligible for WCCC in the absence of the biological adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and who is responsible for exercising day-to-day care and control of the child.

(7) **"Infant"** is a child birth through eleven months of age.

(8) **"Lockdown"** means to remain inside the home when police or an official emergency response agency notifies a provider that it is unsafe to leave or be outdoors during an emergency situation.

(9) **"Parent"** means, for the purposes of this chapter, the "in loco parentis" or the biological, adoptive, or step-parent, court-ordered guardian, or custodian eligible for WCCC benefits under this chapter.

(10) **"Supervise"** or **"supervision"** means a provider must be able to see or hear the children they are responsible for at all times. Providers must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. Providers must also reposition themselves or the children to be aware of where children are and what they are doing during care. Providers must reassess and adjust their supervision each time child care activities change.

(11) **"Swimming pool"** means a pool that has a water depth greater than two feet.

(12) **"Technical assistance"** means the provision of targeted and customized supports to develop or strengthen processes, knowledge application, or implementation of services by providers.

(13) **"Toddler"** means a child twelve months through twenty-nine months of age.

(14) **"Wading pool"** means a pool that has a water depth of less than two feet. A portable wading pool is one that is formed of molded plastic or inflatable parts and can be removed after use.

(15) **"Water activities"** refers to the activities in which children in care swim or play in a body of water that poses a risk of drowning for children.

(16) **"WCCC"** means the working connections child care program, a child care subsidy program available to eligible families to help pay for child care.

## PART II

## PROVIDER APPROVAL AND RESPONSIBILITIES

NEW SECTION

**WAC 110-16-0010 Provider approval.** (1) To be approved as a family, friend, and neighbor (FFN) in-home/

relative provider for the WCCC program, the individual must:

- (a) Be eighteen years of age or older;
- (b) Complete the approval process that will include, but not be limited to, providing:
  - (i) Legal name, current street address, telephone number, and email address;
  - (ii) A legible copy of the individual's valid Social Security card; and
  - (iii) A legible copy of the individual's valid government issued photo identification, such as a driver's license, Washington state identification, or passport.
- (c) Meet all applicable WCCC subsidy and background check requirements of chapters 110-15 and 110-06 WAC.
- (2) An individual cannot be approved to receive WCCC subsidy payment as a provider for an eligible child in his or her care if the individual is:
  - (a) The child's biological or adoptive parent, step-parent, or the parent's live-in partner;
  - (b) The child's legal guardian or the guardian's spouse or live-in partner;
  - (c) An adult acting in loco parentis or that adult's spouse or live-in partner;
  - (d) An individual with a revoked child care license; or
  - (e) Receiving TANF benefits on behalf of the eligible child.
- (3) Providers may not receive WCCC benefits for their own children for the same hours in which they receive payment for child care they provide for other WCCC-eligible children.

#### NEW SECTION

**WAC 110-16-0015 Provider responsibilities.** (1) The provider must:

- (a) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including health, safety, physical, nutritional, emotional, cognitive, and social needs;
- (b) Report any legal name, address, or telephone number changes to DCYF within ten days;
- (c) Report a revoked child care license to DCYF within twenty-four hours;
- (d) Comply with the requirements contained in this chapter and chapters 110-06 and 110-15 WAC;
- (e) Allow parents access to their own children at all times while in care; and
- (f) Have access to a telephone with 911 emergency calling services and capability for both incoming and outgoing calls during all times children are in care.
- (2) The provider must bill for no more than six children at one time during the same hours of care.
- (3) Care must be provided in the following locations:
  - (a) Providers related to the child by marriage, blood relationship, or court decree and who are grandparents, great-grandparents, siblings (if living in a separate residence), aunts, or uncles, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that providers residing with a person disqualified

under chapter 110-06 WAC must provide care in the child's home.

(b) Providers related to the child by marriage, blood, or court decree, but not listed in (a) of this subsection, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that providers residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(c) Providers not related to the child, such as friends, neighbors, or nannies, must provide care in the child's home.

(4) Providers must comply with health and safety activities as follows:

(a) Providers related to the child as described in subsection (3)(b) of this section, must participate in a technical assistance phone call with the department within ninety days of the payment begin date and annually thereafter;

(b) Providers not related to the child, as described in subsection (3)(c) of this section:

(i) Must complete the training required in WAC 110-16-0025; and

(ii) Must be monitored for compliance with the health and safety requirements in WAC 110-16-0030 and 110-16-0035.

### PART III

#### HEALTH AND SAFETY TRAINING AND MONITORING

##### NEW SECTION

##### **WAC 110-16-0025 Health and safety training.** (1)

Before the department will approve a provider not related to the child, as described in WAC 110-16-0015 (3)(c), to provide child care and receive subsidy payment, the provider must complete training for infant, child, and adult first aid and cardiopulmonary resuscitation (CPR). The provider must take this training in person and demonstrate learned skills to be the instructor. The instructor must be certified by the American Red Cross, American Heart Association, American Safety and Health Institute, or other nationally recognized certification program.

(2) A provider not related to the child, as described in WAC 110-15-0015 (3)(c):

(a) Must complete department-approved training within ninety calendar days of the WCCC subsidy payment begin date in the following areas:

(i) Prevention of sudden infant death syndrome and safe sleep practices;

(ii) Recognition and reporting of child abuse or neglect, including the prevention of child abuse or neglect as defined in RCW 26.44.020 and mandatory reporting requirements under RCW 26.44.030;

(iii) Prevention of shaken baby syndrome, abuse head trauma, and child maltreatment;

(iv) Child development, including the major domains (cognitive, social, emotional, physical development and approaches to learning);

(v) Administration of medication;

(vi) Prevention of, and response to, emergencies due to food and allergic reactions;

(vii) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(viii) Emergency preparedness and response planning for natural disaster and human-caused events;

(ix) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(x) Appropriate precautions in transporting children;

(xi) Prevention and control of infectious diseases; and

(xii) Other topic areas as determined by the department.

(b) Is exempt from completing the training required in subsection (2)(a) of this section if the department verifies that the provider has completed any of the following either prior to or within ninety calendar days of the WCCC subsidy payment begin date:

(i) Child care basics. The required thirty-hour training to meet the basic STARS training requirements;

(ii) Current child development associate credential (CDA) or equivalent credential, or twelve or more approved college credits in early childhood education (ECE) or child development; or

(iii) An associate's degree of applied science or higher with an ECE major.

(3) A provider who, on October 1, 2018, has an existing WCCC subsidy authorization with a January 1, 2019, or later end date must complete the training required under subsections (1) and (2) of this section no later than December 30, 2018, unless exempt from training under subsection (2)(b) of this section.

All other providers must complete the training required under subsection (1) of this section before the subsidy payment begin date and must complete the training required under subsection (2) of this section within ninety days of the subsidy payment begin date, unless exempt from training under subsection (2)(b) of this section.

(4) A provider not related to the child, as described in WAC 110-16-0015 (3)(c), may need to annually renew portions of the training required in subsection (2) of this section, as determined by state or federal requirements.

#### NEW SECTION

**WAC 110-16-0030 Health and safety activities.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following health and safety activity requirements:

(1) Provide to the department a completed WCCC In-home Health and Safety Agreement signed by the provider and parent(s) that verifies that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. The agreement must:

(a) Be signed and received by the department within forty-five days of completion of the training requirements in WAC 110-16-0025 (2)(a) or verification of the training exemption in WAC 110-16-0025 (2)(b); and

(b) Address health and safety practice topics including, but not limited to, emergency contacts, fire and emergency prevention, knowledge and treatment of children's illnesses

and allergies, developmental and special needs, medication administration, safe transportation, child immunizations, and safe evacuation.

(2) Be available for scheduled visits in the child's home, which must occur at least annually. If necessary, as determined by the department, follow-up visits may occur on a more frequent basis.

(a) The purpose of the visits is to ensure the parent and provider are in compliance with the health and safety requirements described in this chapter, observe the child care environment and provider interactions with the child, and discuss health and safety practices.

(b) If the department is not able to successfully complete a scheduled visit with the provider in the child's home after three attempts, the provider will be deemed not in compliance with the requirements of this chapter.

(c) At the annual scheduled meeting, the provider must show:

(i) Proof of identity;

(ii) Proof of current certification for first aid and cardiopulmonary resuscitation (CPR) in the form of a card, certificate, or instructor letter;

(iii) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, only when the provider's children are on-site with the eligible children. Proof can include:

(A) A current and complete department of health certificate of immunization status (CIS) or certificate of exemption (COE) or other department of health approved form; or

(B) A current immunization record from the Washington state immunization information system (WA IIS);

(iv) Written permission from the parent to:

(A) Allow children to use a swimming pool;

(B) Administer medication for treatment of illnesses and allergies of the children in care. The parent must ensure the provider has the necessary medication, training, and equipment to properly manage a child's illness and prevent and respond to emergencies due to food and allergic reactions;

(C) Provide for and accommodate developmental and special needs; and

(D) Provide transportation for care, activities, and school when applicable.

(v) Written instructions for:

(A) Contacting alternative people who can provide care in the event of emergency or need for different care arrangements; and

(B) Disaster preparedness and evacuation of the home.

#### NEW SECTION

**WAC 110-16-0035 Health and safety practices.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following health and safety activity practices:

(1) **Prevention and control of infectious diseases.** The provider must comply with the handwashing procedures described in this section or as described by the United States Center for Disease Control and Prevention.

(a) The following handwashing procedure must be used:

(i) Wet hands with warm water;

- (ii) Apply soap to the hands;
- (iii) Rub hands together to wash for at least twenty seconds;
- (iv) Thoroughly rinse hands with water; and
- (v) Dry hands with a paper towel, single-use cloth towel, or air hand dryer.

(b) The provider must wash his or her hands, following the procedure in (a) of this subsection, under the following circumstances:

- (i) Immediately after arriving at the child's home to provide child care;
- (ii) Immediately after toileting a child, after personal toileting, and before and after diapering a child;
- (iii) Immediately after attending to an ill child;
- (iv) Immediately before and after preparing, serving, or eating food;
- (v) Immediately before and after giving medication or applying topical ointment;
- (vi) Immediately after handling bodily fluids; and
- (vii) As needed or required by the circumstances.

(c) The provider must encourage and assist children in care to wash their hands, using the process described in (a) of this subsection:

- (i) Immediately after using the toilet and after diapering;
- (ii) Immediately after outdoor play;
- (iii) Immediately after handling, feeding, and playing with animals;
- (iv) Immediately after touching bodily fluids such as blood or after nose blowing or sneezing;
- (v) Immediately before and after eating or participating in food activities; and
- (vi) As needed or required by the circumstances.

(2)(a) **Prevention of sudden infant death syndrome and use of safe sleep practices.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following safe sleep practices:

(b) The provider must follow safe sleep practices when infants or toddlers are napping or sleeping by following the current standards of American Academy of Pediatrics concerning safe sleep practices, including SIDS/SUIDS risk reduction by:

- (i) Discussing with parents the use of appropriate sleep equipment as recommended by the U.S. Consumer Product Safety Commission standards;
- (ii) Supervising infants or toddlers by frequently making visual checks and being within sight or hearing range, including when an infant is going to sleep, is sleeping, or is waking up;
- (iii) Placing an infant to sleep on his or her back or following the current standard of the American Academy of Pediatrics. If an infant turns over while sleeping, the provider must return the infant to his or her back until the infant is able to independently roll from back to front and front to back;
- (iv) Not using a sleep positioning device unless directed to do so in writing by an infant's or toddler's health care provider;
- (v) Providing sufficient lighting in the room in which the infant or toddler is sleeping to observe skin color;
- (vi) Monitoring breathing patterns of an infant or toddler;

(vii) Allowing infants and toddlers to follow their own sleep patterns;

(viii) Not allowing blankets, stuffed toys, pillows, crib bumpers, or similar items inside an occupied crib, bassinet, or other equipment where infants commonly sleep;

(ix) Not allowing a blanket, bedding, or clothing to cover any portion of an infant or toddler's head or face while sleeping, and readjusting those items when necessary;

(x) Preventing infants or toddlers from getting too warm while sleeping, which may be shown by signs that include, but are not limited to, sweating, flushed, pale or hot and dry skin, warm to the touch, a sudden rise in temperature, vomiting, refusing to drink, a depressed fontanelle (skull soft spot), or irritability; and

(xi) Removing sleeping children from car seats (when used other than in a moving vehicle), swings, or similar equipment not designed for sleep.

(3) **Medication administration.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following medication requirements:

(a) A child's parent, or an appointed designee, must provide training to the provider for special medical procedures that the provider may have to administer to the child. This training must be documented and signed by the provider and parent;

(b) The provider must not give medication to any child without written and signed consent from that child's parent or health care provider. The medication must be given according to the directions on the medication label using appropriately cleaned and sanitized medication measuring devices;

(c) The provider must not give or allow others to give any medication to a child for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a health care professional; and

(d) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements.

(4) **Emergency preparedness and response planning for natural disaster and human-caused events.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following emergency preparedness and response planning requirements:

(a) The provider must visually scan indoor and outdoor areas to identify potential fire or burn hazards and discuss the removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make identified hazards completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazards. Fire or burn hazards include, but are not limited to:

(i) Appliances and any heating device that has a hot surface when in use or still hot after use;

(ii) Open flame devices, candles, matches, and lighters. Open flame devices, candles, matches, and lighters must not be used during care hours; and

(iii) The lack of, or nonworking smoke detectors, fire extinguishers, or other fire prevention equipment.

(b) If there is a fire in the home during care hours, the provider's first responsibility is to evacuate the children in care to a safe place outside the home and then call 911;

(c) The provider and parent must have an agreed upon written home evacuation plan in the event of fire or an emergency or other disaster. The plan must be updated as needed and include, at a minimum:

(i) A floor plan that shows emergency exit pathways, doors, and windows;

(ii) A description for how the provider will evacuate all of the children, especially those who cannot walk;

(iii) A description for how the provider will account for all of the children in the home;

(iv) A designated, safe gathering spot or alternative short-term location for the children and provider pending arrival of the fire department, emergency response, or the parent;

(v) A description of what to take, such as a first-aid kit, medications, water and food; and

(vi) A description for how parents will be contacted after the emergency is over and arrange for pickup of children, if needed.

(d) To be properly prepared for a home evacuation or lockdown, the provider must be able to easily access emergency items including, but not limited to:

(i) A first-aid kit;

(ii) A working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries;

(iii) A working telephone; and

(iv) Food, water, and a three-day supply of medication required by individual children.

(e) The provider must practice emergency and home evacuation drills with the children as follows:

(i) Earthquake and home evacuation drills once every six calendar months; and

(ii) A lockdown drill annually.

**(5) Building and physical premises safety, including handling and storage of hazardous materials, identification and protection from hazards, bodies of water, and vehicular traffic.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following building and physical premises safety requirements:

(a) The provider must visually scan indoor areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazard. Child safety hazards include, but are not limited to:

(i) Tobacco products, cigarettes, and containers holding cigarette or cigar butts or ashes;

(ii) Firearms, guns, weapons, and ammunition;

(iii) Any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For purposes of this section, equipment, material, or objects with a diameter or overall dimension of three-quarter inch or less must be considered items that may pose a risk of choking, aspiration, or ingestion;

(iv) Straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not being used for a supervised activity;

(v) Poisons, chemicals, toxins, dangerous substances or any product labeled "Keep out of reach of children," including, but not limited to, fuel, lighter fluid, solvents, fertilizer, ice melt product, pool chemicals, pesticides, or insecticides, cleansers and detergents, air freshener or aerosols, sanitizing products, and disinfectants. These items must be kept separate and apart from food preparation areas, food items, and food supplies;

(vi) Personal grooming, cosmetics, and hygiene products including, but not limited to, nail polish remover, lotions, creams, toothpaste, powder, shampoo, conditioners, hair gels or hair sprays, bubble bath, or bath additives;

(vii) Alcohol, including closed and open containers;

(viii) Plastic bags and other suffocation hazards;

(ix) Equipment, materials, or products that may be hot enough to injure a child;

(x) Freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers;

(xi) Uneven walkways, damaged flooring or carpeting, or other tripping hazards;

(xii) Large objects capable of tipping or falling over, such as televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units;

(xiii) Indoor temperatures less than sixty-eight degrees Fahrenheit or greater than eighty-two degrees Fahrenheit;

(xiv) Water accessible to children that may be hotter than one hundred twenty degrees Fahrenheit (the provider should always feel hot water before using on or for a child);

(xv) Windows and stairs accessible to children; and

(xvi) Electrical outlets, power strips, and electrical/extension cords.

(b) During care hours, the provider must not allow others who may be in the presence of the children to:

(i) Possess or use illegal drugs;

(ii) Consume or use alcohol or cannabis products in any form;

(iii) Be under the influence of alcohol, cannabis products in any form, illegal drugs, or misused prescription drugs; and

(iv) Smoke or vape in the home, vehicle, or in close proximity to a child.

(c) The provider must visually scan outdoor play areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury. Outdoor hazards include, but are not limited to:

(i) Outdoor play area or equipment that is not clean, not in good condition, or not maintained or safe for a child of a certain age to use;

(ii) Bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls designed to be used by individual children;

(iii) Toxic plants or plants with poisonous leaves such as foxglove, morning glory, tomato, potato, rhubarb, or poison ivy;

(iv) Extreme weather conditions such as:

(A) Heat in excess of one hundred degrees Fahrenheit;

(B) Cold below twenty degrees Fahrenheit;

(C) Lightning storm, tornado, hurricane or flooding; and  
 (D) Air quality warnings by public health or other authorities.

(v) Bodies of water such as:

(A) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs;

(B) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and

(C) Uncovered wells, septic tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(vi) Streets, alleyways, parking lots or garages.

**(6) Child development, including the major domains, cognitive, social, emotional, physical development, and approaches to learning.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following child development requirements:

(a) The provider must be attentive and responsive to children's developmental needs by engaging in activities such as:

(i) Asking children developmentally appropriate questions and allowing children to answer without interruption; and

(ii) Talking with children about what they are doing during activities and using teaching techniques such as:

(A) Self-talk: The provider talks about what he or she is doing, seeing, eating, touching, or thinking as he or she is involved in that activity;

(B) Parallel talk: The provider talks about what the children are doing, seeing, eating, or touching as the children are engaging in those activities; and

(C) Language expansion: The provider adds detail or new words to build on ideas that children are expressing.

(b) A provider caring for preschool and school-age children can use language that develops and encourages reasoning skills by using techniques, such as:

(i) Talking about logical relationships or concepts during the day including, but not limited to, the daily schedule, the differences and similarities between objects, or people in the classroom;

(ii) Introducing concepts using guiding questions that encourage children to figure out cause and effect relationships;

(iii) Providing opportunities for reasoning and writing activities; and

(iv) Asking open ended questions to help children improve skills and acquire knowledge.

(c) The provider can encourage language development and acquisition for non-English speaking children by using techniques such as:

(i) Using words in various languages to talk about the routines;

(ii) Reading books out loud or using audio books; and

(iii) Playing games in different languages.

(d) The provider may offer developmentally and culturally responsive activities that offer a range of auditory, visual, and movement opportunities while using techniques such as:

(i) Encouraging children's engagement;

(ii) Promoting each child's self-help and social skills;

(iii) Organizing around children's interests and ideas;

(iv) Allowing choice, exploration, and experimentation;

(v) Promoting active and play-based learning experiences;

(vi) Allowing children freedom to move during activities;

(vii) Ensuring children's expression;

(viii) Utilizing interesting and creative materials;

(ix) Offering hands-on opportunities for children; and

(x) Providing opportunities for children to direct their own learning and problem solving rather than teacher-directed activities.

(e) The provider can communicate with children using verbal and nonverbal strategies that encourage healthy, culturally responsive child development by using techniques including, but not limited to:

(i) Using a calm and respectful tone of voice;

(ii) Using positive language to explain what children can do and giving descriptive feedback;

(iii) Having relaxed conversations with children by listening and responding to what they say. Adult conversations must not dominate the overall sound of the group;

(iv) Greeting and saying goodbye to children;

(v) Using facial expressions such as smiling, laughing, and enthusiasm to match a child's mood;

(vi) Using physical proximity in a culturally responsive way to speak to children at their eye level and with appropriate warm physical contact including, but not limited to, gently touching a hand or shoulder, sitting next to a child, or holding younger children close while communicating;

(vii) Validating children's feelings and showing tolerance for mistakes;

(viii) Being responsive and listening to children's requests and questions, encouraging children to share experiences, ideas, and feelings;

(ix) Learning about their families, cultures, individual interests, ideas, questions, and theories;

(x) Modeling and teaching emotional skills such as recognizing feelings, expressing them appropriately, accepting others' feelings, and controlling impulses to act out feelings; and

(xi) Interacting with other adults in a positive, respectful manner.

(f) The provider must encourage positive interactions between and among children with techniques including, but not limited to:

(i) Giving children several chances a day to interact with each other while playing or completing routine tasks;

(ii) Demonstrating and modeling social skills;

(iii) Encouraging shy or socially isolated children to engage with other children;

(iv) Helping children understand feelings of others; and

(v) Encouraging and facilitating play between children with special needs and others.

**(7) Supervision of children.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following supervision requirements:

(a) The provider must supervise children during care hours. Supervising children requires the provider to engage in specific actions including, but not limited to:

(i) Scanning the environment, looking and listening for both verbal and nonverbal cues to anticipate problems and planning accordingly;

(ii) Positioning oneself to supervise areas accessible to children; and

(iii) Considering the following when deciding whether increased supervision is needed:

(A) Ages of children;

(B) Individual differences and abilities of children;

(C) Layout of the home and play areas; and

(D) Risks associated with the activities children are engaged in.

(b) The provider must provide increased supervision when the children:

(i) Interact with pets or animals;

(ii) Engage in water or sand play;

(iii) Play in an area in close proximity to a body of water;

(iv) Use a route to access an outdoor play area when the area is not next to the home;

(v) Engage in activities in the kitchen;

(vi) Ride on public transportation;

(vii) Engage in outdoor play; and

(viii) Participate in field trips.

(c) The provider must ensure no infant or child is left unattended during:

(i) Diapering;

(ii) Bottle feeding; or

(iii) Tummy time.

(d) The provider must not allow any person other than a child's parent or authorized individual to have unsupervised access to a child during care hours. For the purpose of this section, individuals authorized to have unsupervised access include:

(i) A government representative including emergency responders who have specific and verifiable authority for access; and

(ii) A person, such as a family member, family friend, or the child's therapist or health care provider, authorized in writing or over the telephone by a child's parent.

(8) **Child transportation.** Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following child transportation requirements:

When transporting children, the provider must:

(a) Comply with RCW 46.61.687 and other applicable laws that pertain to child restraints and car seats;

(b) Drive only with a valid driver's license;

(c) Have in effect a current motor vehicle insurance policy that provides coverage for the driver, the vehicle, and all other occupants;

(d) Ensure that children are accounted for when entering and exiting a vehicle for transport to and from any destination; and

(e) Never leave the children by themselves or otherwise unattended in a vehicle.

## PART IV

### COMPLIANCE

#### NEW SECTION

**WAC 110-16-0040 Compliance.** (1) If the department determines a provider has failed to comply with a requirement described in this chapter, the department may do one or more of the following:

(a) Offer and provide technical assistance for the purpose of correcting noncompliance issues that arise from WAC 110-16-0015, 110-16-0025, 110-16-0030, or 110-16-0035;

(b) Require an in-home compliance agreement (ICA) for the purpose of correcting noncompliance issues;

(c) Take steps to initiate termination of the provider's participation in the WCCC subsidy programs; and

(d) Take steps to initiate a determination of child care subsidy payment discrepancies pursuant to WAC 110-15-0266 that may have resulted from noncompliance issues.

(2) An in-home compliance agreement (ICA) must contain the following:

(a) A description of the noncompliance issues and the regulations or statutes violated;

(b) A statement from the provider describing the provider's proposed plan to comply with the regulations or statutes;

(c) The date by which the noncompliance issues must be corrected;

(d) A statement of other corrective action that may be required if compliance does not occur by the specified date;

(e) The signatures of the provider and the department representative agreeing to the terms of the ICA; and

(f) A statement from the department indicating whether the corrective action requirements were satisfactorily met.

(3) The length of time the department may allow for the provider to make the corrections necessary to be in compliance will be determined by the department with consideration given to:

(a) The seriousness of the noncompliance; and

(b) The threat to the health, safety, and well-being of the children in care.

#### WSR 18-15-097

#### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed July 18, 2018, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-24-085.

Title of Rule and Other Identifying Information: WAC 308-93-055 Vessels from out-of-state operating in this state—Nonresident vessel permit required.

Hearing Location(s): On Tuesday, August 21, 2018, at 10:00 a.m., at the Highways-Licenses Building, Conference Room 410, 1125 Washington Street S.E., Olympia, WA 98507. Check in at the first floor counter.

Date of Intended Adoption: August 22, 2018.

Submit Written Comments to: George Price, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, email gprice@dol.wa.gov, fax 360-570-7827, by August 20, 2018.

Assistance for Persons with Disabilities: Contact George Price, phone 360-902-0120, fax 360-570-7827, email gprice@dol.wa.gov, by August 17, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To align nonresident vessel permitting rules with recent legislation.

Reasons Supporting Proposal: Legislative changes to the corresponding RCW were effective as of September 1, 2015, so these changes are to align our rules with current policies and procedures.

Statutory Authority for Adoption: RCW 46.01.110, 88.02.610, and 88.02.620.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Jill Johnson, 1125 Washington Street S.E., Olympia, WA 98507, 360-902-0183; Implementation and Enforcement: George Price, 1125 Washington Street S.E., Olympia, WA 98507, 360-902-0120.

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

A cost-benefit analysis is not required under RCW 34.05.328. The changes to this rule add no additional costs to stakeholders.

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

- Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

July 18, 2018  
Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-21-035, filed 10/9/13, effective 11/9/13)

**WAC 308-93-055 Vessels from out-of-state operating in this state—Nonresident vessel permit required. (1) What must I provide to obtain a nonresident vessel permit?** You must provide the following:

- (a) Proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification; and
- (b) A copy of the current foreign vessel registration or current United States Coast Guard certificate of documentation(~~;~~
- ~~(c) Date the vessel first came into the state;~~
- ~~(d) A nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable.~~

~~(2) How many nonresident vessel permits may be obtained?~~ You may obtain two nonresident vessel permits in any continuous twelve-month period for any single vessel.

~~The twelve months begins on the date the vessel first entered this state).~~

~~((3)) (2) How do I display the vessel visitor permit?~~

The permit must be visible to law enforcement from either the dock or from the water. It must be kept aboard the vessel at all times when moored and during operation and protected from the weather.

The permit must be clearly displayed either:

- (a) In the windshield;
- (b) On side window;
- (c) In the cockpit; or
- (d) In the operation area of the vessel.

~~((4) If the vessel owner is not available, how do I obtain a nonresident vessel permit?~~ The person applying for the nonresident vessel permit must have a:

- ~~(a) Notarized or certified power of attorney from a registered owner of the vessel;~~
- ~~(b) Copy of the vessel owner's out-of-state driver's license or photo identification; and~~
- ~~(c) Copy of the out-of-state or out-of-country registration certificate.))~~