

Washington State Register

JUNE 16, 1993

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IN THIS ISSUE

Accountancy, Board of
Agriculture, Department of
Attorney General, Office of the
Bellevue Community College
Bellingham Technical College
Boiler Rules, Board of
Clover Park Technical College
Dental Examiners, Board of
Ecology, Department of
Energy Facility Site Evaluation Council
Fisheries, Department of
Forest Practices Board
Gambling Commission
General Administration, Department of
Health, Department of
Higher Education Coordinating Board
Human Rights Commission
Labor and Industries, Department of
Library, Washington State
Licensing, Department of

Liquor Control Board
Lottery Commission
Marine Oversight Board
Minority and Women's Business Enterprises
Occupational Therapy Practice Board
Personnel Board
Pilotage Commissioners, Board of
Pharmacy, Board of
Psychology, Examining Board of
Public Disclosure Commission
Public Instruction, Superintendent of
Puget Sound Air Pollution Control Agency
Revenue, Department of
Social and Health Services, Department of
Transportation Commission
Utilities and Transportation Commission
Wildlife Commission
Veterinary Board of Governors
Yakima Valley Community College

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than June 2, 1993

CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of June 1993 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PROPOSED**-includes the full text of preproposal comments, original proposals, continuances, supplemental notices, and withdrawals.
- (b) **PERMANENT**-includes the full text of permanently adopted rules.
- (c) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (d) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (e) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (f) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) deleted material is (~~lined out between double parentheses~~);
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

4. EFFECTIVE DATE IF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

1992 - 1993
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
92-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8
92-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22
92-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
92-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27
92-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
92-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24
92-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
92-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
92-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1993
93-01	Nov 25	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 26
93-02	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 9
93-03	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 3	Feb 23
93-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 9
93-05	Jan 20	Feb 3	Feb 17	Mar 3	Mar 23
93-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
93-07	Feb 24	Mar 10	Mar 24	Apr 7	Apr 27
93-08	Mar 10	Mar 24	Apr 7	Apr 21	May 11
93-09	Mar 24	Apr 7	Apr 21	May 5	May 25
93-10	Apr 7	Apr 21	May 5	May 19	Jun 8
93-11	Apr 21	May 5	May 19	Jun 2	Jun 22
93-12	May 5	May 19	Jun 2	Jun 16	Jul 6
93-13	May 26	Jun 9	Jun 23	Jul 7	Jul 27
93-14	Jun 9	Jun 23	Jul 7	Jul 21	Aug 10
93-15	Jun 23	Jul 7	Jul 21	Aug 4	Aug 24
93-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
93-17	Jul 21	Aug 4	Aug 18	Sep 1	Sep 21
93-18	Aug 4	Aug 18	Sep 1	Sep 15	Oct 5
93-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
93-20	Sep 8	Sep 22	Oct 6	Oct 20	Nov 9
93-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994

¹All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

Regulatory Fairness Act

The Regulatory Fairness Act, chapter 19.85 RCW, was adopted in 1982 to minimize the impacts of state regulations on small business. RCW 43.31.025 defines small business as "any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees." The act requires review and mitigation of proposed rules that have an economic impact on more than 20 percent of the businesses of all industries or more than 10 percent of the businesses in any one industry (as defined by any three-digit SIC code).

When the above criteria is met, agencies must prepare a small business economic impact statement (SBEIS) that identifies and analyzes compliance costs and determines whether proposed rules impact small businesses disproportionately when compared to large businesses. When a proportionately higher burden is imposed on small businesses, agencies must mitigate those impacts. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, are subject to review to determine if the requirements of the Regulatory Fairness Act apply. Impact statements are filed with the Office of the Code Reviser as part of the required notice of hearing.

AN SBEIS IS REQUIRED

When:

The proposed rule has any economic impact on more than 20 percent of all industries or more than 10 percent of any one industry; or

The proposed rule **IMPOSES** costs to business that are not minor and negligible.

AN SBEIS IS NOT REQUIRED

When:

The rule is proposed only to comply or conform with a Federal law or regulation;

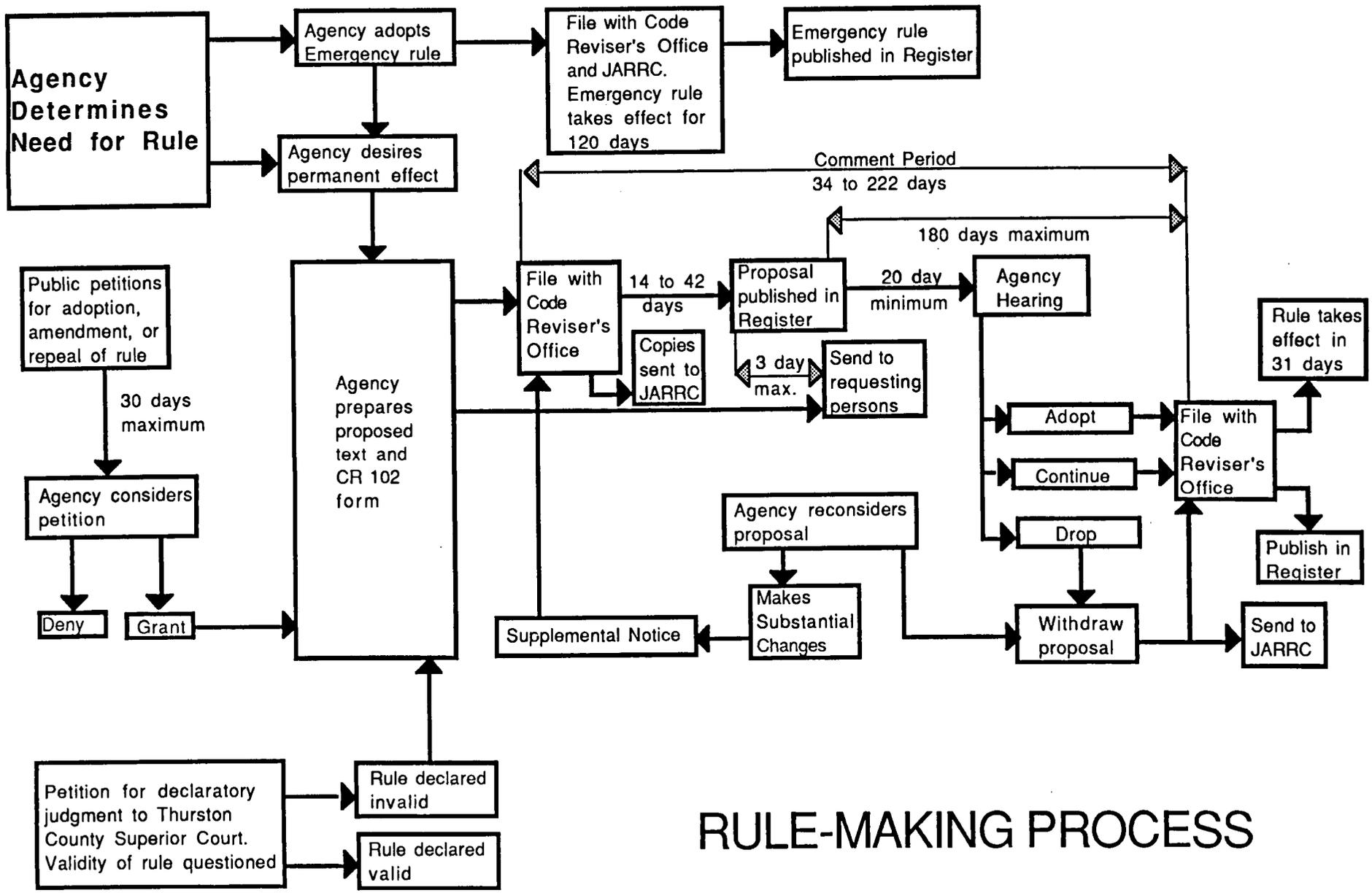
There is no economic impact on business;

The rule **REDUCES** costs to business;

There is only minor or negligible economic impact;

The rule is proposed as an emergency rule, although an SBEIS may be required when an emergency rule is proposed as a permanent rule; or

The rule is pure restatement of statute.



RULE-MAKING PROCESS

WSR 93-12-003
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed May 19, 1993, 3:59 p.m.]

Original Notice.

Title of Rule: Fee changes (physician assistant).

Purpose: To update fees.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This would delete an unnecessary fee and update shopkeeper fee.

Reasons Supporting Proposal: The medical board discontinued the requirement for the physician's assistants to be registered. Also, the shopkeeper fee needs to be updated in accordance with fee study.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 1300 Quince S.E., Olympia, 753-6834.

Name of Proponent: Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This fee would update fees. One fee is for physician's assistants, who are no longer required by the medical board to be registered with the Board of Pharmacy and one is for the penalty for shopkeepers in accordance with fee study.

Proposal Changes the Following Existing Rules: Deletes physician assistant fee and penalty and revises shopkeeper fee.

Small Business Economic Impact Statement: Economic impact of the change in this penalty fee is negligible, only \$2.50.

Hearing Location: General Administration Auditorium, General Administration Building, 11th and Columbia, Olympia, on July 7, 1993, at 1:00.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, by July 6, 1993.

Date of Intended Adoption: July 14, 1993.

May 19, 1993
 Bruce Miyahara
 Secretary

AMENDATORY SECTION (Amending Order 334, filed 2/17/93, effective 3/20/93)

WAC 246-907-030 Fees. The following fees shall be charged by the professional licensing division of the department of health:

(a) PHARMACY LOCATION	
Original pharmacy fee	\$275.00
Original pharmacy assistant utilization fee	50.00
Renewal pharmacy fee	200.00
Renewal pharmacy assistant utilization fee	60.00
Penalty pharmacy fee	275.00

(b) VENDOR	
Original fee	60.00
Renewal fee	60.00
Penalty fee	60.00
(c) PHARMACIST	
Exam fee (full exam)	200.00
Reexamination fee (jurisprudence portion)	40.00
Original license fee	100.00
Renewal fee, active and inactive license	105.00
Renewal fee, retired license	20.00
Penalty fee	105.00
Reciprocity fee	250.00
Certification of license status to other states	20.00
Retired license	20.00
Temporary permit	50.00
(d) SHOPKEEPER	
(i) SHOPKEEPER - sixteen or more drugs	
Original fee	25.00
Renewal fee	25.00
Penalty fee	12.50
(ii) SHOPKEEPER - with differential hours	
Original fee	25.00
Renewal fee	25.00
Penalty fee	((10.00)) <u>12.50</u>
(e) DRUG MANUFACTURER	
Original fee	450.00
Renewal fee	450.00
Penalty fee	450.00
(f) DRUG WHOLESALER - full line	
Original fee	450.00
Renewal fee	450.00
Penalty fee	450.00
(g) DRUG WHOLESALER - OTC only	
Original fee	250.00
Renewal fee	250.00
Penalty fee	250.00
(h) DRUG WHOLESALER - export	
Original fee	450.00
Renewal fee	450.00
Penalty	450.00
(i) PHARMACY ASSISTANT - Level "A"	
Original fee	40.00
Renewal fee	30.00
Penalty fee	40.00
(j) PHARMACY INTERN	
Original registration fee	15.00
Renewal registration fee	15.00
(k) CONTROLLED SUBSTANCES ACT (CSA) REGISTRATIONS	
Dispensing registration fee (i.e. pharmacies)	65.00
Dispensing renewal fee (i.e. pharmacies)	50.00
Distributors registration fee (i.e. wholesalers)	90.00

PROPOSED

Distributors renewal fee (i.e. wholesalers)	90.00
Manufacturers registration fee	90.00
Manufacturers renewal fee	90.00
(Physician assistant registration fee	15.00
Physician assistant renewal fee	10.00
ARNP with prescriptive authorization registration fee	20.00
ARNP with prescriptive authorization renewal fee	20.00
Sodium pentobarbital for animal euthanization registration fee	30.00
Sodium pentobarbital for animal euthanization renewal fee	30.00
Other CSA registrations	30.00
 (l) LEGEND DRUG SAMPLE - distributor registration fees	
Original fee	275.00
Renewal fee	200.00
Penalty fee	200.00
 (m) POISON MANUFACTURER/SELLER - license fees	
Original fee	30.00
Renewal fee	30.00
 (n) Facility inspection fee	
	150.00
 (o) PRECURSOR CONTROL PERMIT	
Original fee	50.00
Renewal fee	50.00
 (p) LICENSE REISSUE	
Reissue fee	15.00

**WSR 93-12-009
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS**
[Filed May 19, 1993, 4:17 p.m.]

Continuance of WSR 93-08-027.
 Title of Rule: WAC 296-116-300 Pilotage rates for the Puget Sound Pilotage District.
 Purpose: To amend the pilotage tariff rate.
 Statutory Authority for Adoption: RCW 88.16.035.
 Statute Being Implemented: RCW 88.16.035.
 Summary: The continuance of this hearing will provide for full board representation.
 Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 801 Alaskan Way, Seattle, 464-7818.
 Name of Proponent: Puget Sound Pilots, governmental.
 Rule is not necessitated by federal law, federal or state court decision.
 Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule would increase the tariff for pilotage services in the Puget Sound Pilotage District by 9.92%.
 Proposal Changes the Following Existing Rules: The proposed rule is a 9.92% increase over the existing rule except for transportation.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Pier 52, Seattle, WA 98104, on May 14, 1993, at 9:00 a.m.

Date of Intended Adoption: May 14, 1993.

May 13, 1993
Thomas F. Heinan
Chair

**WSR 93-12-018
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**
[Filed May 21, 1993, 2:24 p.m.]

Original Notice.

Title of Rule: Contribution limitations.

Purpose: WAC 390-17-011 Caucus of the state legislature—Definition, provide a definition of term "caucus of the state legislature" used in RCW 42.17.610-[42.17].790; WAC 390-17-013 Committee—Definition, define "committee" as used in RCW 42.17.610-[42.17].790; WAC 390-17-015 Conduit—Definition, provide definition of conduit as used in chapter 42.17 RCW; WAC 390-17-017 Facilities—Definition, provide definition of "facilities" as used in RCW 42.17.630(3); WAC 390-17-030 Sample ballots, define the term "sample ballot"; WAC 390-17-050 Independent expenditure—Definition, define "independent expenditure"; WAC 390-17-052 Independent expenditure—Disclosure, provides the place where out-of-state persons need to file disclosure reports for their in-state independent expenditures; WAC 390-17-060 Exempt activities, definitions, reporting, define activities not subject to contribution limits and set out reporting requirements for such activities; WAC 390-17-065 Recordkeeping and reporting, to set out recordkeeping requirements for exempt contributions and to require separate reports, accounts and instruments for exempt contributions; WAC 390-17-100 Contribution withholding authorizations, provide format for authorizations for withholdings for contributions; WAC 390-17-200 Major political party organizations, implements contribution limits by indicating which party organizations have separate limits; WAC 390-17-205 Number of registered voters—Calculation, to establish how to determine the number of registered voters. This implements the section that establishes this criteria; WAC 390-17-300 Contribution designation for primary and general election, provides standard for attributing contributions to the appropriate election, in order to determine contribution limitations for contributors; WAC 390-17-305 Personal funds of a candidate, defines personal funds of a candidate; WAC 390-17-310 Doing business in Washington, defines "doing business in Washington" for purposes of RCW 42.17.640(10); WAC 390-17-315 Political committees—Qualifications to contribute, political committees must have at least minimal support in Washington state in order to make contributions to candidates in Washington; and WAC 390-17-400 Time limit for state officials to solicit or accept contributions, implement rules in RCW 42.17.710 restricting the solicitation or receipt of contributions by state officials during a legislative session.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: WAC 390-17-011, states that "caucus of the state legislature" includes political committees established by a caucus of the state legislature; WAC 390-17-013, provides that the term "committee" includes political committees and authorized committees; WAC 390-17-015, defines conduit as person, other than an intermediary, who receives and spends earmarked contributions; WAC 390-17-017, defines facilities as things which facilitate or make campaign activities possible; WAC 390-17-030, sample ballots don't indicate a preference, show all issues or candidates to be voted on and contain only certain information that are not contributions; WAC 390-17-050, the definition of independent expenditure in RCW 42.17.630(10) shall apply throughout chapter 42.17 RCW except for RCW 42.17.100; WAC 390-17-052, independent expenditures in support or opposition to ballot propositions made by out-of-state persons shall file their disclosure statements in the listed counties; WAC 390-17-060, defines activities exempt from contributions limits imposed by RCW 42.17.640 and sets out reporting requirements; WAC 390-17-065, sets out recordkeeping requirements for exempt contributions and to require separate reports, accounts and instruments for exempt contributions; WAC 390-17-100, allows use of either commission form or their own form if it has the appropriate information, for withholding of payroll deductions for political contributions; WAC 390-17-200, states that the governing body of state party organizations, county central committees and legislative district committees are separate organizations for purposes of making and receiving contributions and restricts the number of such organizations a party can establish; WAC 390-17-300, unless otherwise designated, contributions given prior to the primary are attributed to the primary limits. Contributions that exceed the primary limit shall be designated for the general election; WAC 390-17-305, sets forth what will be considered personal funds of a candidate; WAC 390-17-310, defines "doing business in Washington" required by RCW 42.17.640(10) before a corporation or business entity may contribute to candidates; WAC 390-17-315, requires political committees to obtain contributions of \$10 from at least ten persons to vote in Washington state within the 180 days preceding making a contribution to a candidate; and WAC 390-17-400, clarifies who is subject to the restrictions of RCW 42.17.710 the time periods within which the restrictions apply and what is subject to the restrictions.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David R. Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 390-17-011, includes political committees established by caucuses of the state legislature in the definition of that term; WAC 390-17-013, provides that the term "committee" as used in RCW 42.17.610-[42.17].790 includes political committees and authorized committees; WAC 390-17-015, defines "conduit" as used in chapter 42.17 RCW to be a person other than an individual who receives

and spends earmarked contributions on behalf of others; WAC 390-17-017, defines term "facilities" as those things which facilitate or make campaign work possible. An individual who makes expenditures for such facilities to promote his or her candidacy is deemed to be a candidate; WAC 390-17-030, sample ballot is a printed facsimile of all issues and candidates to be voted on. It can contain a list of candidates, showing identity, current position held, office being sought and party affiliation. The ballot cannot indicate the sponsor's preference. If a ballot does not meet these criteria, it is not a sample ballot, can't be paid for with exempt contributions and will be deemed a contribution; WAC 390-17-050, allows the definition of independent expenditure in RCW 42.17.630(10) to apply throughout chapter 42.17 RCW; WAC 390-17-052, an out-of-state person making an independent expenditure in support or opposition to a ballot proposition must file a disclosure report in their county of residence. This county shall be: Thurston County if a statewide ballot. Local ballots, the counties where the measure will appear for vote. This ensures meaningful disclosure; WAC 390-17-060, defines exempt contributions, exempt contributions account, exempt activities, internal organization expenses, voter registration and education activities and describes the circumstances under which contributions and expenditures for such activities are not subject to the contribution limits of RCW 42.17.640; WAC 390-17-065, provides that exempt contributions must be made with separate written instruments and kept in separate accounts. Requires separate disclosure reports for exempt accounts; WAC 390-17-100, all written withholding authorizations are valid not later than December 31, 1993. Beginning January 1, 1994, employers must have annual written authorizations in order to make payroll deductions for political contributions from employees. The commission has a form to use or employers can use their own form. The same form can be used for up to three annual reauthorizations; WAC 390-17-200, allows separate contribution limits for the state party, each county central committee and each legislative district committee. Limits each major party to one state central committee, one central committee per county, and one district committee per legislative district; WAC 390-17-205, initially, the number of registered voters is that number as of the date of the last general election for that office. The final number is the number as of the last date of registration for the general election for the office being sought. If the final number is less than the initial number and a contribution was made exceeding the limit, the difference must be returned. This allows the number to be that closest to the election but gives a standard until that number is determined; WAC 390-17-300, contribution will be attributed to the election designated by the contributor. If undesignated and given before the date of the primary, it will be attributed to the primary election limit. Any portion which exceeds that limit will be attributed to the general election. If lost the primary, all funds, whether attributed to primary or general election are deemed surplus funds and to be disposed of pursuant to RCW 42.17.095; WAC 390-17-305, personal funds of a candidate are assets to which the candidate has legal title, income, dividends, income from trusts established before candidacy, income from testamentary trusts, whenever established, personal gifts customarily received, proceeds from lotteries,

candidate's share of jointly held funds. Sets criteria for personal funds to prevent circumventing contribution limit, since such funds are not subject to the limit; WAC 390-17-310, defines "doing business in Washington" as continuous and substantial activities in Washington state of such character as to give rise to a legal obligation. Requires the appointment of an agent for service of process in Washington prior to making reportable contributions; WAC 390-17-315, requires political committee to obtain contributions of at least \$10 from ten people registered to vote in Washington state within the 180 days preceding making a contribution to a candidate in Washington state. Also requires reporting of the names and address of the ten contributors on the next report to the commission; and WAC 390-17-400, clarifies who is subject to the restriction in RCW 42.17.710 on soliciting or receiving contributions during a legislative session. States that nonstate officials are not subject to the restriction and that gifts are not subject to the restriction as long as they are not for nonreimbursed public office related expenses, contribution to a candidate or authorized committee or to retire a campaign debt.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: July 27, 1993.

May 20, 1993
Graham E. Johnson
Executive Director

**Chapter 390-17 WAC
CONTRIBUTION LIMITATIONS**

NEW SECTION

WAC 390-17-011 Caucus of the state legislature—Definition. "Caucus of the state legislature," as that term is used in RCW 42.17.610 - 42.17.790 includes political committees established by a caucus of a major political party in each house of the state legislature which political committees are established for the primary purpose of supporting and opposing candidates.

NEW SECTION

WAC 390-17-013 Committee—Definition. "Committee" as that term is used in RCW 42.17.610 - 42.17.790 includes political committee and authorized committee.

NEW SECTION

WAC 390-17-015 Conduit—Definition. (1) "Conduit," as that term is used in chapter 42.17 RCW, is defined as a person, other than an individual, who receives and spends earmarked contributions on behalf of a designated candidate, bona fide political committee, caucus of the state legislature or other political committee.

(2) Pursuant to RCW 42.17.730, a conduit may not make or transmit contributions on behalf of another.

NEW SECTION

WAC 390-17-017 Facilities—Definition. "Facilities," as that term is used in RCW 42.17.630(3), means that which facilitates or makes some campaign activity possible, including but not limited to: use of stationary, postage, machines and equipment, use of employees of an entity during working hours, vehicles, office space, room or building, publications of an entity or client list of an entity.

NEW SECTION

WAC 390-17-030 Sample ballots. (1) Sample ballot, as that term is used in RCW 42.17.630 (5)(b)(iv), means a printed facsimile of all the issues and offices on the ballot in the jurisdiction and gives voters notice of the issues, offices and candidates that are to be voted on at a particular primary, general or special election; all without promotion of or political advertising for specifically named individual candidates.

(2) A sample ballot cannot indicate the sponsor's preference for any specific candidate or candidates listed on the ballot.

(3) A sample ballot can contain a list of candidates, limited to the identification of the candidates (pictures may be used), the office or position currently held, the elective office sought and the party affiliation, as long as the same category of information is given for all candidates listed. The list may not include additional biographical data on candidates, their positions on political issues or statements on party philosophy.

(4) A sample ballot which meets the above criteria is not considered a contribution to any of the candidates listed in the ballot.

NEW SECTION

WAC 390-17-050 Independent expenditure—Definition. The definition of "independent expenditure" in RCW 42.17.630(10) shall apply to that term as used throughout chapter 42.17 RCW, except for RCW 42.17.100.

NEW SECTION

WAC 390-17-052 Independent expenditure—Disclosure. For purposes of the disclosure requirement in RCW 42.17.550, the county of residence for an out-of-state person making an independent expenditure in support or opposition to a ballot proposition shall be either:

(1) Thurston county if the independent expenditure is for a statewide ballot proposition; or

(2) For local ballot propositions, the county or counties where the ballot proposition will appear on the election ballot.

NEW SECTION

WAC 390-17-060 Exempt activities—Definitions, reporting. (1) "Exempt Contributions" are contributions made to a political committee which are designated for and are expended for exempt activities. Such contributions are

required to be reported under RCW 42.17.090, but are not subject to contribution limits in RCW 42.17.640. Any written solicitation for exempt contributions must be so designated. Suggested designations are "not for candidates" or "for exempt activities."

(2) "Exempt Contributions Account" is the separate bank account into which only exempt contributions are deposited and out of which expenditures for exempt activities may only be made.

(3) "Exempt Activities" are those activities described in RCW 42.17.630 (5)(b), expenditures for which are exempt from the contribution limits of RCW 42.17.640. However, only those activities described in RCW 42.17.630 (5)(b)(iv) and (vi) may be paid for from exempt contributions.

(4) "Internal Organization Expenses" described by RCW 42.17.630 (5)(b)(vi) are the costs of administration or overhead, such as: lease of space or equipment, utilities, or salaries. Contributions to political committees designated for and expended for such costs are not limited by RCW 42.17.640, but are reportable as contributions under RCW 42.17.090.

(5) Voter Registration and Education Activities, described in RCW 42.17.630 (5)(b)(iv), are exempt activities as long as they are broadly based and intended to increase voter participation or education in general and do not promote or oppose the candidacy of individual candidates. Such activities are subject to contribution limits if they are targeted so as to promote or oppose individual candidates.

(6) Activities that promote or oppose candidates:

(a) If activities described in RCW 42.17.630 (5)(b)(iv) and (vi) promote or oppose specific, identifiable candidates, the activities are a contribution to those candidates. Exempt contributions may not be used for such activities. The amount expended for such activities must be reported as a contribution to such candidates. If more than one candidate is promoted or opposed, the amount expended must be allocated equally among such candidates. Such candidates must be notified in writing of the contribution within 5 business days of the expenditure.

(b) If activities described in RCW 42.17.630 (5)(b)(iv) and (vi) promote or oppose candidates, but not specific, identifiable candidates, such activities do not constitute a contribution to any specific candidate, but exempt contributions may not be used for such activities.

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

NEW SECTION

WAC 390-17-065 Recordkeeping and reporting.

(1) Any political committee or candidate that receives contributions exempt from the contribution limits in RCW 42.17.640 must keep the contribution in a separate bank account. Exempt contributions commingled with contributions subject to contribution limits are presumed to be subject to the limits. Expenditures to promote candidates or which are made for purposes other than those specified in RCW 42.17.630 (5)(b)(iv) or (vi) may not be made with funds from the exempt contributions account.

(2) A separate campaign disclosure report must be completed and filed for exempt contributions accounts.

(3) Contributors may not use a single written instrument to make simultaneous contributions designated for the exempt and any other accounts—separate written instruments must be used for contributions to an exempt contributions account. If the recipient receives a contribution and wishes to use part for exempt activities, the contributor must be requested to make that part of the contribution in a separate written instrument.

NEW SECTION

WAC 390-17-100 Contribution withholding authorizations.

(1) For purposes of RCW 42.17.680(3), all political contribution withholding authorizations existing on or before January 1, 1993, will expire no later than December 31, 1993. Beginning January 1, 1994, each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington

(a) for the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17.040, .050, .060 or .090 (1)(k), or

(b) for use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Employers may either use the suggested format below or their own form if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name, city and state of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) The date on which the authorized withholdings or diversions are to be effective;

(f) A statement specifying that the authorization is not valid for more than 12 months after the effective date;

(g) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee;"

(h) The individual's signature; and

(i) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above. The forms may accommodate annual re-authorization by providing space for the employee's signature and the date of re-authorization is signed, up to three re-authorizations.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a non-resident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without annual, written permission from that individual. Completion of this form entitles the entity specified to make such a withholding for no more than 12 consecutive months.

I, _____, authorized _____ to withhold \$ _____ per / pay period / week / month / year / _____ from any earnings in order to make political contributions to _____

political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____. This authorization is valid for no more than twelve consecutive months. It is effective on _____

and expires on _____

Signature: _____ Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

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

NEW SECTION

WAC 390-17-200 Major political party organizations. (1) With respect to a major political party, each of the following is considered a separate organization for purposes of making and receiving contributions: governing body of the state organization, county central committee and legislative district committee.

(2) Each major political party is restricted to one state central committee, one county central committee per county and one legislative district committee per legislative district.

(3) Each major political party shall designate each county central committee and each legislative district committee and shall notify the commission within two weeks following the designation by filing a PDC form C-1.

NEW SECTION

WAC 390-17-205 Number of registered voters— Calculation. (1) For purposes of determining the number of registered voters in a jurisdiction, as required in RCW 42.17.640, bona fide political parties and caucus committees shall initially use the number of registered voters as of the date of the last general election for the office sought by the candidate for whom the contribution is to be made. The final number of registered voters for an election will be the number of registered voters on the last day of voter registra-

tion prior to the relevant election according to chapter 29.07 RCW.

(2) If the bona fide political party or caucus committee makes contributions to a candidate based on the initial number of registered voters and the final number of registered voters is less than the initial number such that the aggregate contributions made to the candidate exceeds the contribution limit, the bona fide political party or caucus committee shall request and the candidate shall, after receiving this request, return to the bona fide political party or caucus committee, that amount which exceeds the contribution limit.

(3) For purposes of this rule and RCW 42.17.640, registered voters and eligible registered voters shall have the same meaning.

NEW SECTION

WAC 390-17-300 Contribution designation for primary and general election. (1) Pursuant to RCW 42.17.640(1), if a contribution is designated in writing by the contributor for a specific election, the contribution will be attributed to the contributor's limit for that designated election.

(2) An undesignated contribution made prior to the date of a primary election, shall be attributed to the contributor's limit for the primary election. Undesignated contributions made after the date of the primary must be attributed to the contributor's limit for the general election.

(3) Any portion of an undesignated contribution made prior to the date of the primary which exceeds the

contributor's primary election contribution limit shall be attributed to the contributor's limit for the general election.

(4) If a candidate loses in the primary election, all funds held in the campaign accounts, whether contributions attributed for the primary or general election, shall be considered surplus funds, disposal of which is governed by RCW 42.17.095.

NEW SECTION

WAC 390-17-305 Personal funds of a candidate. (1)

The personal funds of a candidate include:

(a) Assets which the candidate has legal access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;

(b) Income from employment;

(c) Dividends and proceeds from stocks and other investments;

(d) Income from trusts, if established before candidacy;

(e) Income from trusts established from bequests, even if established after candidacy;

(f) Personal gifts, if customarily received; and

(g) Proceeds from lotteries and similar games of chance.

(2) A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse. If the candidate's financial interest is not specified, then the candidate's share is deemed to be half the value of the asset.

(3) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. Such funds are considered a contribution under chapter 42.17 RCW unless the loan meets the exemption provided in RCW 42.17.720(3).

NEW SECTION

WAC 390-17-310 Doing business in Washington. (1)

A corporation or business entity is "doing business in Washington state" for purposes of RCW 42.17.640(10) if it conducts continuous and substantial activities in Washington state of such character as to give rise to a legal obligation. Such things as registering as a foreign corporation in Washington, operating business locations in Washington, hiring employees to work in Washington or purchasing supplies or services from other businesses in Washington may be considered in determining whether a corporation or business entity is doing business in Washington state.

(2) Prior to making contributions reportable under RCW 42.17, a corporation or business entity shall appoint an agent for service of process in Washington state.

NEW SECTION

WAC 390-17-315 Political committees—

Qualifications to contribute. In order to make contributions as permitted by RCW 42.17.640(10), a political committee must, within the 180 days prior to making the contribution, receive contributions of \$10 or more from at least ten individuals registered to vote in Washington state at the time they contributed to the political committee. These ten individuals must be identified by name and address on the next report or statement the political committee files with the commission.

NEW SECTION

WAC 390-17-400 Time limit for state officials to solicit or accept contributions. For purposes of complying with RCW 42.17.710:

(1) A successful candidate for state office does not have to comply with RCW 42.17.710 until sworn into office.

(2) An unsuccessful incumbent state official must comply with RCW 42.17.710 until his or her term expires.

(3) "Freeze period," as used in this rule, means the period of time in RCW 42.17.710 within which a state official cannot accept or solicit contributions. The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session. If a special session is held immediately following the end of the regular legislative session, this period ends on the day the special session adjourns or at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session, whichever is later.

(4) A state official may solicit or accept contributions during the freeze period to assist his or her campaign for a non-state office.

(5) A state official may accept gifts valued at over \$50 during the freeze period so long as the gift is not (a) to be used to defray non-reimbursed public office related expenses, (b) as a contribution to a candidate or authorized committee, or (c) used to retire a campaign debt.

WSR 93-12-019

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed May 21, 1993, 2:28 p.m.]

Original Notice.

Title of Rule: WAC 390-05-190 Agent—Definition.

Purpose: Provide definition of agent.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Defines agent as used in chapter 42.17 RCW.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provide a definition of agent as used in chapter 42.17 RCW.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.
 May 20, 1993
 Graham E. Johnson
 Executive Director

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.
 May 20, 1993
 Graham E. Johnson
 Executive Director

NEW SECTION

WAC 390-05-190 Agent—Definition. "Agent", as that term is used in chapter 42.17 RCW, means a person:

- (1) authorized by another to act on his or her behalf;
- (2) who represents and acts for another with the authority or consent of the person represented;
- (3) acts for or in place of another by authority from him or her.

**WSR 93-12-020
 PROPOSED RULES
 PUBLIC DISCLOSURE COMMISSION**

[Filed May 21, 1993, 2:30 p.m.]

Original Notice.

Title of Rule: WAC 390-05-200 Definition—Candidates for public office—Time of filing.

Purpose: To amend rule defining when an individual is a "candidate."

Statutory Authority for Adoption: RCW 42.17.370.

Summary: For purposes of determining when a person must file as a candidate, further defines circumstances when a person is a candidate.

Reasons Supporting Proposal: Change is needed to incorporate Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Because of the contribution limits imposed by Initiative 134, it is necessary to further define when a person is a candidate. If a person receives contributions after the election cycle, it must go to the contributor's contribution limit for that candidate's next election. Therefore, the person is a candidate and must file.

Proposal Changes the Following Existing Rules: It adds a circumstance, receipt of contributions after the election cycle, upon which a person is a candidate and is required to file.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17.020(5) and RCW 42.17.630(3):

(1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or

(2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence(-); or

(3) Meeting the requirements set forth in WAC 390-16-230 (1) or (2).

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 93-12-021
 PROPOSED RULES
 PUBLIC DISCLOSURE COMMISSION**

[Filed May 21, 1993, 2:31 p.m.]

Original Notice.

Title of Rule: WAC 390-05-205 Definition of term "consumable."

Purpose: Amend the rule to apply the definition of consumable to that term as used in Initiative 134.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Applies the definition of consumable to that same term as used in RCW 42.17.630 (5)(d).

Reasons Supporting Proposal: Change is needed to implement Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The term consumable is used in Initiative 134, RCW 42.17.630 (5)(d). This rule is amended to apply the already existing definition to that section.

Proposal Changes the Following Existing Rules: It extends this rule application to RCW 42.17.630 (5)(d).

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993

Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-05-205 Definition of term "consumable."
For the purpose of RCW 42.17.020(10) and RCW 42.17.630(5)(d) the term "consumable" includes the amount paid for food, beverages, preparation or catering, entertainment cost or fair market value of items sold, raffled, or given as prizes.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 93-12-022
PROPOSED RULES**

PUBLIC DISCLOSURE COMMISSION

[Filed May 21, 1993, 2:34 p.m.]

Original Notice.

Title of Rule: WAC 390-05-210 Definition—Contribution.

Purpose: Make the further definition of contribution uniform throughout chapter 42.17 RCW.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Applies the rule to RCW 42.17.630(5). Clarifies when media program is not a contribution.

Reasons Supporting Proposal: Implementation of Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 573-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Applies the rule which further defines contribution to Initiative 134, RCW 42.17.630(5). Clarifies that the amount of an in-kind contribution is its fair market value. Applies the standard in RCW 42.17.630(5)(b)(v) to all contributions under chapter 42.17 RCW.

Proposal Changes the Following Existing Rules: Extends rule's application to RCW 42.17.630(5). Adds criteria for when media broadcast is not a contribution.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993

Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending WSR 91-14-041, filed 6/27/91)

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in RCW 42.17.020(10) and RCW 42.17.630(5) shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining the contributor's contribution limit.

(2) The following activities are not considered to be contributions or independent campaign expenditures reportable under RCW 42.17.090 or 42.17.100:

(a) News, feature, or editorial comment in a broadcast media program or in a regularly scheduled issue of a printed periodical, which is controlled by a person whose primary business is in that broadcast media or periodical and that is not controlled by a candidate or political committee (including periodicals published by businesses and organizations for their respective employees or members) to communicate ratings, evaluations, endorsements, or recommendations for or against a candidate or ballot proposition;

(b) Internal political communications from a corporation or similar enterprise to its officers, management staff, and stockholders or from a union, association, or other membership organization to its members;

(c) Messages in the form of reader boards, banners, yard or window signs displayed on a person's own property or property occupied by ~~((the organization, business or union))~~ a person: Provided, That any ((person, space, or property)) facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution and shall count towards the contribution limit of the person providing the facility.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 93-12-023
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed May 21, 1993, 2:36 p.m.]

Original Notice.

Title of Rule: WAC 390-05-215 Receipt of a campaign contribution.

Purpose: Amend the rule to add possession by a conduit as a criteria for determining the date of receipt of a contribution.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: To determine when a contribution is received, for an earmarked contribution, receipt can also be upon possession of the contribution by a conduit.

Reasons Supporting Proposal: Implementation of Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In determining the date a contribution is received, it is the earliest of one of the listed occurrences. One of the occurrences is the possession of the contribution by a conduit. Initiative 134 uses the term conduit for the first time and possession of a contribution by a conduit must therefore be addressed.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending WSR 92-05-081, filed 2/18/92)

WAC 390-05-215 Receipt of a campaign contribution. "Receipt" of a campaign contribution, as that term is used in chapter 42.17 RCW, shall be deemed to occur at the earliest of the following:

(1) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official obtains possession of the contribution, or

(2) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official is informed of the contribution, or becomes aware that the campaign, or in the case of an

earmarked contribution, the intermediary or conduit, has possession of the contribution, or

(3) the date that the contribution becomes available for use by the candidate or committee.

**WSR 93-12-024
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed May 21, 1993, 2:38 p.m.]

Original Notice.

Title of Rule: WAC 390-16-038 Definition—Aggregate.

Purpose: To amend the rule which defines the term "aggregate."

Statutory Authority for Adoption: RCW 42.17.370.

Summary: In order to determine if a contributor has reached its contribution limit, define which contributions must be added together and attributed to that one source.

Reasons Supporting Proposal: To implement the contribution limits set in Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: For purposes of determining the total amount of contributions from a source, all contributions received or expended by a candidate or political committee must be added to the contributions of any other affiliated political committee. All contributions from a person to any candidate or political committee during the applicable reporting period must be added together.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-038 Definition—Aggregate. The term "aggregate" for the purpose of ~~((these campaign financing rules))~~ Chapter 42.17 RCW means, during the applicable reporting period:

(1) a total of all contributions received or expenditures made by a candidate, a political ~~((or committee together with~~

May 20, 1993
 Graham E. Johnson
 Executive Director

~~all contributions received or all expenditures made by all) and any political committees ((formed by or with the knowledge or consent of such candidate or committee in connection with such campaign))~~ affiliated with either, and (2) the total of all contributions from a person to any one candidate or any political committee.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 13 [62], filed 7/30/73 [8/26/75])

WAC 390-16-200 Encouraging expenditures to avoid contributions—Result. (1) If a candidate or a political committee advises, counsels or otherwise knowingly encourages any person to make an expenditure which, if made by the candidate or political committee would be regulated by RCW 42.17.080 - 42.17.090, for the purpose of avoiding direct contributions or for any other reason, the person making such expenditure shall be considered an agent of the candidate or political committee encouraging the expenditure, and the expenditure shall be considered for all intents and purposes as an expenditure of such candidate or political committee.

(2) If a person counsels or otherwise knowingly encourages any other person to make an expenditure for the purpose of avoiding contribution limits which, if made by the person would be regulated by RCW 42.17.640 or 42.17.105(8), the person making such expenditure shall be considered the contributor and the amount of the expenditure shall be considered a contribution in determining contribution limits of both the person making the expenditure and the person who encouraged the expenditure.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 93-12-025
 PROPOSED RULES
 PUBLIC DISCLOSURE COMMISSION**
 [Filed May 21, 1993, 2:40 p.m.]

Original Notice.

Title of Rule: WAC 390-16-200 Encouraging expenditures to avoid contributions—Result.

Purpose: To extend this rule to apply to persons who encourage these expenditures to avoid the contribution limits in Initiative 134.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: If a person encourages another to make an expenditure to avoid contribution limits, the amount of the expenditure will be a contribution and allocated to the person making the expenditure.

Reasons Supporting Proposal: To prevent persons from making expenditures in place of contributions in order to circumvent the limits in Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111, and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If a person encourages another to make an expenditure instead of a direct contribution to avoid contribution limits, the amount of the expenditure will be a contribution. The contribution will have to be reported and will be allocated to both the person making the expenditure and the person who encouraged the expenditure. This is to prevent the circumvention of contribution limits by direct expenditures.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

**WSR 93-12-026
 PROPOSED RULES
 PUBLIC DISCLOSURE COMMISSION**
 [Filed May 21, 1993, 2:43 p.m.]

Original Notice.

Title of Rule: WAC 390-16-207 In-kind contributions and expenditures—Reporting.

Purpose: Amend the rule dealing with in-kind contributions.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Defines when use of facilities is and is not an in-kind contribution. Provides the reporting criteria if the activity is an in-kind contribution.

Reasons Supporting Proposal: To implement provisions of Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If facilities are made available for volunteer activities, no in-kind contribution is made if the activity does not exceed one hour per week or four hours per month. If

the activity exceeds these time periods, it is an in-kind contribution, the fair market value of which must be reported. Provides certain activities which are not considered volunteer activity and would therefore be an in-kind contribution.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993

Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-207 In-kind contributions and expenditures—Reporting. (1) Whenever a candidate or a political committee makes one or more in-kind expenditures which (i) directly or indirectly, in whole or in part, benefit another identifiable candidate or political committee and (ii) in the aggregate amount to a value of fifty dollars or more in the reporting period, then, for the purpose of complying with the provisions of RCW 42.17.090 (1)(f);

(a) Such candidate or political committee shall identify the candidate or political committee benefitted by such expenditure and state the value thereof; and

(b) The candidate or political committee that receives benefit of such expenditure or expenditures shall report a corresponding amount as a contribution received and as an expenditure made by such candidate or political committee.

(2) Whenever a candidate or a political committee makes an in-kind expenditure which supports or opposes more than one candidate or ballot proposition, the person making such expenditure shall identify each candidate or ballot proposition to which such support or opposition is directed and, if the aggregate expenditure amounts to fifty dollars or more, shall state the prorated amount of the expenditure or expenditures properly attributable to each such candidate or ballot proposition.

(3) Whenever a candidate or political committee provides its equipment, property or other facilities owned, retained, leased or controlled by it to another candidate or political committee, the fair market value of the use of such equipment, property or other facilities, if it amounts to fifty dollars or more, shall be reported as follows:

(a) By the candidate or political committee providing the equipment, property or other facilities, by attaching to its form C-4, Schedule B, a statement setting forth the name of the candidate or political committee benefitted and the date, description and value of the in-kind contribution made by it;

(b) By the candidate or political committee benefitting from the use of such equipment, property or other facilities, by reporting the value of such use in its form C-4, Schedule B, both as a contribution and as an expenditure.

(4) Corporations, unions and other entities not prohibited from making contributions by RCW 42.17.640(10) may make available their facilities for volunteer activities such as telephone banks without incurring an in-kind contribution so long as the activity does not exceed one hour per week or four hours per month. More frequent use of such facilities will constitute an in-kind contribution which must be valued at the fair market value of comparable facilities. "Volunteer activities" does not include the production of political advertising, holding fundraising events or providing transportation to candidates or campaign workers of candidates, political parties or caucus committees.

**WSR 93-12-027
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**
[Filed May 21, 1993, 2:44 p.m.]

Original Notice.

Title of Rule: WAC 390-16-230 Surplus funds—Use in future.

Purpose: Amend the rule dealing with how surplus funds can be used.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Limits expenditure of surplus funds for a new candidacy only if seeking the same office last sought. Refines application of surplus funds for candidates defined in RCW 42.17.630(3).

Reasons Supporting Proposal: Initiative 134 amended the statute which regulated the use of surplus funds. The changes to the rule are necessary to implement those amendments in Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adds requirement that surplus funds can only be used for a new candidacy if seeking the same office last sought. For candidates regulated by Initiative 134, surplus can be transferred to the new candidacy in a lump sum and so reported. However, all contributions and expenditures received after the last day of the election cycle must be separately reported and will be allocated to the contributor's limit for the candidates next election. Avoid circumventing contribution limits in Initiative 134.

Proposal Changes the Following Existing Rules: Repeals the section which allowed surplus funds to be retained and used to support or oppose another candidate or ballot proposition. This is no longer allowed under the changes made to RCW 42.17.095 by Initiative 134.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993

Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 86-01, filed 2/5/86)

WAC 390-16-230 Surplus campaign funds—Use in future. (1) If at any time in the future or after the last day of the election cycle for candidates as defined in RCW 42.17.630(3) any contribution or expenditure is received by or made from such surplus fund or funds for any purpose which would qualify the holder as a candidate or political committee, it will be presumed the holder of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution or expenditure is received or made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus fund may be reported as one sum and listed as a contribution identified as "funds from previous campaign," provided that all augmentations to and all expenditures made from the retained surplus fund from the initial date of retention are reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17.630(3), if at any time after the last day of the election cycle, any contribution or expenditure is received by or made from such surplus fund or funds for any purpose which would qualify the holder as a candidate or political committee, it will be presumed the holder of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution or expenditure is received or made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17.080 and 42.17.090 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17.040, 42.17.080 and 42.17.090. The surplus funds as of the last day of the election cycle may be reported as one sum and listed as a contribution identified as "funds from previous campaign." All contributions received after the last day of the election cycle shall be reported on the initial report clearly showing the source and amount of the contributions. All such contributions will be applied to the contribution limit of the contributor for the candidate's next election campaign.

~~((2) A candidate who, or the political committee of a candidate which, retains surplus funds to use for the support~~

~~or opposition of other candidates or of ballot propositions has established a continuing political committee, and must thereafter report as such.))~~

(3) A political committee formed to support or oppose a particular ballot proposition which retains surplus funds to use in support or opposition of candidates or of other ballot propositions has become a continuing political committee and must thereafter report as such.

WSR 93-12-028
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed May 21, 1993, 2:45 p.m.]

Original Notice.

Title of Rule: WAC 390-16-240 Earmarked contributions—Definition and use.

Purpose: To amend the definition and use of earmarked contributions.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Apply rules of earmarked contributions to new standards in Initiative 134. Add receipt by conduit. Deals with designation and redesignations of earmarked contributions.

Reasons Supporting Proposal: To ensure that the contribution limits in Initiative 134 are not circumvented.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, and Kim O'Neal, Assistant Attorney General, Olympia, Washington 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Earmarked contributions are contributions to the candidate promoted by an expenditure and attributed to the contributors contribution limit. If the entire earmarked contribution is not spent, the contributor can redesignate the remainder. If the intermediary or conduit exercise direction or control over that redesignation, the remainder will also be a contribution attributable to that intermediary or conduit. If an earmarked contribution is refused, it must be returned to the original contributor.

Proposal Changes the Following Existing Rules: Clarifies who has the authority to determine how an earmarked contribution is used and to whom the contribution is attributed.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

AMENDATORY SECTION (Amending WSR 91-14-041, filed 6/27/91)

WAC 390-16-240 Earmarked contributions—
Definition and use. (1) Earmarked contributions, as that term is used in RCW 42.17.135 and 42.17.670, means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.

(2) For purposes of RCW 42.17.640, an earmarked contribution is deemed to be for the promotion of, and attributable to any limit applicable to the candidate, authorized committee, bona fide political party, caucus of the state legislature or political committee designated by the original contributor.

(3) If an earmarked contribution is given to an intermediary or conduit to be spent on behalf of a candidate and the entire amount given is not used for this purpose, the remainder of the contribution shall be given to the designated candidate unless its use is redesignated by the original contributor. If the conduit or intermediary exercise any direction or control over the use of the remainder of the contribution, then the amount of the remainder shall be considered a contribution from the original contributor and the conduit or intermediary to the recipient.

~~((2))~~ (4) The intermediary or conduit receiving the earmarked contribution shall notify the candidate or political committee for whose use or benefit the contribution is designated within two working days after receipt of the contribution.

(5) If an earmarked contribution is refused by the designated recipient candidate or political committee, the earmarked contribution must be returned by the intermediary or conduit to the original contributor within five working days of refusal.

WSR 93-12-029
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed May 21, 1993, 2:47 p.m.]

Original Notice.

Title of Rule: WAC 390-16-310 Limitations on contributions.

Purpose: Amend the rule dealing with the limitations on contributions.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Contribution limits don't apply to candidate's use of personal funds. Only allows contributions from emancipated minors. Applies this rule to contribution limits in RCW 42.17.640.

Reasons Supporting Proposal: To have rule consistent with the new requirements in Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule applies to contribution limits in RCW 42.17.105(8) and [42.17].640. Emancipated minors can make their own contribution if meets the test. If doesn't meet the test or unemancipated minor, contribution attributed to the parents, pro-rata, or custodial parent if single parent. Incorporates changes made in WAC 390-16-308, as recently amended, concerning how you determine if two entities should be treated as one.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

AMENDATORY SECTION (Amending WSR 92-05-079, filed 2/18/92)

WAC 390-16-310 Limitation on contributions. The limitations on contributions as provided in RCW 42.17-105(8) and RCW 42.17.640 shall be as follows:

(1) The limitation on contributions shall not apply to a "candidate" as that term is defined in RCW 42.17.020(5) and 42.17.630(3) when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(2) The limitations on contributions shall apply separately to the contributions made by each spouse.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions if the contribution is properly attributed to the emancipated minor child and if;

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to the parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under to RCW 42.17.105(8) and 42.17.640.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership from the contributions made by an individual partner except that;

Contributions made from or charged against the capital account of an individual partner shall be aggregated with a partner's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(6) The limitations on contributions shall apply separately to the contributions made by a corporation, union, association or subsidiary corporation, or subdivision of the union, association or other similar organization except that;

(a) A contribution from a wholly owned or controlled subsidiary corporation or subdivision of a union, association or organization shall be aggregated with the contributions of the parent or controlling corporation or organization for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(b) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by another entity, if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by the factors set forth in WAC 390-16-308 (5)(i) through ((v+)) (x).

(7) The limitation on contributions shall apply separately to political committees except that; Political committees which are established, financed, maintained or controlled by any corporation, organization or any other person, including any parent, subsidiary, branch, division, department, or local unit of such persons shall be aggregated and considered as having been made by a single political committee for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-12-030
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
[Filed May 21, 1993, 2:49 p.m.]

Original Notice.

Title of Rule: WAC 390-16-312 Handling contributions of uncertain origin.

Purpose: Extend current rules application to Initiative 134.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Contributions of uncertain origin, made to conceal contributor or avoid contribution limits in RCW 42.17.105(8) and 42.17.640 must be returned or paid to the state treasurer.

Reasons Supporting Proposal: Prevent contributors from circumventing the contribution limits imposed by Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If a contribution is made in a fictitious name, by or through a person to conceal the source or exceed the contribution limits in RCW 42.17.105(8) or 42.17.640, it must either be returned or endorsed and made payable to the state treasurer. This is to prevent circumvention of the contribution limits in Initiative 134.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993

Graham E. Johnson

Executive Director

AMENDATORY SECTION (Amending WSR 91-14-041, filed 6/27/91)

WAC 390-16-312 Handling contributions of uncertain origin. No contribution shall be deposited by any candidate or treasurer who believes, from the face of the contribution instrument or for any other reason, the contribution was made in a fictitious name, by one person through an agent, relative, political committee, or any other person so as to conceal the source of the contribution or to exceed the contribution limits provided in RCW 42.17.105(8) or 42.17.640. The candidate or treasurer shall return such contributions within ten calendar days to the original contributor if his or her identity is known. Otherwise, the contribution instrument shall be endorsed and made payable to "Washington state treasurer" and the contribution sent to the public disclosure commission for deposit in the state's general fund.

PROPOSED

WSR 93-12-031
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed May 21, 1993, 2:51 p.m.]

Original Notice.

Title of Rule: WAC 390-16-226 Loans.

Purpose: Implement provisions of Initiative [134] restricting repayment of loans to candidates from campaign committees.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Requires written loan agreements and proper reporting for loans from candidates or campaign committees and implements limits on amount of loans which can be repaid during an election cycle.

Reasons Supporting Proposal: Implements provision of Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Require written loan agreement and proper reporting of loans from candidates or political committees. Implements \$3,000 limit on loan repayments by campaign committees to candidates. Requires repayment of candidate out-of-pocket campaign expenditures within 21 days or such expenditures are deemed to be loans. Forbids repayment of undocumented campaign expenditures by candidates.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

NEW SECTION

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement and properly reported may be repaid by a candidate or political committee. Surplus campaign funds may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate.

(2) For purposes of the \$3,000 loan repayment limit imposed by RCW 42.17.125(3), loans by a candidate are aggregated for the election cycle. A candidate who loans his or her campaign over \$3,000 in the aggregate over the election cycle may only be repaid by the committee up to \$3,000.

(3) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

WSR 93-12-032
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed May 21, 1993, 2:53 p.m.]

Original Notice.

Title of Rule: WAC 390-16-232 Same office last sought—Definition.

Purpose: Provide definition of "same office last sought" as used in RCW 42.17.095.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Explain meaning of "same office last sought" for purposes of indicating when candidates may use funds previously raised for a new campaign.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explains meaning of "same office last sought" indicating circumstances under which candidates may use funds raised in previous campaign for a new campaign.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

NEW SECTION

WAC 390-16-232 Same office last sought. A candidate is considered to be seeking the "same office last sought," as that term is used in RCW 42.17.095, when the candidate seeks:

(1) the identical office last sought;

- (2) a different position or seat of the same office last sought within the same jurisdiction; or
- (3) the same office in a revised district or political subdivision whenever the boundaries of a district or political subdivision are officially altered through redistricting, consolidation or other official procedure.

WSR 93-12-033
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed May 21, 1993, 2:55 p.m.]

Original Notice.

Title of Rule: WAC 390-16-234 Transfers of surplus funds.

Purpose: Apply the surplus funds transfer restrictions of RCW 42.17.095 and clarify permissible transactions.

Statutory Authority for Adoption: RCW 42.17.370.

Reasons Supporting Proposal: Initiative 134 put restrictions on some transfers of surplus funds requiring clarification.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides for reimbursement of proportionate share of joint campaign expenses; allows unlimited transfers of surplus funds to exempt contributions accounts; states that contribution limits apply to transfers of surplus funds to any account other than an exempt account and requires separate written instruments for transfers of surplus funds to exempt accounts.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

NEW SECTION

WAC 390-16-234 Transfers of surplus funds. (1) One candidate may reimburse another for the former's proportionate share of a documented and properly reported joint campaign expense without the transaction constituting a "transfer" within the meaning of RCW 42.17.095.

(2) A candidate may transfer any amount of his or her surplus funds to an exempt contributions account of a party or caucus committee.

(3) If a candidate transfers his or her surplus funds to an account, other than an exempt account, of a bona fide political party or caucus, the candidate may only transfer up to the \$2,500 to the bonafide political party or \$500 to the caucus committee per year.

(4) Transfers to exempt accounts must be made by a separate written instrument.

WSR 93-12-034
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed May 21, 1993, 2:57 p.m.]

Original Notice.

Title of Rule: WAC 390-18-010 Political advertising— Identification of sponsor.

Purpose: Amending WAC 390-18-010 to include requirements for sponsor identification imposed by Initiative 134.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Adds requirements for printed or drawn box around sponsor identification and requires it to be set apart from any other printed matter and requires sponsor identification on each page of advertising.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends political advertising rule, WAC 390-18-010, to require a printed or drawn box around sponsor identification, requires such identification to be set apart from any other printed matter and requires such identification to appear on each page of advertising.

Proposal Changes the Following Existing Rules: Changes the existing requirement that sponsor identification be set apart from the body of text to a requirement that it be set apart from any other printed matter and imposes a new requirement that sponsor identification appear on each page of political advertising.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
 Graham E. Johnson
 Executive Director

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-18-010 Political advertising. Identification of sponsor. (1) For the purposes of RCW 42.17.510 and this rule, "sponsor" means the candidate, political committee or other person paying for the advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(2) With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed or broadcast.

(3) If more than one person sponsors specific advertising, the identity of each sponsor must be shown. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, it is unnecessary to include that contributor's name as a sponsor provided the contribution is reported in accordance with applicable provisions of chapter 42.17 RCW.

(4) Printed advertising shall clearly state in ~~an area a~~ printed or drawn box set apart from the body of the text any other printed matter that it has been paid for by the sponsor (Example: (1) Paid for by the XYZ Committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code). Broadcast advertising shall conform to the requirements of the Federal Communications Commission.

(5)(a) Political advertising consisting of more than one page but intended to be presented as a single item (i.e. 3-page letter with return envelope) must identify the sponsor on the first each page of the advertising. ~~Identification on subsequent pages or inserts to the same advertising is not required.~~ Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient.

(b) Political advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously must show the respective sponsor on the respective items.

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

**WSR 93-12-035
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed May 21, 1993, 2:59 p.m.]

Original Notice.

Title of Rule: WAC 390-18-020 Political advertising—Political party identification.

Purpose: Amend existing party identification rule.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Eliminates existing rules on party identification which are now codified in RCW 42.17.510.

Reasons Supporting Proposal: Implementation of Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, and Kim O'Neal, Assistant Attorney General, Olympia, Washington, 586-1913; Implementation:

Proposed

Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Eliminates current regulation on party identification in political advertising because restrictions are added to RCW 42.17.510 by Initiative 134.

Proposal Changes the Following Existing Rules: Eliminates rule on party identification because restrictions are added to the statute by Initiative 134.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor, Conference, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9:00 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: Tuesday, July 27, 1993.

May 20, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-18-020 Political advertising—Political party identification. ~~(1) In newspaper advertising, brochures, mailings and similar printed advertising, a candidate's political party affiliation must be:~~

~~(a) printed in letters no smaller than 10 point bold face type (or 1/8" high if type is not used);~~

~~(b) placed in an area apart from the body of text of the advertisement.~~

~~(2) On yard signs, bus signs, hand held signs, banners, bumper strips, posters and similar type advertising, a candidate's political party affiliation must be:~~

~~(a) printed in letters no smaller than 60 point type (or 5/8" high if type is not used);~~

~~(b) printed in a color which contrasts with the background on which the party affiliation is printed.~~

(3) The commission shall publish a suggested list of abbreviations or symbols which may be used by candidates and political committees which the commission finds will clearly identify political party affiliation.

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

**WSR 93-12-040
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed May 25, 1993, 11:05 a.m.]

The Department of Licensing hereby withdraws proposed rule WAC 308-17-150 filed with your office on March 23, 1993, as part of WSR 93-07-099.

Jon M. Clark
Acting Assisting Director

WSR 93-12-044
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed May 26, 1993, 11:59 a.m.]

Original Notice.

Title of Rule: Secondary and operational area containment for bulk pesticides and fertilizers. New chapters 16-229 and 16-201 WAC.

Purpose: To protect the state's groundwater from contamination by agricultural chemicals at sites where large amounts of bulk products are stored or where large amounts of pesticide products are mixed and transferred into application equipment.

Statutory Authority for Adoption: Chapters 15.54 and 15.58 RCW.

Statute Being Implemented: RCW 15.54.800 and 15.58.040.

Summary: The rules require that facilities which store bulk pesticides and fertilizers build secondary and operational area containment.

Reasons Supporting Proposal: For the protection of groundwater from contamination by agricultural chemicals. Far West Fertilizer and Agrichemical Association requested that the department write rules.

Name of Agency Personnel Responsible for Drafting: Lee Faulconer, P.O. Box 42589, Olympia, WA 98504-2589, (206) 902-2050; **Implementation:** William E. Brookreson, Assistant Director, P.O. Box 42589, Olympia, WA 98504-2589, (206) 902-2010; and **Enforcement:** Cliff Weed, Program Manager, P.O. Box 42589, Olympia, WA 98504-2589, (206) 902-2040.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules require that facilities which store bulk pesticides and fertilizers build secondary and operational area containment in order to protect the state's groundwater from contamination by agricultural chemicals at sites where large amounts of bulk products are stored or where large amounts of pesticide products are mixed and transferred into application equipment. The rules are written to protect against both catastrophic spills from large tanks and small incremental spills accumulating over time.

Proposal does not change existing rules.

Small Business Economic Impact Statement

Rule Summary: The proposed rules, chapters 16-201 and 16-229 WAC, require that facilities which store bulk pesticides and fertilizers build secondary and operational area containment. Chapter 16-229 WAC also requires operational area containment at pesticide permanent mixing/loading sites.

The purpose of the rule is to protect the state's groundwater from contamination by agricultural chemicals at sites where large amounts of bulk products are stored or where large amounts of pesticide products are mixed and trans-

ferred into application equipment. These rules are written to protect against both catastrophic spills from large tanks and small incremental spills accumulating over time.

On January 5, 1990, the department received a letter from Far West Fertilizer and Agrichemical Association requesting that the Department of Agriculture write regulations requiring secondary containment for bulk fertilizer and storage areas and operational area containment for permanent mixing and loading sites. Far West is a trade group representing fertilizer and agrichemical dealers in Washington, Oregon, and Idaho. Many of its members were building secondary containment facilities and wanted state standards to build by. They were not comfortable spending large sums of money in a regulatory vacuum. This request came at a time when the department was becoming involved in developing strategies for groundwater protection relating to agrichemicals, and it was decided to write secondary containment rules as part of the strategy.

These rules are being adopted under the authority of the Washington Pesticide Control Act, chapter 15.58 RCW and the Washington Commercial Fertilizer Act, chapter 15.54 RCW.

Affected Groups: Several groups will be or have the potential to be impacted by these rules. Companies which manufacture or distribute bulk pesticides and fertilizers, some commercial applicators and a few farmers will be impacted by the secondary containment requirements for storage. Groups which will be impacted by the requirement for operational area containment at pesticide permanent mixing/loading sites include commercial pesticide application companies, government entities which apply pesticides and some farms.

The companies most likely to be affected by these rules are quite diverse. They include commercial agricultural chemical dealers, some fertilizer and pesticide manufacturers, air and ground commercial pesticide applicators which include companies such as lawn care companies. Some government agencies such as Washington State Department of Transportation will also be affected.

Most of the commercial companies which store bulk pesticides and fertilizer are large companies with numerous small dealer outlets or cooperatives. There are a few independent dealers which would qualify as small businesses. Some farms which store bulk material would also have fewer than fifty employees.

Many commercial pesticide applicators such as aerial applicators and lawn care companies would meet the criteria for small business, however, much of the agricultural ground application is done by the large full-service dealers. Some large farms might also trigger the regulatory threshold values for permanent pesticide mix/load pads. Many of these would probably have fewer than fifty employees.

The volume of bulk fertilizer and pesticide stored or handled at a site causes the environmental concern, not the number of employees in a company. These rules are "triggered" by regulatory thresholds, or the amount of product stored or handled at a site.

The three digit SIC codes do not appear to adequately define the groups which will be, or could be, impacted by this rule. The department used its licensing categories and mailing lists to identify those groups impacted by the rules.

It was not possible to estimate accurately the percent of each subcategory which might be affected by the proposed rules.

Cost: Secondary containment and operational area containment pads are physical structures usually constructed of concrete. Some secondary containment facilities use concrete or earthen walls in conjunction with a synthetic liner. These structures are expensive to build and require maintenance to remain effective.

A small secondary containment structure for a single tank could be built for about \$4,000 to \$5,000. A small mix/load pad would also cost about \$4,000.

Large secondary containment structures typically found at agricultural chemical dealer outlets can cost between \$20,000 and \$60,000. Large mix/load pads found at these dealer locations can cost between \$10,000 and \$20,000. A mix/load pad for a typical aerial applicator in Washington can range from \$20,000 and up.

Agency Approach: Because of the difficulty in estimating the numbers of small businesses which would be impacted by the rule, the department made a decision to write the rule as if all affected groups were small businesses. Mitigation would be a major part of the rule making process with groundwater protection the prime goal. Every attempt would be made to ensure no one would be put out of business by the rules.

The Process: The department formed a fourteen person advisory committee to assist in writing the draft rules. The committee had representatives from many of the affected parties, including aerial applicators, lawn care industry, and large agricultural chemical dealers. Both large and small businesses were represented. An upfront commitment was made to address and mitigate business impacts as the draft was constructed.

Prior to and during the writing of the draft rules, the department gave numerous talks at industry meetings and recertification meetings throughout the state on the proposed rules. The nature of the rules and the process used to develop them were explained. The department also spoke at a series of meetings organized by the Far West Fertilizer and AG Chemical Association for its members. These meetings were open to others and took place prior to formation of the advisory committee.

During the development of the draft its impact on business, especially small business, was discussed and various mitigation measures were adopted. When the draft was completed, a series of five public information meetings were held throughout the state to take public comment. Fact sheets and in many cases the full draft were mailed to approximately 2,000 agricultural chemical businesses, agricultural and commodity organizations, and environmental groups.

Comments received at the public meetings, and written and oral comments from those unable to attend, were analyzed by the department. As a result, several proposed changes were added to the draft for the advisory committee's consideration. The committee adopted many but not all of the proposed changes. The department also held a separate meeting with aerial applicators, at their request, in Moses Lake to discuss their concerns. As a result of this meeting, the compliance period for permanent mix/load sites was changed from three to four years.

Mitigation: The following is a list of mitigation efforts developed for these rules: The economic impact of the rules to business, especially small business, was addressed upfront. Mitigation was developed as the rule was written; performance standards are used throughout the rule to provide flexibility in compliance; no permits or associated fees are required. Several other states have a complex permit process affected parties must complete. There is usually a fee associated with the permit. It was decided this was an unnecessary burden on industry and that it would be especially hard for small businesses to acquire the necessary data required by most permits. The Department of Agriculture agreed to no permit requirement and agreed to carry out the program with existing resources; no plan submittal and approval process. There is no requirement to submit construction plans signed by a professional engineer to the department for approval prior to construction. This action was taken to minimize expense to the affected businesses; the compliance schedule was designed to allow small business and large companies with multiple outlets a reasonable period of time to comply. The schedule allows from three to five years for compliance; the regulatory triggers for permanent mixing/loading sites are set high enough to effectively exclude most farmers and many small commercial pesticide applicators from the requirements of the rule; management options are available to lessen the impact of the rules. Field mixing and loading or the use of more than one site will allow some people to avoid building pads by changing their management. Short term field storage is also allowed under the rules; and technical assistance. The Department of Agriculture has committed to developing guidance packages and an outreach/education program for these rules. The guidance will also include information on where and how to obtain information on how to build these facilities, such as a handbook published by the midwest plan service at Iowa State University. Outreach will include speaking at industry meetings and on-site visits to individual businesses. This should be especially helpful to small business.

Hearing Location: On Tuesday, August 3, 1993, Columbia Basin College, Senate Room, 2600 North 20th, Pasco, WA, at 7:00 p.m.; on Wednesday, August 4, 1993, Spokane Community College, Bigfoot Room, North 1810 Greene Street, Spokane, WA, at 7:00 p.m.; and on Tuesday, August 10, 1993, NRB Conference Room #175B, 1111 Washington Street, Olympia, WA, at 7:00 p.m.

Submit written comments by August 10, 1993, 5:00 p.m.

Date of Intended Adoption: August 20, 1993.

May 26, 1993
William E. Brookreson
Assistant Director

Reviser's note: The material contained in this filing will appear in the 93-13 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 93-12-046
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed May 26, 1993, 3:35 p.m.]

Original Notice.

Title of Rule: WAC 390-17-060 Exempt activities—Definitions, reporting. (Alternate—Please also see WSR 93-12-018 for another version of same rule.)

Purpose: Defines activities exempt from contributions limits imposed by RCW 42.17.640 and sets out reporting requirements.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Defines activities not subject to contribution limits and sets out reporting requirements for such activities.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus and Kim O'Neal, Assistant Attorney General, Olympia, 586-1913; Implementation: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111; and Enforcement: David R. Clark, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Defines exempt contributions, exempt contributions account, exempt activities, internal organization expenses, voter registration and education activities and describes the circumstances under which contributions and expenditures for such activities are not subject to the contribution limits of RCW 42.17.640.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on July 27, 1993, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by July 12, 1993.

Date of Intended Adoption: July 27, 1993.

May 26, 1993
 Graham E. Johnson
 Executive Director

NEW SECTION (Alternate)

WAC 390-17-060 Exempt activities—Definitions, reporting. (1) "Exempt Contributions" are contributions which are designated for and are expended for those activities described in RCW 42.17.630 (5)(b)(iv). Such designated contributions are required to be reported under RCW 42.17.090, but are not subject to contribution limits in RCW 42.17.640. Any written solicitation for exempt contributions must be so designated. A suggested designation is "for exempt activities."

(2) "Exempt Contributions Account" is the separate bank account into which only exempt contributions are deposited and out of which expenditures for activities described in RCW 42.17.630 (5)(b)(iv) may only be made.

(3) "Exempt Activities" are those activities described in RCW 42.17.630 (5)(b), expenditures for which are exempt

from the contribution limits of RCW 42.17.640. Contributions designated for those activities described in RCW 42.17.630 (5)(b) are subject to the contribution limits of RCW 42.17.640, except that contributions designated for those activities described in RCW 42.17.630 (5)(b)(iv) ("exempt contributions") are not subject to the contribution limits of RCW 42.17.640.

(4) "Internal Organization Expenses" described in RCW 42.17.630 (5)(b)(vi) are the costs of administration or overhead, such as: lease of space or equipment, utilities, or salaries.

(5) Voter Registration and Education Activities, described in RCW 42.17.630 (5)(b)(iv), are exempt activities as long as they are broadly based and intended to increase voter participation or education in general and do not promote or oppose the candidacy of individual candidates. Such activities are subject to contribution limits if they are targeted so as to promote or oppose individual candidates.

(6) Activities that promote or oppose candidates

(a) If activities described in RCW 42.17.630 (5)(b)(iv) and (vi) promote or oppose specific, identifiable candidates, the activities are a contribution to those candidates. Exempt contributions may not be used for such activities. The amount expended for such activities must be reported as a contribution to such candidates. If more than one candidate is promoted or opposed, the amount expended must be allocated equally among such candidates. Such candidates must be notified in writing on the contribution within 5 business days of the expenditures.

(b) If activities described in RCW 42.17.630 (5)(b)(iv) and (vi) promote or oppose candidates, but not specific, identifiable candidates, such activities do not constitute a contribution to any specific candidate.

(c) Activities described in RCW 42.17.630 (5)(b)(iv), if undertaken by a caucus of the state legislature, are presumed to be for the purpose of promoting or opposing individual candidates and shall be reported in accordance with subsection (a) of this subsection.

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

WSR 93-12-047
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed May 26, 1993, 3:55 p.m.]

This is to officially request withdrawal of proposed rule making CR-102 filed in your office on April 5, 1993, WSR 93-08-060.

It is our intent to refile this proposal and reschedule hearings.

There was no consensus agreement or support on the proposal as presented at the public hearings which was initiated through industry petition, nor were there any specific proposals made to amend the proposal under consideration. After consultation with affected parties, a

redraft or new proposal will be drafted and submitted by the director and filed at a later date.

J. Allen Stine
Assistant Director

chapter named chapter 388-30 WAC. New chapter 388-235 WAC relates to financial and medical assistance programs.
Date of Intended Adoption: June 9, 1993.

May 26, 1993
Rosemary Carr
Acting Director
Administrative Services

WSR 93-12-048
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)
[Filed May 26, 1993, 4:41 p.m.]

The Department of Social and Health Services is withdrawing WAC 388-96-754 filed as a proposal with the Office of the Code Reviser under WSR 93-08-065 on April 5, 1993.

Rosemary Carr, Director
Administrative Services

WSR 93-12-080
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 93-15—Filed May 28, 1993, 8:45 a.m.]

Original Notice.
Title of Rule: Chapter 173-422 WAC, Motor vehicle emission inspection.

Purpose: To reduce the motor vehicle emission inspection fee from \$16 to \$12.

Statutory Authority for Adoption: Chapter 70.120 RCW.

Statute Being Implemented: Chapter 70.120 RCW.

Summary: Reduces the motor vehicle emission inspection fee from \$16 to \$12.

Reasons Supporting Proposal: State law, RCW 70.120.170 (4)(a) specifies how the motor vehicle emission inspection fee is to be determined.

Name of Agency Personnel Responsible for Drafting: John Raymond, P.O. Box 47600, Olympia, WA 98504-7600, (206) 459-6261; Implementation and Enforcement: Joe Williams, P.O. Box 47600, Olympia, WA 98504-7600, (206) 459-6255.

Name of Proponent: Department of Ecology, Air Quality Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reduces motor vehicle emission inspection fee, thereby reducing the cost to the public.

Proposal Changes the Following Existing Rules: Reduces the inspection fee from \$16 to \$12.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: 4550 3rd Avenue, Lacey, WA, on July 6, 1993, at 1:30 p.m.

Submit Written Comments to: John Raymond, P.O. Box 47600, Olympia, WA 98504-7600, by July 9, 1993.

Date of Intended Adoption: September 1, 1993.

May 27, 1993
Mary Riveland
Director

WSR 93-12-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)
[Filed May 26, 1993, 4:44 p.m.]

Continuance of WSR 93-08-074.

Title of Rule: New chapter 388-235 WAC, General assistance unemployable (GAU); and repealing chapter 388-37 WAC.

Purpose: New chapter 388-235 WAC facilitates on-line computer access by eligibility staff in our field offices and makes the policies easier to understand. Policies contained in chapter 388-37 WAC relating to general assistance for pregnancy (GAS) program are recodified under a separate

AMENDATORY SECTION (Amending Order 91-46, filed 5/3/93, effective 6/3/93)

WAC 173-422-130 Inspection fees. The fee for the first emission test on each vehicle applicable to a vehicle license year shall be ((~~sixteen~~)) twelve dollars. If the vehicle fails, one retest will be provided free of charge at any inspection station operated under contract to the state, provided that the retest is applicable to the same vehicle license year. Any additional retests of a failed vehicle

applicable to the same vehicle license year will require the payment of ~~((sixteen))~~ twelve dollars.

~~((Inspection station operators shall forward to the state treasurer within ten working days, the amount of fees due to the state for inspections conducted during the previous month.~~

~~The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees.))~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-12-083

PROPOSED RULES

PERSONNEL BOARD

[Filed May 28, 1993, 10:10 a.m.]

Continuance of WSR 93-08-043.

Title of Rule: WAC 356-10-060 Allocation—Request for review.

Purpose: This rule allows a process in which an employee may request a review of an allocation or reallocation determination.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on June 25, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by June 23, 1993.

Date of Intended Adoption: June 25, 1993.

May 19, 1993

Marilyn Glenn

Acting Secretary

WSR 93-12-084

PROPOSED RULES

PERSONNEL BOARD

[Filed May 28, 1993, 10:12 a.m.]

Continuance of WSR 93-08-072.

Title of Rule: New WAC 356-18-145; and amending WAC 356-18-150, 356-18-060, 356-18-110, 356-14-260, and 356-15-030.

Purpose: These rules all apply to different kinds of leave usage.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-

1770; Implementation and Enforcement: Department of Personnel.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on June 25, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by June 23, 1993.

Date of Intended Adoption: June 25, 1993.

May 18, 1993

Marilyn Glenn

Acting Secretary

WSR 93-12-089

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed May 28, 1993, 11:06 a.m.]

Original Notice.

Title of Rule: Reentry, renewal and endorsement requirements; limited permits; and housekeeping revisions.

Purpose: To establish reentry, renewal and endorsement requirements for professionally inactive occupational therapists and assistants; to further define requirements for issuance of limited permits; and housekeeping revisions.

Statutory Authority for Adoption: RCW 18.59.130.

Statute Being Implemented: Chapter 18.59 RCW.

Summary: Establishes licensure and renewal requirements for therapists reentering occupational therapy; requires limited permit holders to take the first exam for which they are eligible.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Neva, 1300 S.E. Quince Street, Olympia, 753-3132.

Name of Proponent: Occupational Therapy Practice Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To establish reentry requirements for therapists and assistants who have not been actively engaged in the practice of occupational therapy for extended periods of time to protect the public from harm. To further define the requirements for the issuance of a limited permit to prevent prolonged practice with a limited permit.

Proposal Changes the Following Existing Rules: Amends WAC 246-847-070 by correcting WAC 308-171-041 to 246-847-065; amends WAC 246-847-080 by removing January and July as the months exams are administered; amends WAC 246-847-115 by adding the requirement that the exam must be taken by the first session for which the candidate is eligible; amends WAC 246-847-130 by correcting WAC 308-171-300 to 246-847-160; and amends WAC 246-847-200 by correcting WAC 308-171-320 to 246-847-190.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Seattle Airport Hilton, Columbia East Room, 17620 Pacific Highway South, Seattle, WA 98188, on July 14, 1993, at 1:30 p.m.

Submit Written Comments to: Department of Health, P.O. Box 47868, Olympia, WA 98504-7868, FAX (206) 586-7774, by June 30.

Date of Intended Adoption: July 14, 1993.

May 26, 1993

Carol Neva
Program Manager

NEW SECTION

WAC 246-847-055 Initial application for individuals who have not practiced within the past four years. (1) Any initial applicant who has not been actively engaged in the practice of occupational therapy within the past four years shall provide, in addition to the requirements for licensure as specified in RCW 18.59.050 and WAC 246-847-200:

(a) Evidence of having successfully completed an approved occupational therapy or occupational therapy assistant program within the past four years and documentation of thirty hours of continued competency as described in WAC 246-847-065 for the previous two-year period; or

(b) Evidence of having passed the examination as defined in WAC 246-847-080 within the previous two-year period and documentation of thirty hours of continued competency as described in WAC 246-847-065 for the previous two year-period; or

(c) Evidence of having successfully completed a board approved educational program specifically designed for occupational therapists or occupational therapy assistants preparing for re-entry into the field of occupational therapy.

(2) The applicant may be required to appear before the board for oral interview.

NEW SECTION

WAC 246-847-068 Renewal of expired license. (1) The license of any occupational therapist or occupational therapy assistant who has not placed his or her license on inactive status as described in WAC 246-847-070 and fails to renew the license by the date set by the secretary for renewal shall automatically expire. The licensee may, within four years from the date of expiration, request the license be renewed upon payment of the renewal and late renewal fees determined by the secretary and completion of continued competency requirements as specified in WAC 246-847-065.

(2) If a license has expired for four years or more, the license may be renewed under the following conditions:

(a) Submission of a written application to the board on forms provided by the secretary together with:

(b) Renewal and late fees; and

(c) Evidence of having passed the examination as defined in WAC 246-847-080 within the previous two-year period and documentation of thirty hours of continued competency as described in WAC 246-847-065 for the previous two-year period; or

(d) Evidence of having successfully completed a board approved educational program specifically designed for occupational therapists or occupational therapy assistants preparing for reentry into the field of occupational therapy.

(3) The applicant may be required to appear before the board for oral interview.

AMENDATORY SECTION (Amending Order 112B, filed 2/12/91, effective 3/15/91)

WAC 246-847-070 Inactive status. An occupational therapist or occupational therapy assistant, in good standing, may place his or her license on inactive status by giving written notice to the secretary, and may within two years thereafter resume active practice upon payment of a late renewal fee and by completion of the continued competency requirements as specified in WAC ((308-171-044)) 246-847-065. A license may be reinstated after a period of inactive status of up to four years, with proof of completion of continued competency within two years prior to reactivation and payment of a late renewal fee. A license may be reinstated after a period of inactive status of more than four years under such circumstances as the secretary determines with the advice of the board. A person whose license is on inactive status shall not practice as an occupational therapist or occupational therapy assistant until his or her license is activated.

AMENDATORY SECTION (Amending Order 300B, filed 8/24/92, effective 9/24/92)

WAC 246-847-080 Examinations. (1) The current series of the American Occupational Therapy Certification Board examination shall be the official examination for licensure as an occupational therapist or as an occupational therapy assistant.

(2) The examination for licensure as an occupational therapist shall be conducted twice a year(~~(, in January and July)~~).

(3) The examination for licensure as an occupational therapy assistant shall be conducted twice a year(~~(, in January and July)~~).

(4) The program manager of the board shall negotiate with the American Occupational Therapy Certification Board for the use of the certification examination.

(5) The examination shall be conducted in accordance with the American Occupational Therapy Certification Board security measures and contract.

(6) Applicants shall be notified of the examination results in accordance with the procedures developed by the American Occupational Therapy Certification Board.

(7) Examination scores will not be released except as authorized by the applicant in writing.

(8) To be eligible for a license, applicants must attain a passing score on the examination administered by the American Occupational Therapy Certification Board.

AMENDATORY SECTION (Amending Order 213B, filed 11/14/91, effective 12/15/91)

WAC 246-847-115 Limited permits. (1) An applicant is eligible for a limited permit under RCW 18.59.040(7), provided the applicant takes the first examination for which he or she is eligible.

(2) An applicant who successfully passes the examination for licensure and who has a valid limited permit through the department of health at the time the examination results

are made public shall be deemed to be validly licensed under the limited permit for the next thirty calendar days.

NEW SECTION

WAC 246-847-125 Applicants currently licensed in other states or territories. (1) Before licensure may be extended to any individual currently licensed to practice as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States as provided in RCW 18.59.070(2), the following conditions must be met:

(a) Evidence of having met the requirements for licensure as provided in RCW 18.59.050; and

(b) Verification of current licensure from any state, the District of Columbia, or a territory of the United States on forms provided by the secretary; and

(c) Verification of having passed the examination as defined in WAC 246-847-080; and

(d) Evidence of having been actively engaged in the practice of occupational therapy within the preceding four-year period.

(2) If the applicant has not been actively engaged in the practice of occupational therapy within the past four years, the following conditions must be met:

(a) Evidence of having taken and passed the examination as defined in WAC 246-847-080 within the previous two-year period and documentation of thirty hours of continued competency as described in WAC 246-847-065 for the previous two-year period; or

(b) Evidence of having successfully completed a board approved educational program specifically designed for occupational therapists or occupational therapy assistants preparing for reentry into the field of occupational therapy.

(3) The applicant may be required to appear before the board for oral interview.

AMENDATORY SECTION (Amending Order 112B, filed 2/12/91, effective 3/15/91)

WAC 246-847-130 Definition of "commonly accepted standards for the profession." "Commonly accepted standards for the profession" in RCW 18.59.040 (5)(b) and 18.59.070 shall mean having passed the American Occupational Therapy Association certification examination, not having engaged in unprofessional conduct or gross incompetency as established by the board in WAC ((308-171-300)) 246-847-160 for conduct occurring prior to June 11, 1986 and as established in RCW 18.130.180 for conduct occurring on or after June 11, 1986, and not having been convicted of a crime of moral turpitude or a felony which relates to the profession of occupational therapy.

AMENDATORY SECTION (Amending Order 112B, filed 2/12/91, effective 3/15/91)

WAC 246-847-200 Application for licensure. (1) Effective February 1, 1989, all persons applying for licensure including a limited permit, shall submit compliance with the education requirements of WAC ((308-171-320)) 246-847-190.

(2) Those persons submitting application in 1989 who are unable to comply with WAC ((308-171-320)) 246-847-

190 may upon written application be granted an extension to December 31, 1989.

WSR 93-12-091
PREPROPOSAL COMMENTS
DEPARTMENT OF
GENERAL ADMINISTRATION

[Filed May 28, 1993, 12:14 p.m.]

Subject of Possible Rule Making: Rules are being drafted to establish chapter 234-14 WAC, Parking program for state facilities off the state capitol grounds in Thurston County. These regulations establish parking programs at state facilities, owned or leased, in Thurston County, and include setting parking fees.

Persons may comment on this subject in writing to Steve Borchardt, Department of General Administration, APA Rules Coordinator, P.O. Box 41018, Olympia, WA 98504-1018, by 5 p.m., July 15, 1993.

Other Information or Comments by Agency at this Time, if any: These rules are required by "State capitol vehicle parking account," RCW 46.80.172 as amended which requires the director, General Administration to establish equitable and consistent parking fees at state facilities to meet the legislature's intent of reducing state subsidization of parking. Once adopted, these rules will be applied throughout Thurston County at all state-owned/leased facilities.

May 25, 1993
Alan Kurimura
Assistant Director

WSR 93-12-092
PROPOSED RULES
DEPARTMENT OF FISHERIES

[Filed May 28, 1993, 4:55 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial fishing rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-16-015 General definitions—Trawl gear. Clarifies definition of beam trawl as a type of bottom trawl utilizing a beam to keep the bag open. Beam trawl gear is therefore clearly within the prohibition of RCW 75.12.390. Shrimp trawl is clarified to be otter trawl or beam trawl; WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish. Subsection (5) clarifies that buoy brands are issued to a license. The issuing of buoy brands to a license means that individual identification to the license can be accomplished. An owner with more than one vessel in a fishery will need to distinguish which license is fishing which buoyed gear. This can be accomplished by a suffix on existing buoy brands (an individual with 2 crab licenses and buoy brand 123 can use 123 for boat 1 and 123A for boat 2). This clarification will prevent setting greater than the permissible amount of gear by utilizing multiple licenses; WAC 220-48-005 Puget Sound bottomfish—General provisions. Clarifies

that octopus and squid are the only shellfish that may be taken incidental to other food fish or shellfish fisheries; WAC 220-52-019 Geoduck clams—Gear and unlawful acts. Eliminates geoduck validations, and sets new harvest hours. Makes it unlawful to possess geoduck siphons only, and allows only two divers in the water at any one time. Requires that harvest agreement, tract map and licenses be aboard the harvest vessel. Disallows harvest deeper than 70 feet or harvest within 600 feet of another vessel. This proposal clarifies duties and responsibilities of vessel operators and conforms to current harvest agreement requirements; WAC 220-52-01901 Geoduck gear licenses. Eliminates geoduck validations, clarifies that license replacement fees apply to geoduck gear licenses; WAC 220-52-043 Crab fishery—Gear. Prohibits use of sport buoy coloration to mark commercial gear. Reduces confusion between gear types; WAC 220-52-046 Crab fishery—Areas and seasons. Changes coastal crab gear setting period from 88 hours before fishery to 64 hours before fishery. This conforms with Oregon and California, and has been established by emergency rule for the last five seasons; WAC 220-52-050 Shrimp fishery—Coastal waters. Drop minimum mesh size as shrimp are regulated by count per pound and Oregon has no minimum mesh size. This eliminates any disadvantage suffered by Washington shrimp fishers; WAC 220-52-051 Shrimp fishery—Puget Sound. Correct trawl fishery WAC citation. The cited WAC does not exist. Clarify that only beam trawl may be used in Puget Sound. This is clarification only, and does not constitute a real change. Close a portion of Shrimp District 1 and reduce gear in the remainder of the district in order to allow for the rebuilding of stocks. Provide for a minimum count per pound for spot prawns in the shrimp pot fishery in order to increase the number of females in the population; WAC 220-52-068 Scallop fishery—Coastal waters. This new section codifies existing gear practices and establishes a July 1 through November 30 season. This is proposed in order to gain management data and provide protection for the resource; WAC 220-52-069 Scallop fishery—Puget Sound. Prohibit weathervane scallop harvest in order to protect broodstock. Identify gear and area restrictions for pink and spiny scallop harvest to provide resource protection and ensure product quality for the economic well being of the industry. Establish dive fishery rules that eliminate the need for a permit system in order to provide uniformity and better utilization of management time; WAC 220-52-071 Sea cucumbers. Close Eagle Harbor and Sinclair Inlet to commercial sea cucumber harvest. Sea cucumbers within these areas have been shown to have unacceptable levels of contamination. Should sea cucumbers from these areas enter the market, it would cause a general avoidance of Washington state sea cucumbers. Thus, Eagle Harbor and Sinclair Inlet are closed to provide for the economic well being of the sea cucumber industry. Prohibit trawl gear from taking sea cucumbers, because the entire sea cucumber fishery is managed as a dive fishery; WAC 220-52-075 Shellfish harvest logs. Require dive hour estimates for scallop fishing in order to provide management data; and WAC 220-88-030 Experimental fishery permit advisory board. Remove requirement for nonfisher board participation in order to expand the number of potential board members.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: E. Jacoby, P.O. Box 43147, Olympia, WA 98504, 902-2930; Implementation: M. Mills, P.O. Box 43144, Olympia, WA 98504, 902-2834; and Enforcement: D. Matthews, P.O. Box 43147, Olympia, WA 98504, 902-2927.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement required by chapter 19.85 RCW.

This proposal does not affect ten percent of the businesses in any one three-digit industrial classification nor twenty percent of all businesses.

Hearing Location: Auditorium, Office Building 2, 14th and Jefferson, Olympia, Washington, on July 7, 1993, at 1:00 p.m.

Submit Written Comments to: Hearings Officer, P.O. Box 43147, Olympia, WA 98504-3147, by July 6, 1993.

Date of Intended Adoption: July 14, 1993.

May 28, 1993
Judith Merchant
Deputy
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 82-72, filed 7/1/82)

WAC 220-16-015 General definitions—Trawl gear.

(1) "Otter trawl" shall be defined as a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Otter trawl nets may be used both on and off the seabed. Otter trawl nets may be fished with or without trawl doors, and may employ warps or cables to direct fish. Otter trawl nets are restricted to the following three categories:

(a) "Bottom trawl" means an otter trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear.

(b) "Roller trawl" or "bobbin trawl" are identical, and mean an otter trawl with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net during fishing on the seabed.

(c) "Pelagic trawl" means an otter trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. Pelagic trawl nets may not have footropes protected at the trawl mouth with rollers, bobbins, or discs.

(2) "Beam trawl" shall be defined as a type of bottom trawl, consisting of a bag-shaped trawl net ((not)) utilizing a beam to spread the mouth of the net horizontally as it is towed and not having weighted otter frames or otter doors ((when operated)). The minimum mesh size for beam trawl nets is four and one-half inches in a food fish fishery and one and one-half inches in a shrimp fishery, unless otherwise provided.

(3) "Shrimp trawl" shall be defined as a tapered, funnel-shaped trawl net in which the mesh size is two inches or less in the intermediate and codend sections of the trawl. Otter doors (~~(are)~~), otter boards (~~(are)~~), or a beam may be used to spread the mouth of the net horizontally as it is towed. The mouth of the net is formed on the upper edge by a line to which floats are attached (headrope) and on the lower edge by a line which is usually weighted (footrope). Additional webbing is frequently attached to the codend section to prevent the net from chafing.

(4) "Scallop dredge" shall be defined as trawl gear with interlocking metal ring meshes, which is legal gear for harvest of scallops.

(5) "Codend" shall be defined as the terminal, closed end of a trawl net.

(a) Single-walled codend is a codend constructed of a single wall of webbing knitted with single-ply mesh, or with double-ply mesh (double twine tied into a single knot).

(b) Double-walled codend is a codend constructed of two walls of webbing. The double-walled portion of the codend must be tied knot-to-knot to the trawl net, and may not be longer than twenty-five trawl meshes or twelve feet, whichever is greater. The use of double-walled codends is unlawful in pelagic trawls, roller trawls, and bobbin trawls.

(6) "Chafing gear" shall be defined as webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear. Chafing gear must not be connected to the terminal (closed) end of the codend.

(7) "Trawl riblines" shall be defined as heavy ropes or lines that run down the sides, top or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

(8) "Trawl mesh size" shall be defined as the distance between the inside of one knot and the inside of the opposite vertical knot in trawl mesh. Minimum trawl mesh size requirements are met if a wedge of legal size can be passed without undue force through sixteen of twenty sets of two meshes each of wet mesh in the codend.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish. (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	(<i>Hippoglossus stenolepis</i>)
Pacific herring (except as prescribed in WAC 220-49-020)	(<i>Clupea harengus pallasii</i>)
Salmon	
Chinook	(<i>Oncorhynchus tshawytscha</i>)
Coho	(<i>Oncorhynchus kisutch</i>)
Chum	(<i>Oncorhynchus keta</i>)
Pink	(<i>Oncorhynchus gorbuscha</i>)
Sockeye	(<i>Oncorhynchus nerka</i>)
Masu	(<i>Oncorhynchus masu</i>)

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand issued to the license, provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make or return any report required by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken

within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling unless otherwise provided.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using baitfish jigger gear or squid jigs.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the

state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department of fisheries or bringing food fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

NEW SECTION

WAC 220-20-026 Sale of commercially caught shellfish. It shall be unlawful for any person commercially fishing for shrimp in Puget Sound waters to retain for personal use more than the equivalent of one daily sport bag limit for the area being fished. All amounts in excess of the

equivalent of one daily bag limit must be sold to a licensed Washington wholesale dealer and be recorded on fish tickets.

AMENDATORY SECTION (Amending Order 92-28, filed 5/12/92, effective 6/12/92)

WAC 220-48-005 Puget Sound bottomfish—General provisions. (1) It is unlawful to possess any English sole less than 12 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(2) It is unlawful to possess any starry flounder less than 14 inches in length taken by any commercial bottomfish gear in all Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas.

(3) It is unlawful to possess lingcod taken with any commercial gear the entire year in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 24A, 24B, 24C, 24D, 25B, 25C, 25D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(4) It is unlawful to possess any lingcod less than 26 inches in length or greater than 40 inches in length taken by any commercial gear in all state waters east of the mouth of the Sekiu River.

(5) It is unlawful to possess lingcod taken with any commercial gear from December 1 through April 14 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29.

(6) It is unlawful to possess lingcod taken by any commercial gear from June 16 through April 30 in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 25A, and 25E.

(7) It is unlawful to possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC ((220-52-053,)) 220-52-063((,)) and 220-52-066((, 220-52-069, and 220-52-071)).

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-019 Geoduck clams—Gear and unlawful acts. (1) It is unlawful to take, fish for or possess geoduck clams taken for commercial purposes from any of the beds of navigable waters of the state of Washington except as provided ((for)) in RCW 75.24.100 and rules of the director.

(2) ((Validations for the use of hand-held manually operated water jet or suction devices for harvesting geoduck clams for commercial purposes, pursuant to RCW 75.24.100, may be obtained from the director of fisheries subject to the following conditions:

(a) All harvesting methods and types of water jet and suction devices used in the taking or harvesting of geoduck clams must be approved by the director of fisheries prior to their use, except that water jet devices meeting the following requirements are approved for use:

Any water jet having an automatic spring triggered shutoff valve or a manual valve capable of being operated from full flow to completely off within one half turn and consisting of not more than one)) (a) Only a manually operated water jet, the nozzle of which shall not exceed 5/8 inch inside diameter may be used to commercially harvest

geoduck clams. Use of any other gear requires a permit from the director.

(b) It is unlawful in the commercial harvest of geoducks for through-hull fittings for water discharge hoses connected to the harvest gear to be below the surface of the water. Any through-hull fitting connected to the harvest gear which is above the surface of the water must be visible at all times.

(3) It is unlawful to take((;)) or fish for ((or possess)) geoduck clams taken ((from)) for commercial purposes between one-half hour before official sunset ((to official sunrise)) or ((to 6:00 a.m.)) 7:00 p.m. whichever is ((later)) earlier and 7:00 a.m. No geoduck harvest vessel may be on a geoduck tract or harvest area after 7:30 p.m. or before 6:30 a.m. It is unlawful to take((;)) or fish for ((or possess)) geoduck clams ((taken)) on Sundays or on state holidays as defined by the office of financial management. It is unlawful to possess geoduck clams taken in violation of this section.

(4) It is unlawful to harvest geoduck clams with any instrument that penetrates the skin, neck or body of the geoduck.

(5) It is unlawful to possess only the siphon or neck portion of a geoduck clam aboard a geoduck harvest vessel.

(6) It is unlawful to retain any food fish or shellfish other than geoduck clams during geoduck harvesting operations ((unless the operator is licensed for the taking of clams other than geoduck clams as provided for in chapter 75.28 RCW. It is unlawful to take, fish for or possess sea cucumbers during geoduck clam harvesting operations, or possess sea cucumbers on a vessel that has geoducks aboard)).

((6)) (7) It is unlawful for more than ((six)) two divers from any one geoduck harvest vessel to ((harvest geoducks)) be in the water at any one time ((on a single geoduck tract. It is the responsibility of the holder of the harvest agreement to assure that no more than six divers are harvesting at one time)).

((7) At) (8) The following documents must be on board the geoduck harvesting vessel at all times ((when)) during geoduck ((harvest is occurring, copies)) operations:

(a) A copy of the department of natural resources geoduck harvesting agreement for the tract or area where harvesting is occurring;

(b) A map of the ((official)) geoduck tract ((map)) or harvest area and complete tract or harvest area boundary identification documents or photographs ((as)) issued by the department of natural resources for the ((specific)) tract ((must be on board the vessel)) or harvest area;

(c) A geoduck diver license for each diver on board the harvest vessel or in the water; and

(d) A geoduck gear license as described in WAC 220-52-01901.

((8)) (9) It is unlawful to process geoducks on board any harvest vessel.

((9)) (10) It ((shall be)) is unlawful to take((;)) or fish for ((or possess)) geoduck clams for commercial purposes ((except those taken within boundaries of subtidal tracts for which geoduck harvest agreements have been issued by the)) outside the tract or harvest area designated in the department of natural resources geoduck harvesting agreement required by subsection (8)(a) of this section. It is unlawful to possess geoduck clams taken in violation of this subsection.

~~((10))~~ (11) It ~~((shall be))~~ is unlawful to commercially harvest ~~((from bottoms))~~ geoduck clams in areas which are shallower than 18 feet below mean lower low water (0.0 feet), or ~~((which lie))~~ in areas ~~((bounded by the line of ordinary high tide (mean high tide), and))~~ shoreward from a line 200 yards seaward from and parallel to ~~((said))~~ the line of ordinary high tide ~~((on subtidal tracts))~~. It is unlawful to harvest geoduck clams in areas deeper than seventy feet below the water surface at any tide height.

(12) It is unlawful for any harvest vessel to anchor less than 600 feet from a previously-anchored harvest vessel. Harvest vessels must remain at least 600 feet apart while divers are in the water.

(13) Holders of geoduck gear licenses issued under RCW 75.24.100 and WAC 220-52-01901 shall comply with all applicable commercial diving safety regulations adopted by the Federal Occupational Safety and Health Administration established under the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. Some of those regulations appear at 29 C.F.R. Part 1910, Subpart T.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-01901 Geoduck ~~((validations))~~ gear licenses. (1) ~~((Numbered validations will be))~~ A geoduck gear license issued ~~((only to holders of valid subtidal geoduck harvest agreements issued by the department of natural resources and persons who hold current geoduck tract licenses issued by the department of fisheries. The))~~ by the director is required for the commercial harvest of geoduck clams. Geoduck gear licenses were previously called "geoduck validations ~~((will be issued for each licensed tract))~~."

(2) ~~((The number of validations to be issued to each holder of a))~~ Only persons holding current geoduck harvest agreements ~~((shall be determined by the director of fisheries based upon the number of individual geoduck tracts for which harvest agreements have been issued by))~~ from the department of natural resources ~~((, their total acreage, past geoduck production, present number of nozzle licenses held for the operation, and other factors as deemed appropriate by the director of fisheries))~~ or their agents may apply for geoduck gear licenses. An application for a geoduck gear license must be on a form provided by the department, must be complete, and must be accompanied by a copy of the geoduck harvest agreement for which the license is sought.

(3) ~~((The number of geoduck validations held by the holder of the harvest agreement may be adjusted from time to time as deemed necessary by the director of fisheries and when changes in leases occur.~~

(4) ~~The))~~ A geoduck ~~((validation will))~~ gear license expires at the end of ~~((each))~~ the calendar year ~~((, provided that the director may issue temporary validations for restricted time periods. In the event a validation is lost, a new validation will be issued upon receipt of a signed affidavit from the holder of the harvest agreement attesting to the loss. Any request to assign or transfer a validation from one holder of a harvest agreement to another must be made in writing. No validation will be assigned or transferred without the written approval of the director of fisheries))~~

following its issuance, or when the harvesting agreement for which it is issued terminates, whichever is earlier.

(4) The fee requirements of RCW 75.28.035 apply to any request to transfer a geoduck gear license or replace a lost geoduck gear license card.

(5) ~~((The holder of the harvest agreement is responsible for notifying each designated vessel operator and diver to whom he provides a validation of all the laws and regulations of the state of Washington department of fisheries pertaining to commercial geoduck harvest. The holder of the harvest agreement, designated vessel operator or diver may be held criminally or civilly liable for violation of the applicable rules and regulations of the department of fisheries. Violations by the holder of the harvest agreement, designated vessel operator or the diver can result in suspension or cancellation of the validation subject to the holder's right to opportunity for a hearing as specified in chapter 34.04 RCW. The director of fisheries may refuse to issue a validation to any holder of a harvest agreement who has failed to comply with these regulations.~~

(6) Applications for geoduck validations must be made on forms provided by the department of fisheries.

(7) At all times when geoduck harvest is occurring, the geoduck personal commercial fishing license and validation card for each and every diver who is harvesting or attempting to harvest geoducks from that tract must be physically on board the harvesting vessel, and evidence of the geoduck tract license for the specific tract must be prominently displayed on board the vessel. It is the responsibility of the holder of the harvest agreement to ensure that the required number of validation cards are on board the harvesting vessel during geoduck harvesting.) Each geoduck gear license authorizes the use of two water jets or other units of geoduck harvest gear. Gear must meet the requirements of WAC 220-52-019(2). A geoduck gear license card is a "license card" under WAC 220-69-270.

(6) The director may suspend or revoke a geoduck gear license used in violation of commercial diving safety regulations, including 29 C.F.R. Part 1910, Subpart T, adopted under the Occupational Safety and Health Act of 1970. The procedures of chapter 34.05 RCW apply to such suspensions or revocations. If there is a substantial probability that a violation of commercial diving safety regulations could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the director may suspend the license immediately until the violation has been corrected. The director shall not revoke a geoduck gear license if the holder of the harvesting agreement corrects the violation within ten days of receiving written notice of the violation.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

WAC 220-52-075 Shellfish harvest logs. It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, shrimp, squid, octopus, or sand shrimp fishing or operator of mechanical clam digging device to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or

has crawfish, sea cucumbers, sea urchins, shrimp, squid, octopus, scallops, clams, or sand shrimp aboard. The vessel operator must submit the harvest logs for inspection upon request by authorized department of fisheries representatives. The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing activity occurred, except that commercial sea cucumber harvest logs must be received for each month of the season provided for in WAC 220-52-072 regardless of whether harvest activity occurred during the month, and all shellfish harvesters must submit a log that must be received by the tenth day following the termination of commercial fishing activity showing that shellfish harvest has terminated for the year.

(1) Vessel operators engaged in commercial harvest of shrimp or crawfish with shellfish pot or ring net gear must record the vessel Washington department of fisheries boat registration number, number of pots or ring nets pulled, date pulled, soak time, and gear location before leaving the catch area where taken, and weights must be recorded upon landing or sale. In addition, vessel operators engaged in commercial harvest of shrimp in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, or 27C (Hood Canal) must record the total number of pots they have in the water and the total number of buoys attached to those pots, and the department's copy of the completed harvest log must be submitted weekly, postmarked no later than Friday and showing harvest activity for the period Thursday of the week previous to submission through Wednesday of the week the harvest log is submitted.

(2) Vessel operators engaged in commercial harvest of shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Vessel operators engaged in commercial harvest of sea urchins or sea cucumbers must record the vessel identity, date, location, and the approximate number of sea urchins or sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Vessel operators engaged in commercial harvest of clams with mechanical digging devices must record the vessel identity, location, and date of harvest before the end of each day's fishing and the weights by clam species must be recorded upon landing or sale.

(5) Vessel operators engaged in commercial harvest of scallops (~~with dredge or trawl gear~~) must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow or dive hour before leaving the catch area where taken.

(6) Vessel operators engaged in commercial harvest of squid, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type, catch area, starting and ending time of fishing, and numbers of other species caught and returned. Weights of squid must be recorded on landing or sale.

(7) Vessel operators engaged in commercial harvest of octopus, except when taken incidental to any other lawful

fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type and amount, catch area and hours fished. Weights of octopus must be recorded on landing or sale.

(8) Vessel operators engaged in commercial harvest of sand shrimp, except when taken incidental to any other lawful fishery, must record the location or identification number of the harvest tract, date of harvest, number of trenches pumped, average length and width of trenches (yards), total number of sand shrimp retained (dozens), total number of sand shrimp sold (dozens), and the name of the sand shrimp buyer.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

WAC 220-52-046 Crab fishery—Seasons and areas.

It is unlawful to fish for or possess Dungeness crabs taken for commercial purposes except during the lawful open seasons and areas as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except 25C, 27A, 27B, 27C, 28A, 28B, 28C, and 28D - open October 1 through April 15, provided that it is unlawful to set any crab gear prior to 9:00 a.m. on the opening day of the season.

(2) Coastal, Pacific Ocean, Grays Harbor, Willapa Harbor and Columbia River waters - open December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November ~~((27))~~ 28.

AMENDATORY SECTION (Amending Order 87-187, filed 11/6/87)

WAC 220-52-050 Shrimp fishery—Coastal waters.

It is unlawful to fish for or possess shrimp taken for commercial purposes from coastal waters except as provided for in this section:

(1) **Trawl gear:**

(a) **Season** - Open to trawl fishing April 1 through October 31 of each year.

(b) **Gear restrictions** - The following gear is prohibited:

(i) Shrimp trawl gear having a mesh size greater than two inches (~~or smaller than one and three eighths inches~~) in the intermediate or codend. (~~At least seventy five percent of the meshes measured randomly throughout the net by means of a metal tapered gauge must fit on the gauge for compliance.~~) It is lawful to have mesh larger than two inches in the wings or body of the trawl.

(ii) (~~Shrimp trawl gear having a lined or double layered codend, except it is lawful to employ a lifting bag or additional layer of webbing if the lifting bag webbing is not less than three inch mesh not smaller in circumference than the shrimp trawl at its greatest circumference.~~

(iii) ~~Shrimp trawl gear employing layers of protective webbing or chafing gear over the codend unless such webbing is attached at only one strip around the circumference of the codend, trails freely, and has a minimum mesh of three inches.~~

(iv) It is unlawful for any fisherman to be in possession of any gear (~~described in (i) through (iii) above~~) having mesh size greater than two inches in the intermediate or codend while any shrimp are aboard the vessel.

(2) Shellfish pot gear:

(a) Season - Open to shellfish pot gear fishing the entire year.

(b) Gear restrictions - No mesh restriction.

(3) Minimum number of shrimp per pound:

The count must average no more than 160 shrimp per pound for a minimum of two samples increasing at a rate of one sample per one thousand pounds landed or in possession up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession. This subsection applies only to loads of 3,000 pounds of shrimp or more.

AMENDATORY SECTION (Amending Order 91-73, filed 8/28/91, effective 9/28/91)

WAC 220-52-051 Shrimp fishery—Puget Sound. It is unlawful to fish for or possess shrimp taken for commercial purposes from Puget Sound except as provided for in this section:

(1) SHRIMP DISTRICTS: The following areas are defined as shrimp fishing districts:

(a) Shrimp District 1 - (Protection Island, Discovery Bay) Waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island then to Rocky Point on the Miller Peninsula and all waters of Discovery Bay.

(b) Shrimp District 2 - (Griffin Bay) Waters south of a line projected true east-west through Turn Rock Light from San Juan Island to Lopez Island and north of a line projected true east from Cattle Point on San Juan Island to Lopez Island.

(c) Shrimp District 3 - (Port Angeles) Waters inside Ediz Hook west of a line from the tip of Ediz Hook to the ITT Rayonier Dock.

(d) Shrimp District 4 - (Sequim Bay) Waters of Sequim Bay south of a line projected true west from Travis Spit on the Miller Peninsula.

(e) Shrimp District 5 - (Hood Canal) Waters south of the Hood Canal Floating Bridge.

(f) Shrimp District 6 - (Carr Inlet) Waters of Carr Inlet north of a line projected from Penrose Point to Green Point.

(2) TRAWL GEAR:

(a) SEASONS - All waters of Puget Sound are open to trawl gear April ~~((45))~~ 16 through October 15 except closed in:

(i) Shrimp Districts 1, 2, 3, 4, 5, and 6.

(ii) ~~((Waters south of the Narrows Bridge.~~

~~((iii)))~~ Waters closed to trawl fishing in WAC ~~((220-49-015))~~ 220-48-015.

(b) GEAR RESTRICTIONS - Beam trawl gear only. Otter trawl gear may not be used.

(3) SHELLFISH POT GEAR:

(a) SEASONS - All waters of Puget Sound are open to shellfish pot gear April 16 through October 15 except:

(i) Open in Shrimp Districts 1, 2, and 3 from May 16 through September 15 except those waters of Shrimp District 1 within a line from the entrance to the Cape George Marina projected southwesterly to the easternmost tip of Diamond Point thence southeasterly to the westernmost tip of Beckett

Point thence following the shore to the point of origin are closed to shrimp fishing.

(ii) Closed in Shrimp Districts 4, 5, and 6 unless opened by emergency regulation.

(b) GEAR RESTRICTIONS -

(i) In all areas, maximum 100 pots per ~~((fisherman))~~ fisher, except:

(A) Maximum 75 pots per ~~((fisherman))~~ fisher in Marine Fish-Shellfish Management and Catch Reporting Area 28B.

(B) Maximum 25 pots per fisher in Shrimp District 1.

(C) Maximum 50 pots per ~~((fisherman))~~ fisher in Shrimp Districts ~~((1-7))~~ 2~~((7))~~ and 5.

~~((C))~~ (b) Maximum 10 pots per ~~((fisherman))~~ fisher in Shrimp District 3.

(ii) In all shrimp districts:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(iii) In Shrimp Districts 2 and 5:

(A) The entire top, bottom, and sides of the pot, except entrance tunnels, must be constructed of mesh material having a minimum mesh of such size that a 7/8 inch square peg can pass through without changing the shape of the opening.

(B) All entrance tunnels must open into the pot from the sides.

(C) The sum of the maximum widths of all entrance tunnels must not exceed one-half of the perimeter of the bottom of the pot.

(c) Spot shrimp size restriction: It is unlawful to possess spot shrimp taken by shellfish pot gear that average more than 20 shrimp per pound as sampled by a minimum of two samples of at least one pound each of whole unbroken shrimp taken at random from throughout the individual load landed or in possession.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-043 Crab fishery—Gear. (1) It shall be unlawful to take or fish for crabs for commercial purposes except with shellfish pots and ring nets.

(2) It shall be unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless such gear meets the following requirements:

(a) Pot gear must have not less than two escape rings or ports not less than 4-1/4 inches inside diameter.

(b) Escape rings or ports described above must be located in the upper half of the trap.

(3) All buoys attached to commercial crab gear in Puget Sound waters must consist of a durable material and remain floating on the water's surface when five pounds of weight is attached. It is unlawful to use bleach or antifreeze bottles or any other container as a float. No buoys attached to commercial crab gear in Puget Sound may be half red in color and half white in color, as these colors are reserved for

personal use crab gear as described in WAC 220-56-320 (1)(c).

NEW SECTION

WAC 220-52-068 Scallop fishery—Coastal waters.

It is unlawful to fish for or possess scallops taken for commercial purposes from coastal and offshore waters except as provided for in this section.

(1) Season: July 1 through November 30.

(2) Gear: Only scallop dredge gear may be used. Scallop dredge gear may not exceed fifteen feet in width per unit of gear nor have a ring size less than three inches inside diameter. Scallop dredges may not use a dredge liner nor have chaffing gear covering any portion of the top half of the dredge.

AMENDATORY SECTION (Amending Order 91-22, filed 4/23/91, effective 5/24/91)

WAC 220-52-069 Scallop fishery—Puget Sound. It

is unlawful to fish for or possess scallops taken for commercial purposes from Puget Sound except as provided for in this section:

(1) ~~(It is lawful at any time to take or fish for scallops for commercial purposes in coastal waters with otter trawl or beam trawl or scallop dredge gear. Minimum and maximum size for trawl gear are concurrent with sizes used in coastal shrimp fishing, see WAC 220-52-054. Scallop dredge gear may not exceed fifteen feet in width nor have a ring size of less than three inches inside diameter except as authorized under a permit issued by the director.~~

(2) ~~It is lawful at any time to take or fish for scallops for commercial purposes in Puget Sound waters with scallop dredge gear not exceeding fifteen feet in width or having a ring size of not less than three inches inside diameter. It is lawful to take and possess scallops taken incidental to bottomfish trawl fishing as authorized under chapter 220-48 WAC. The taking of scallops with trawl gear at times or of size other than those authorized under chapter 220-48 WAC, with scallop dredge gear of a size other than that provided for in this section, or by shellfish diver gear is prohibited except as authorized under permit issued by the director.~~

(3) ~~Rock scallops and weathervane scallops. It is unlawful at any time to take or possess rock or weathervane scallops taken for commercial purposes from Puget Sound unless a person has first obtained a ((rock)) scallop brood stock permit issued by the department. The permit will specify the species, location, time, and quantity of ((rock)) scallops that can be taken for brood stock or culture purposes.~~

(2) Pink scallops and spiny scallops.

(a) General provisions:

(i) Pink and spiny scallops may be harvested from Puget Sound at any time.

(ii) The minimum commercial pink or spiny scallop size is 2 inches in length from the hinge to the outer margin of the shell.

(iii) Persons fishing for pink or spiny scallops must have approval of the Washington state department of health. Scallops may only be taken from areas approved by the department of health and any fisher taking pink or spiny

scallops must have on board the harvesting vessel a valid department of health shellfish toxin sampling agreement.

(iv) No other shellfish or food fish may be retained while scallop fishing or possessed aboard the scallop fishing vessel.

(b) Trawl gear provisions:

(i) Trawlers may only use single beam trawls not exceeding ten feet in width and having mesh size no smaller than two inches in the intermediate portion and cod end of the trawl.

(ii) Trawling for scallops is prohibited in waters less than 120 feet below mean lower low water.

(iii) Trawling for scallops is prohibited in the following areas:

(A) All waters closed to bottomfish trawl in WAC 220-48-015.

(B) Shrimp Districts 1 and 3 as defined in WAC 220-52-051.

(C) Sea Urchin Districts 1 and 2 closed waters defined in WAC 220-52-073 (1)(a)(i), (ii), and (1)(b)(ii).

(c) Shellfish diver gear provisions:

(i) Diving for scallops is prohibited in Sea Urchin Districts 1 and 2 closed waters as defined in WAC 220-52-073 (1)(a)(i), (ii), (1)(b)(i), and (ii).

AMENDATORY SECTION (Amending Order 91-73, filed 8/28/91, effective 9/28/91)

WAC 220-52-071 Sea cucumbers. It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

(1) Sea cucumber districts:

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(iii) Within one-quarter mile of Green Point on Spieden Island.

(iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(2) Sea cucumber areas and seasons:

- (a) District 1 open May 1 through October 31, 1991.
- (b) District 2 open May 1 through October 31, 1992.
- (c) District 3 open May 1 through October 31, 1993,

except:

(i) Marine Fish Shellfish Management and Catch Reporting Area 26C is closed to the harvest of sea cucumbers after August 31, 1993.

(ii) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island are closed to the harvest of sea cucumbers at all times.

(iii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis are closed to the harvest of sea cucumbers at all times.

(d) District 4 open May 1 through October 31, 1994.

(e) Other areas and times as authorized by permit issued by the director.

(f) During the seasons provided for in this subsection, harvest is restricted to Monday through Wednesday May 1 through May 14, Monday through Thursday May 15 through June 30, and Monday through Friday thereafter. Divers may not take sea cucumbers from one-half hour before official sunset to official sunrise or 6:00 a.m., whichever is later.

(3) Shellfish diver gear:

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(4) Trawl gear:

~~(((a) Trawl gear is limited to that gear and those times authorized under chapter 220-48 WAC, or otherwise as authorized by a permit issued by the director.~~

~~(b) Up to one hundred pounds of sea cucumbers may be taken without regard to other species aboard, but landings of more than one hundred pounds are lawful only if sea cucumbers represent no more than twenty percent of the total weight of fish on board. No trawl vessel may land more than two hundred fifty pounds of sea cucumbers in any one vessel trip except as authorized by permit issued by the director.)) It is unlawful to fish for or possess sea cucumbers taken with trawl gear.~~

AMENDATORY SECTION (Amending Order 92-89, filed 9/3/92, effective 10/4/92)

WAC 220-88-030 Experimental fishery permit advisory board. ~~(((+)))~~ The five-person advisory board that will review and make recommendations regarding number and qualifications of persons who will receive experimental fishery permits shall have knowledge of the commercial fishing industry.

~~(((2) No board member may be an applicant for or receive an experimental fishery permit.))~~

**WSR 93-12-094
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY**

[Filed June 1, 1993, 10:45 a.m.]

Original Notice.

Title of Rule: Amending Regulation III Sections 1.08, 4.01, and 4.02.

Purpose: To clarify definitions and procedures for asbestos control standards.

Other Identifying Information: Section 1.08 pertains to special definitions; Section 4.01 pertains to application requirements and fees; and Section 4.02 pertains to procedures for asbestos emission control.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Clarification of definitions and requirements for asbestos control standards.

Reasons Supporting Proposal: These changes are needed for improved legibility.

Name of Agency Personnel Responsible for Drafting: Claude Williams, 110 Union Street, #500, Seattle, 98101, 689-4066; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, 98101, 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, 98101, 689-4053.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These amendments to the asbestos control standards definitions and procedures are for clarification purposes.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on July 8, 1993, at 9:00 a.m.

Submit Written Comments to: Anita Frankel, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, by June 28, 1993.

Date of Intended Adoption: July 8, 1993.

May 28, 1993
 Claude Williams
 Air Pollution Engineer

AMENDATORY SECTION

REGULATION III SECTION 1.08 SPECIAL DEFINITIONS

(a) **ACCEPTABLE SOURCE IMPACT LEVEL (ASIL)** means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

(b) **ADEQUATELY WET** means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent emissions.

(c) **AMPERE-HOURS** means the integral of electrical current applied to a plating or anodizing tank (amperes) over a period of time (hours).

(d) **ANTI-MIST ADDITIVE** means a chemical which reduces the hexavalent chromium emission rate from a tank.

(e) **ASBESTOS** means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

(f) **ASBESTOS-CONTAINING MATERIAL** means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart F in 40 CFR Part 763. This term does not include asbestos-containing roofing material, regardless of asbestos content, when the following conditions are met:

(1) The asbestos-containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(2) The binder is petroleum based, the asbestos fibers are suspended in that base, and individual fibers are still encapsulated; and

(3) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(4) The building, vessel, or structure containing the asbestos-containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

(g) **ASBESTOS-CONTAINING WASTE MATERIAL** means any waste that contains asbestos-containing material. This term includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material(s) collected for disposal, or asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. This term does not include samples of asbestos-containing material taken for testing or enforcement actions.

(h) **ASBESTOS PROJECT** means the construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or

component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos-containing material. This term includes the removal and disposal of asbestos-containing waste material from manufacturing operations that combine asbestos-containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

(i) **ASBESTOS SURVEY** means an inspection using the procedures contained in 40 CFR 763.86, or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, removed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

(j) **CERTIFIED ASBESTOS WORKER ((#) OR SUPERVISOR** means a person who is certified by the Washington State Department of Labor and Industries under WAC 296-65-010, 012, and 030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

(k) **CHROMIC ACID ANODIZING** means an electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.

(l) **CHROMIC ACID PLATING** means an electrolytic process by which chromium is deposited on a base metal surface.

(m) **COLD SOLVENT CLEANER** or **COLD CLEANER** means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.

(n) **COLLECTED FOR DISPOSAL** means sealed in a leak-tight container while adequately wet.

(o) **COMPONENT** means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos-containing material.

(p) **CONTROLLED AREA** means an area to which only certified asbestos workers, or other persons authorized by Section 3.05 of Regulation I or the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling.

(q) **DEMOLITION** means the wrecking, dismantling, removal of any load-supporting structural member on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load-bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering as permanently uninhabitable, that portion of the building being demolished.

(r) **EMERGENCY ASBESTOS PROJECT** means an unplanned asbestos project necessitated by a sudden and unexpected event that will imminently endanger human health and safety either through exposure to asbestos fibers or loss of vital utilities. Such events may include earthquakes, floods, fire damage, non-routine failure or malfunction

PROPOSED

tion of equipment, or identification of additional asbestos-containing material discovered during an asbestos project.

(s) **ETHYLENE OXIDE AERATOR** means any equipment, space, or room in which air is used to remove residual ethylene oxide from sterilized materials.

(t) **ETHYLENE OXIDE STERILIZER** means any chamber or related piece of equipment that uses ethylene oxide or an ethylene oxide mixture in any sterilization or fumigation process.

(u) **FREEBOARD RATIO** means the freeboard height (the distance from the top of the degreaser to the air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).

(v) **HEPA FILTER** means a high efficiency particulate air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

(w) **LEAK-TIGHT CONTAINER** means a dust-tight container, at least 6-mil thick, that encloses the asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

(x) **LOCAL EXHAUST VENTILATION AND COLLECTION SYSTEM** means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos-Containing Materials in Buildings).

(y) **OWNER OR OPERATOR** means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

(z) **REFRIGERATED FREEBOARD CHILLER** means a set of cooling coils situated above the condenser which operates at 2°C or less.

(aa) **RESIDENTIAL DWELLING** means any nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one (~~family~~) owner as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include single or multiple family rental units. This term does not include structures that are demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

(bb) **TOXIC AIR CONTAMINANT (TAC)** means any air contaminant listed in Appendix A of this Regulation III or listed in the Administrative Regulations of the United States of America in 40 CFR Part 372, Subpart D, as both now exist or are hereinafter amended, and both of which by this reference are incorporated herein and made a part hereof.

(cc) **VAPOR DEGREASER** means a degreasing tank in which the solvent is heated at or above the boiling point.

(dd) **VISIBLE EMISSIONS** means any emissions that are visually detectable without the aid of instruments. This term does not include condensed uncombined water vapor.

(ee) **WASTE GENERATOR** means any owner or operator of a source whose act or process produces asbestos-containing waste material.

(ff) **WASTE SHIPMENT RECORD** means the shipping document required to be originated and signed by

the owner or operator, used to track and substantiate the disposition of asbestos-containing waste material.

(gg) **WORKING DAY** means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

AMENDATORY SECTION

REGULATION III SECTION 4.01 APPLICATION REQUIREMENTS AND FEES

(a) Application Requirements - Applicability.

It shall be unlawful for any person to cause or allow work on an asbestos project or demolition unless the owner or operator has obtained written approval from the Control Officer as follows:

(1) A written "Application to Perform an Asbestos Project" or an "Application to Perform a Demolition" shall be submitted on Agency-provided forms by the owner or operator for approval by the Control Officer before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written application shall be accompanied by the appropriate application fee and a certification that an asbestos survey has been conducted.

(3) The written application for a demolition shall also include a certification that there is no known asbestos-containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall not exceed one (1) year beyond the original starting date and shall have a starting and completion date that is commensurate with the amount of work involved.

(5) A copy of the approved application and asbestos survey shall be available for inspection at the asbestos project or demolition site.

(6) Upon completion of an asbestos project or a demolition, a written "Notice of Completion" shall be filed with the Control Officer on forms provided by the Agency.

(7) Submission of an "Application to Perform an Asbestos Project" shall be prima facie evidence that the asbestos project involves asbestos-containing material.

(8) Application for multiple asbestos projects may be filed on one form, if the following criteria are met:

(A) The work will be performed continuously by the same contractor; and

(B) The structures (~~are in a contiguous group~~) must be in an unbroken sequence, not divided by road, waterway, or structures not included in the asbestos project; and

(C) The asbestos project specifications regarding location and dates are provided in detail; and

(D) All asbestos projects are bid as a group under the same contract.

(b) Application Requirements - Advance Notification Period and Fee. Any application required by Section 4.01(a) shall be considered incomplete until all the information required by Section 4.01(a) is received by the Control Officer and accompanied by the appropriate, non-refundable fee. The advance notification period and appropriate fee shall be determined by the following table:

		Advance Notification Period	Application Fee	Forms Required
Demolition	All	10 Working Days	\$25	1) Application to Perform a Demolition 2) Certification that No Known Asbestos is Present
Asbestos Project	Residential	Prior Notification Required	\$25	Application to Perform an Asbestos Project
Asbestos Project	<10 linear ft <11 square ft	Prior Notification Required	\$25	Application to Perform an Asbestos Project
Asbestos Project	10 - 259 linear ft 11 - 159 square ft	10 Working Days	\$100	Application to Perform an Asbestos Project
Asbestos Project	260 - 999 linear ft 160 - 4,999 sq ft	10 Working Days	\$250	Application to Perform an Asbestos Project
Asbestos Project	1,000 - 9,999 linear ft 5,000 - 49,999 sq ft	10 Working Days	\$500	Application to Perform an Asbestos Project
Asbestos Project	10,000+ linear ft 50,000+ sq ft	10 Working Days	\$1,000	Application to Perform an Asbestos Project
Amendments	All Projects	Prior Notification Required	\$25 (3rd amendment & after)	Amended Copy of Approved Application
Emergencies	All projects that normally require a 10 working day notification period	Prior Notification Required	\$100 plus Normal Notification Fee	Emergency Waiver Request Letter (submitted by property owner)

(c) Annual Applications.

In addition to the application requirements of Sections 4.01(a) and 4.01(b), the owner or operator of a facility may file for approval by the Control Officer an annual written application to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Sections 4.01 (a)(1) through 4.01 (a)(4), 4.01 (a)(6), and 4.01(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual Application - Restrictions.

(A) The annual written application shall be filed for approval by the Control Officer before commencing work on any asbestos project to be specified in an annual application.

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section shall be limited to less than 260 linear feet on pipes and 160 square feet on other components.

(C) The application requirements of Sections 4.01(a) and 4.01(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other compo-

nents for each building, vessel, or structure at the facility, including residential dwellings.

(D) A copy of the written annual application shall be available for inspection at the property owner's or operator's office until the end of the calendar year.

(E) Asbestos-containing waste material generated from asbestos projects filed under an annual application may be stored for disposal at the facility if all of the following conditions are met:

(i) All asbestos-containing waste material shall be treated in accordance with Sections 4.03 (a)(1) (~~(- 4.03(a)(2), 4.03(a)(3), and 4.03(a)(4);)~~) and 4.03 (a)(3);

(ii) Accumulated asbestos-containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(iii) All stored asbestos-containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos-containing waste material is handled as dangerous waste in accordance with WAC 173-303. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction.

(2) Annual Application - Reporting Requirements and Fees.

Annual written applications required by Section 4.01 (c)(1) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, accompanied by an annual fee of \$1,000.

(3) Annual Application - Quarterly Reporting Requirements.

In addition to the written annual application requirements of Section 4.01 (c)(2), the facility owner or operator shall submit quarterly written reports to the Control Officer within fifteen (15) days after the end of each calendar quarter. Each quarterly report shall be submitted on forms provided by the Agency or in a format approved by the Control Officer.

(d) Application Requirements - Amendments.

It shall be unlawful for any person to cause or allow any deviation from the information contained in a written application unless an amended application has been received and approved by the Control Officer. Amended applications required by this section shall be filed by the original applicant, received by the Control Officer no later than the last filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos-containing material. In this case, the fee shall be increased accordingly and the total fee shall be equal to, but not exceed, the fee amount provided for each job size category specified in Section 4.01(b);

(2) The asbestos project or demolition starting or completion date, provided the total duration of the work does not exceed one (1) calendar year beyond the original starting date. The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Section 4.01(d) and approved by the Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Section 4.01(b) and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction;

(5) Method of removal or compliance procedures, provided the revised work plan meets the asbestos emission control and disposal requirements of Sections 4.02 and 4.03;

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and

(7) Any other information requested by the Control Officer.

(e) Advance Notification Period - Exemptions.

The Control Officer may waive the required ten (10) working day advance notification period in Section 4.01(b) for an asbestos project or demolition if the facility owner demonstrates to the Control Officer that there is an emergency as follows:

(1) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer and be accompanied by the required application and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the facility owner or operator, including the city, zip code, and county;

(B) The complete street address or location of the asbestos project site, including the city, zip code, and county;

(C) A description of the sudden and unexpected event including the date and hour that the emergency occurred; and

(D) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) Emergency Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer and be accompanied by the required applications and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency demolition shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos project, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has ordered the demolition;

(D) The reason why the demolition was ordered; and

(E) The dates on which the order was received and the demolition was ordered to begin.

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

AMENDATORY SECTION

REGULATION III SECTION 4.02 PROCEDURES FOR ASBESTOS EMISSION CONTROL

(a) Asbestos Project - Requirements.

It shall be unlawful for any person to cause or allow work on an asbestos project unless an asbestos survey has been conducted and the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, on-site supervision of a certified asbestos supervisor. This requirement shall not apply to certain limited asbestos projects conducted in accordance with Section 4.02(b) for residential dwellings, nor to asbestos projects for which the Washington State Department of Labor and Industries has determined certified asbestos workers or supervisors are not required.

(2) All asbestos-containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(3) No visible emissions shall result from an asbestos project.

(4) All asbestos-containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(A) Kept adequately wet until collected for disposal; and

(B) Collected for disposal at the end of each working day; and

(C) Contained in a controlled area at all times until transported to a waste disposal site; and

(D) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(E) Transported to the ground via dust-tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) Mechanical assemblies or components covered, coated, or manufactured from asbestos-containing material, removed as a unit or in sections, shall be contained in a leak-tight wrapping after wetting and labeled in accordance with Section 4.03 (a)(1)(C).

(A) For large components such as boilers, steam generators, and large tanks, the asbestos-containing material is not required to be removed or stripped if the component can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(B) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos-containing material may avoid wetting and leak-tight wrapping if:

(i) All access to the asbestos-containing material is welded shut; or

(ii) The component has mechanical seals in place that separate the asbestos-containing material from the environment and these seals cannot be removed by hand; and

(iii) The components are labeled in accordance with Section 4.03 (a)(1)(C).

(6) Local exhaust ventilation and collection systems used on an asbestos project shall:

(A) Be maintained to ensure the integrity of the system; and

(B) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure: When available, existing windows may be utilized for viewing ports.

(7) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

(b) Asbestos Project - Exemptions For Residential Dwellings.

The requirements of 4.02 (a)(1) shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 4.02 (a)(1) shall apply to furnace interiors and direct-

applied mudded asbestos insulation on hot water heating systems, which may not be removed by the resident owner.

(c) Demolition - Requirements.

It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos-containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos-containing material or prevent access to the asbestos-containing material for removal and disposal.

(d) Demolition - Asbestos Removal Exemptions.

Asbestos-containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof, if:

(1) The asbestos-containing material is on a component that is encased in concrete or other material determined by the Control Officer to be equally effective in controlling asbestos emissions. In this case, the application requirements of Section 4.01 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Section 4.03 (a)(2); or

(2) The asbestos-containing material could not be removed prior to demolition because it was not accessible until after demolition began. In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer to waive the requirements of Section 4.02(c). In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, shall accompany the written request in addition to the application and appropriate fee as required by Section 4.01. The request for exemption from Section 4.02(c) shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has determined the hazardous condition;

(D) A description of the hazardous condition that prevents the removal of asbestos-containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(E) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(e) Alternative Control Measures.

The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions for conditional approval by the Control Officer. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city, zip code, and county;

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

**WSR 93-12-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 1, 1993, 11:38 a.m.]**

Continuance of WSR 93-10-020.

Title of Rule: Chapter 388-160 WAC, Minimum licensing requirements for overnight youth shelter.

Purpose: Provides minimum licensing standards for a new category of child care named overnight youth shelters designed to provide shelter for street kids. Current licensing standards for other types of facilities are not appropriate or are excessive for shelters providing overnight care. New chapter 388-160 WAC.

Date of Intended Adoption: July 13, 1993.

June 1, 1993
Rosemary Carr
Acting Director
Administrative Services

**WSR 93-12-096
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 1, 1993, 11:41 a.m.]**

Continuance of WSR 93-10-018.

Title of Rule: WAC 388-330-010 Purpose and authority; 388-330-020 Scope; 388-330-030 Application of inquiry findings; and 388-330-050 Release of information.

Purpose: Deletes the requirement to check the central registry of child abuse which is now defunct. WAC 388-330-030 amended to specify conditions for a waiver to allow an otherwise disqualified person to provide child care.

Date of Intended Adoption: July 13, 1993.

June 1, 1993
Rosemary Carr
Acting Director
Administrative Services

**WSR 93-12-097
PROPOSED RULES
BELLEVUE COMMUNITY COLLEGE
[Filed June 1, 1993, 2:12 p.m.]**

Original Notice.

Title of Rule: WAC 132H-160-185 Refund for Title IV federal aid recipients rules covering fee refunds for recipients of federal financial aid.

Purpose: To bring chapter 132H-160 WAC, Financial and refund policy into compliance with state and federal law.

Statutory Authority for Adoption: Chapter 34.05 RCW. Statute Being Implemented: RCW 28B.50.140.

Summary: This rule authorizes the registrar to refund fees to federal accounts when a student withdraws or is withdrawn from a course(s).

Reasons Supporting Proposal: The current section, WAC 132H-160-180, does not address refunds for federal financial aid recipients who withdraw from course(s).

Name of Agency Personnel Responsible for Drafting: Tomas Ybarra, B231A, 641-2454; Implementation and Enforcement: Board of Trustees, A201, 641-2301.

Name of Proponent: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides authority for registrar to issue refunds which comply with federal and state laws.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., B202A, Bellevue, WA 98007-6484, on July 9, 1993, at 8:00 a.m.

Submit Written Comments to: Elise Erickson, by July 6, 1993.

Date of Intended Adoption: July 13, 1993.

May 26, 1993
Elise J. Erickson
Secretary
Board of Trustees

NEW SECTION

WAC 132H-160-185 Refund for Title IV federal aid recipients. Community College District VIII Board of Trustees has authorized the Registrar to refund fees to the appropriate Federal account(s), in concurrence with rules governing financial assistance from the Federal government, for students receiving Federal Title IV assistance in the amounts mandated by current Federal regulation when the student withdraws, or the college withdraws the student, from the college or a course(s).

WSR 93-12-098

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed June 1, 1993, 2:26 p.m.]

Original Notice.

Title of Rule: Chapter 132H-160 WAC, Refund policy.

Rules covering fee refunds when students withdraw from college courses.

Purpose: Amend WAC 132H-160-180.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Statute Being Implemented: RCW 28B.50.140.

Summary: Amends WAC 132H-160-180.

Reasons Supporting Proposal: Refers Title IV Federal Financial Aid recipients who withdraw from a course(s) to WAC 132H-160-185. Brings code into compliance with current practice for granting refunds.

Name of Agency Personnel Responsible for Drafting: Elise Erickson, A201, 641-2302; Implementation and Enforcement: Board of Trustees, A201, 641-2301.

Name of Proponent: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides current regulations for students requesting course refunds at Bellevue Community College.

Proposal Changes the Following Existing Rules: Directs Title IV Federal Financial Aid recipients to new regulations for course refunds covered under WAC 132H-160-185. Deletes portion pertaining to refund of parking fees which is no longer applicable.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., B202A, Bellevue, WA 98007-6484, on July 9, 1993, at 8:00 a.m.

Submit Written Comments to: Elise Erickson, by July 6, 1993.

Date of Intended Adoption: July 13, 1993.

May 26, 1993

Elise J. Erickson

Secretary

Board of Trustees

AMENDATORY SECTION (Amending Order 56 [Order 88, Resolution No. 164], filed 7/13/84)

WAC 132H-160-180 Refund policy. Community College District VIII board of trustees has authorized the registrar to refund fees when a student withdraws from college or a course(s). A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. Refund provisions for students receiving Title IV Federal aid are described in WAC 132H-160-185, Refund for Title IV Federal Aid Recipients.

(+) Tuition and related fees are refunded upon withdrawal from college or a course(s) as follows:

(+) (1) Prior to the first day of the quarter:

(+) (a) Complete withdrawal from college - 100% refund

(+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - 100% refund

(+) (2) Cancellation of a course - permission to transfer to another course or full refund upon request;

(e) (3) Through fourth week of the quarter:
 (+) (a) Complete withdrawal from college - 50% refund
 (+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - 50% refund

(+) (4) After fourth week of the quarter:

(+) (a) Complete withdrawal from college - no refund

(+) (b) Withdrawal from a course(s) (reduction of class load below 10 credits) - no refund

(e) (5) Lab fees (includes health service fee):

(+) (a) Prior to first week of quarter - 100% refund

(+) (b) Through the fourth week of the quarter - 50% refund

(+) (c) After the fourth week of the quarter - no refund

(+) ~~(f) Parking fees~~

(+) ~~(i) Prior to the first week of the quarter - 100% refund~~

(+) ~~(ii) Through the fourth week of the quarter - 50% refund~~

(+) ~~(iii) After the fourth week of the quarter - no refund~~

(+) (g) (6) Insurance fees:

(+) (a) Through the first week of the quarter only - 100% refund

(+) (b) After the first week of the quarter - no refund

(+) (c) If insurance claim has been filed - no refund

(+) (7) Continuing education classes (state and student supported):

(+) (a) Prior to the first class session - 100% refund (less a \$5.00 administration fee)

(+) (b) Prior to the second class session - 100% refund (less a \$15.00 administration fee)

(+) (c) After the second class session - no refund

(+) (8) Continuing education workshops (self-supported):

(+) (a) Cancellations received up through four working days prior to the first session - 100% refund (less a \$5.00 administration fee)

(+) (b) After fourth working day prior to the first session - no refund.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 93-12-099

PROPOSED RULES

YAKIMA VALLEY

COMMUNITY COLLEGE

[Filed June 1, 1993, 2:31 p.m.]

Original Notice.

Title of Rule: Chapter 132P-136 WAC, Use of college facilities.

Purpose: To amend chapter 132P-136 WAC to incorporate additional sites and to comply with current policy.

Statutory Authority for Adoption: RCW 28B.50.140(7).

Statute Being Implemented: RCW 28B.50.140(7).

Summary: This rule establishes policies and procedures for use of Yakima Valley Community College facilities by students, staff and community.

Reasons Supporting Proposal: Chapter 132P-136 WAC establishes rules regarding use of Yakima Valley Community

College facilities. Organizational restructure, an extension site, additional technical capabilities, equipment and staff changes have necessitated updating policy and procedures for use of facilities.

Name of Agency Personnel Responsible for Drafting: Jean Lyon, 16th and Nob Hill Boulevard, Yakima, Washington 98907, (509) 575-2348; Implementation and Enforcement: Dr. Donald W. Hughes, 16th and Nob Hill Boulevard, Yakima, Washington 98907, (509) 575-2368.

Name of Proponent: Yakima Valley Community College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule changes make inclusion of the Lower Valley Education Center as an extension site, change the designated office for handling and coordination of facilities use, make provision for teleconferencing, and update the regulations and restrictions of facilities use to comply with current regulations. The affect of the proposed changes will be minimal.

Proposal Changes the Following Existing Rules: The proposal makes provision for inclusion of the Lower Valley Education Center, and teleconferencing policies. It also changes the designated office for coordinating use of facilities and notes changes in regulations and restrictions of facilities use to comply with current regulations.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Yakima Valley Community College, Prior Annex Board Room, 16th and Nob Hill Boulevard, Yakima, Washington 98902 [98907], on July 6, 1993, at 3:00 p.m.

Submit Written Comments to: Jean Lyon, P.O. Box 1647, Yakima, WA 98907, by June 29, 1993.

Date of Intended Adoption: August 1, 1993.

May 24, 1993
Gary Tollefson
for Don Hughes
Vice President
Instruction/Student Services

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-010 General. (1) ~~((Community groups shall be permitted and encouraged to use college facilities for worthwhile purposes as determined by the college when such uses will not interfere with the college program or be detrimental to college properties.))~~ College facilities located in Yakima, Washington and the Lower Valley Education Center (LVEC) in Grandview, Washington, with the exception of any lab area, may be made available for use by community groups and/or organizations conducting public education, research, cultural, civic, recreational, or community activities as limited by this policy; provided that such activities do not interfere with the educational priorities of the college or be detrimental to college property. All arrangements shall be subject to the provisions which follow. The term "community groups" is interpreted to mean nonprofit, civic, religious, fraternal, or other public-interest activity.

(2) Authorization for use of college facilities shall not be considered as endorsement of or approval of any group or organization nor the purposes they represent. The name of the college shall not be associated with any program or activity for which the college facilities are used without specific approval from the president.

(3) The college does not wish to compete with privately owned facilities in any manner.

(4) ~~((These rentals carry))~~ Rental of college facilities carries no right of advertising on college premises other than the right to post a sign for the purpose of directing people to the place of assembly.

(5) Scheduling of conferences, seminars, etc., in which there is a need for more than two rooms or other facilities, may not be scheduled on week days unless sponsored by the college. Request for scheduling will not be allowed more than two months in advance or beyond the end of the quarter in which a request is made.

(6) Room use for college or ASB recognized groups will be calendared by the activities office ~~((as directed by the business manager))~~ through the facilities coordinator.

(7) Teleconferencing will be scheduled the same as all other events. Additionally, the using organization shall coordinate scheduling with the telecommunications and facilities coordinators. Teleconferencing users are required to provide proof of licensing to the telecommunications coordinator before taping and/or receiving of satellite transmission can occur.

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-020 Applications—Permits. (1) No permit will be granted for the use of buildings or grounds except upon written application which shall be made to the ~~((business office))~~ designated facilities coordinator. All applications shall be presented in time to allow consideration by the college board if necessary. Not less than two weeks shall be the minimum.

(2) ~~((Upon approval of an application, a permit will be issued by the business office, which shall be presented by the business office to the person in charge of the college calendar.~~

~~((3)))~~ The college board ((reserves the right to revoke any permit and refund any rental)) of trustees or its designee reserves the right to cancel the facilities rental agreement at any time and to refund any payment to the college for the use of college facilities. If imminent danger exists or unlawful activity is practiced by the using organization, the college may terminate an agreement immediately and without notice, if there is any violation of any term, condition, or provision.

~~((4)))~~ (3) Request for Sunday, vacation, or holiday use of facilities creates additional costs that must be borne by renter.

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-030 Rental fees. (1) Rental fees may be requested to be paid in advance to the business office at the time of application.

(2) No requests for reduction in rental rates will be considered. ~~((There is enough variety in the size of college facilities and subsequent rental rates to provide for small groups.))~~

(3) Where a collection or charge of admission fee is made, charges will be made as listed.

(4) The college reserves the right to have trained staff operate any and all technical equipment at the user's expense. Charges will be assigned for rental, technical personnel, and equipment to all users with the exception of Yakima Valley Community College staff/programs. Schedules of rates and charges for use of facilities are available from the ((business office)) facilities coordinator.

(5) Rates and charges are established by the college board of trustees.

AMENDATORY SECTION (Amending WSR 90-11-077, filed 5/16/90, effective 6/16/90)

WAC 132P-136-040 Regulations. (1) ~~((Custodians shall be present at all times when college facilities are used unless special arrangements have been made. The custodian's duties normally include the operation of lights, heat, ventilation, and such duties incidental to maintaining order the preventing persons from entering unauthorized parts of the building. When necessary in the larger buildings, a fireman shall be on duty. Other custodians in the building with regularly assigned cleaning areas are not to be considered as available for these duties.~~

~~(2) Elaborate decorations or adjustments in space should not be expected or planned by groups using buildings or grounds.~~

~~(3) The college does not have pianos located where they are readily available. Renting groups should not expect the college to move these pianos without charges for tuning and cost if damaged in moving. (A charge of \$25 will be made if a piano is moved.)~~

~~(4) Disorderly conduct shall be prohibited within the college. Applicants must assume responsibility for compliance with these rules and for any damage which may be done to the property.~~

~~(5) Where partisan political meetings are requested, or discussions of initiatives, referendums, or other pending legislation, it is expected that such requests will be made by the county central committee of the party or by nonpartisan candidates. Such requests should come only during periods of political action of general interest to the public in Yakima.)) Unless otherwise provided by contractual agreement, an authorized member of the college staff may be required to be available at times when college facilities are in use by a group. If service beyond that normally scheduled is required as a result of any meeting, such time shall be paid for by the using organization at the currently established rate, which shall include overtime. When necessary, in larger buildings, a fire fighter may be required to be on duty. Custodians in the building with regularly assigned cleaning areas are not to be considered as available for services required by the user. The user is not entitled to security other than opening and closing rooms, except by contract; however, the college may require and charge users for security services at its discretion.~~

(2) No decorations or the application of materials to walls, fixtures, ceilings, or floors shall be permitted. Rearrangement of furniture or transfer of furniture from one area to another is prohibited. The user is required to arrange for the disposal of all decorations, materials, equipment, furnishings, or rubbish left after the use of college facilities. The user shall be billed for removal of materials left on the premises and/or for the time required to reinstate furniture to its original state if the user fails to comply with these regulations.

(3) A charge will be assessed to move pianos. Additional charges may be assessed if repair and/or tuning are required as a result of moving any piano.

(4) Disorderly conduct is prohibited. Applicants must assume responsibility for compliance with these rules and for any damage which may be done.

(5) Student group applications for use of college facilities for partisan political meetings for the purpose of discussion of initiatives, referendums, or other pending legislation when such meetings are in keeping with the educational mission of the college, shall follow procedures outlined in the code of student rights and responsibilities. Where requests for college facilities are made by private citizens, community groups, and/or organizations for such meetings, the college will adhere to the public disclosure law (RCW 42.17.130).

(6) Improvement organizations, community clubs, service organizations and other such organizations shall meet all of the requirements and costs as stated.

(7) The advisor of any Yakima Valley College group of students may request the use of buildings or equipment to be placed under his charge for any student group functions or entertainment. Such events will be free of rental.

(8) The use of intoxicants shall be prohibited on campus unless expressly authorized by the college. No smoking is permitted within college facilities.

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-050 Restrictions—Exceptions. (1) Religious youth groups may be allowed space for meetings, on a rental basis, provided the meetings are ~~((held on school days but not during school hours))~~ not in conflict with the normal college operation.

~~(2) ((Such meetings shall end not less than 15 minutes prior to starting of school and begin not less than 15 minutes after school closes.~~

~~(3)) The youth activity must be fully supervised by the sponsoring organization and be responsible to the ((business manager)) college.~~

~~((4) Ordinarily, the gymnasium is not available for use by outside organizations. No attempt should be made to try to schedule a series of practices or games. Only incidental use can be provided.~~

~~(5) The gymnasium should only be scheduled for night and weekend use. Student activities of any type may override the use by outside organizations. Use by off-campus groups may only be scheduled on a one-time basis.~~

~~(6) Arrangements for dinners or snacks served by the snack bar, except for purposes sponsored by the school, must be cleared with the business office and snack bar manager.~~

~~"Noon" dinners or lunches are not available to off-campus groups.~~

~~(7) Groups must pay the established meal rate, or in case of a potluck, should pay for the employment of the required number of snack bar workers at the prevailing rate.~~

~~(8) Entry to the snack bar shall not be granted for the use of any campus or off-campus group.~~

~~(9) Any organization which serves food or drink on campus must secure it through the snack bar manager. Food or beverages may not be brought to the campus for serving unless arranged for through the snack bar manager.~~

~~(10)) (3) All food and beverage services shall be approved by and arranged through the office of the food service contractor, unless an exception has been officially approved in advance.~~

~~(4) Requests which require a commitment from the college ((district to provide facilities for a schedule or series of meetings)) will not be approved. As determined by the college, exceptions may be made when an activity serves an educational purpose ((of)) or interest to the community ((such determination to be made exclusively by the college)).~~

~~((11)) (5) Use of college facilities for public dances is prohibited. ((This would include either adult or youth groups.))~~

AMENDATORY SECTION (Amending Order 72-2, filed 12/4/72)

WAC 132P-136-060 Use of equipment. Library and audio-visual equipment and materials are primarily intended to support and supplement the curriculum. Equipment shall not be loaned for any purpose off campus, unless official prior approval has been granted. Equipment may be used on campus by any group using college facilities when arranged in advance of activity and subject to currently established charges.

**WSR 93-12-100
PROPOSED RULES
PERSONNEL BOARD**
[Filed June 1, 1993, 3:05 p.m.]

Original Notice.

Title of Rule: New WAC 356-05-307; and amending WAC 356-09-040 and 356-09-050.

Purpose: WAC 356-09-040 provides guidelines for agencies' and the Department of Personnel in administering the affirmative action program. WAC 356-09-050 establishes a testing process for persons of disability.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal defines and substitutes a "preponderance concept" for minimum qualifications in the affirmative action recruitment process.

Reasons Supporting Proposal: The proponent suggests the correction of underutilization of protected group members along with an absolute link between performing a particular job and having the exact minimum qualifications.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-

1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bruce R. Turlish, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 356-09-040 currently provides guidelines to administer the affirmative action program. This proposal would expand this process and also allow protected group members the ability to utilize a "preponderance concept" to replace minimum qualifications. WAC 356-09-050 currently provides the testing process in the affirmative action program. This proposal would also allow the replacement of minimum qualifications with having a preponderance of what the minimum qualifications specify.

Proposal Changes the Following Existing Rules: In this proposal, a preponderance concept would be adopted in place of minimum qualifications. It defines a preponderance concept, as well as expanding the recruitment rules within the affirmative action program.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on July 8, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by July 6, 1993.

Date of Intended Adoption: July 8, 1993.

May 28, 1993
Marilyn Glenn
Acting Secretary

NEW SECTION

WAC 356-05-307 Preponderance concept. That portion of the minimum qualifications specified for a particular job class which, in the judgment of the director of personnel or his designee, would be likely to enable an applicant to perform the duties of the job class adequately.

The preponderance should be generally somewhat more than half of what the minimum qualifications specify, but need not equal or exceed the minimum qualifications themselves.

AMENDATORY SECTION (Amending Order 267, filed 1/2/87)

WAC 356-09-040 Affirmative action program—Responsibilities—Department of personnel. The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

(1) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.

(2) Provide agencies with the data required to develop and implement affirmative action goals and timetables.

(3) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirma-

tive action guidelines, and recommend changes as appropriate.

(4) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.

(5) Monitor for adverse impact on protected group members in the areas of recruitment, testing, appointment, promotion, transfer, termination, formal disciplinary actions, and career development. Records in these areas will be maintained by protected group status.

(6) With the assistance of state agencies, initiate the recruitment of protected group members, including target recruitment when the representation of protected group members on the register is less than their availability.

(7) Monitor items submitted to the personnel board for possible negative effect on affirmative action.

(8) Monitor protected group participation in agencies' human resource development activities.

(9) Conduct an annual audit to assess agencies progress in meeting goals and addressing problems identified in their affirmative action program. The audit will be conducted in accordance with the established department of personnel affirmative action program guidelines.

(10) To correct underrepresentation of protected group members in certain job classes, allow for the substitution of the preponderance concept in place of the minimum qualification provided:

(a) the applicant is a protected group member;

(b) underrepresentation of the applicant's protected group exists in the job class for which the applicant is applying;

(c) there exists an objective written test for the job class applied for;

(d) the applicant, in the judgment of the director or his designee, possesses the preponderance of what the minimum qualifications specify, so that a reasonable expectation can exist that the applicant could probably perform the duties of the job class adequately; and,

(e) any selective certification requirements must be met completely.

AMENDATORY SECTION (Amending Order 388, filed 9/23/91, effective 11/1/93 [11/1/91])

WAC 356-09-050 Affirmative action program—Testing. (1) The department of personnel will make reasonable accommodations for persons of disability who require such during test procedures.

(2) The department of personnel may test a protected group member after the closing date of the recruitment announcement, provided:

(a) A register exists for the class; and

(b) The employing agency or the state has not met affirmative action goals for a specific protected group for that class or job category; and

(c) The protected group's representation on the register is less than the availability for the protected group; and

(d) The applicant is a member of the protected group identified in (b) and (c) of this subsection, and met minimum qualifications or the preponderance concept at the time of application; and

(e) The protected group member has not been tested under the same recruitment announcement within the past thirty calendar days.

(f) The test may not be taken more than three times within a 12-month period unless the examination content has been substantially changed.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 93-12-101
PROPOSED RULES
PERSONNEL BOARD
[Filed June 1, 1993, 3:07 p.m.]

Original Notice.

Title of Rule: New WAC 356-26-105 Certification—Minimum qualification verification.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal would direct agencies to verify the minimum qualifications of an applicant prior to an appointment.

Reasons Supporting Proposal: To ensure an unqualified applicant does not get appointed to a position in which they are not entitled.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bruce R. Turlish, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is to adopt a new rule to direct agencies to substantiate the minimum qualifications of an applicant prior to an appointment. The proposal would ensure this process by having the appointing authority complete an attestation of verification form and return it to the Department of Personnel. This would minimize the chance of erroneously appointing an applicant who is not entitled.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on July 8, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by July 6, 1993.

Date of Intended Adoption: July 8, 1993.

May 28, 1993

Marilyn Glenn

Acting Secretary

NEW SECTION

WAC 356-26-105 Verification of minimum qualifications by appointing agency. The appointing agency shall verify the minimum qualifications of an applicant prior to an appointment. If, after the verification process, it is discov-

ered that the applicant does not meet the minimum qualifications, the applicant cannot be appointed. The agency must communicate this discovery to the department of personnel so that the applicant erroneously certified can be stricken from the register. Moreover, the appointing authority of the agency must sign and return an attestation of verification form to the department of personnel to substantiate the fact that the minimum qualifications of the applicant appointed were properly verified.

WSR 93-12-102
PROPOSED RULES
PERSONNEL BOARD
 [Filed June 1, 1993, 3:08 a.m.]

Original Notice.

Title of Rule: WAC 356-26-060 Certification—General methods.

Purpose: This rule describes the certification methods and the process in which names are referred to requesting agencies.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal requires an agency to verify in writing to the Department of Personnel that promotional candidates on ranked registers are contacted at the time of referral.

Reasons Supporting Proposal: The proponent states that agencies do not always contact promotional candidates who are referred.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bruce R. Turlish, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 356-26-060 provides general guidelines that are followed when making referrals from existing registers. WAC 356-26-060(7) currently directs agencies to notify permanent employees who are referred from ranked registers and to also advise those employees who are certified but not appointed on the action taken. This proposal would be an enforcement measure to have the Department of Personnel review that proper action was taken by the requesting agencies in the notifying process. The proposal would direct agencies to sign a form and return it to the Department of Personnel indicating that considered promotional candidates were informed of their name being referred from a register.

Proposal Changes the Following Existing Rules: The current rule directs that this notification process be taken by the agencies. This change would require agencies to report to the Department of Personnel in writing that they did in fact follow the rule in notifying the specified employees.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on July 8, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by July 6, 1993.

Date of Intended Adoption: July 8, 1993.

May 24, 1993
 Marilyn Glenn
 Acting Secretary

AMENDATORY SECTION (Amending Order 416, filed 4/2/93, effective 5/3/93)

WAC 356-26-060 Certification—General methods.
 Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to four more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

(a) The criteria were approved when the position was established, reallocated, or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: *Provided*, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute five names per vacancy to be filled.

(3) The names of candidates from the same register who have the same score as the lowest score to be certified will also be certified.

(4) An unranked register may be used to complete a certification. An agency may request the transfer, reemployment, and/or voluntary demotion register(s) to complete a certification. In such cases, all names appearing on the specified register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are members of the protected groups. More than three addition-

al names per vacancy will be certified if there are protected group candidates with the same score as the lowest score to be certified. This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Prior to the utilization of this subsection, the agency shall determine if there are protected group members on the existing registers. If there are fewer than three protected group members on the register, the agency shall:

(a) Appoint one of the eligibles from the register; or

(b) Request assistance from the department of personnel in completing the certification. The department of personnel and the agency will then initiate targeted recruitment.

(6) When one or more of the following conditions exist, the director of personnel or designee may certify a sufficient number of names to assure that the requesting agency has not less than five names available for consideration:

(a) The position is in an isolated or undesirable location.

(b) The position has undesirable working conditions.

(c) The agency needs to fill several positions in the class.

(d) One or more agencies have had difficulty filling positions in the class.

(e) The director of personnel or designee determines that such certification is necessary to provide the requesting agency with efficient service.

If such certification contains five or more available promotional candidates, agencies shall appoint from the promotional candidates.

(7) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

(8) An agency requesting a certification of names for consideration of appointment must return, to the department of personnel, an affirmation of promotional candidates contacted form. This form must be duly signed by the appointing authority and attesting to the fact that all promotional candidates on the referral have been contacted, either verbally or in writing, as to their referral status.

WSR 93-12-104

PROPOSED RULES

LOTTERY COMMISSION

[Filed June 1, 1993, 4:07 p.m.]

Original Notice.

Title of Rule: WAC 315-11A-101 Instant Game Number 101 ("Top Banana"), 315-11A-102 Instant Game Number 102 ("Mistledough"), 315-11A-103 Instant Game Number 103 ("Lucky Duck"), 315-11A-104 Instant Game Number 104 ("Money Match"), 315-11A-105 Instant Game Number 105 ("Cash Cards"), 315-20-005 Adjudicative proceedings—Authority—Office of Administrative Hearings rules adopted, 315-20-075 Adjudicative proceedings—Subpoenas—Discovery, 315-20-085 Adjudicative proceedings—Depositions and interrogatories—Right to take, 315-20-095 Adjudicative proceedings—Depositions and interrogatories—Notice, 315-20-105 Depositions and interrogatories in adjudicative proceedings—Protection of parties

and deponents, and 315-20-115 Production of documents and use at an adjudicative proceeding; and repealing WAC 315-20-070 Depositions in contested cases—Right to take, 315-20-080 Official notice—Material facts, 315-20-090 Form and content of decisions in contested cases and proposed orders, 315-20-100 Petitions for rule making, amendments or repeal—Who may petition, 315-20-110 Petitions for rule making, amendments or repeal—Requisites, 315-20-120 Petitions for rule making, amendments or repeal—Agency must consider, 315-20-130 Petitions for rule making, amendments or repeal—Notice of disposition, 315-20-140 Declaratory rulings, and 315-20-150 Forms.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 101 ("Top Banana"), 102 ("Mistledough"), 103 ("Lucky Duck"), 104 ("Money Match"), and 105 ("Cash Cards"); to update the chapter on the lottery's administrative hearings procedures; and to repeal rules for Instant Game Nos. 40 through 59.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Rules Coordinator, Olympia, 586-6583; Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-101, 315-11A-102, 315-11A-103, 315-11A-104 and 315-11A-105, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets; and WAC 315-20-005, 315-20-075, 315-20-085, 315-20-095, 315-20-105 and 315-20-115, these rules provide procedures by which lottery administrative hearings will be conducted. These rules and the rules adopted by the Office of Administrative Hearings will constitute the body of rules pertaining to hearings.

Proposal Changes the Following Existing Rules: Proposal repeals rules for Instant Game Nos. 40 through 59, and WAC 315-20-070, 315-20-080, 315-20-090, 315-20-100, 315-20-110, 315-20-120, 315-20-130, 315-20-140, and 315-20-150.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include

requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, 5963 Corson Avenue South, Suite 106, Seattle, WA 98108, on July 9, 1993, at 10:00 a.m.

Submit Written Comments to: Jeff Burkhardt, Lottery, P.O. Box 43025, Olympia, WA 98504-3025, by July 8, 1993.

Date of Intended Adoption: July 9, 1993.

May 27, 1993
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-11A-101 Instant Game Number 101 ("Top Banana"). (1) Definitions for Instant Game Number 101.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 101, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$50.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 101, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 50.00	\$FIFTY\$
\$ 5,000	FIVTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10100001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 101 constitute the "pack number" which starts at 10100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 101, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
TWO	\$ 2.00 (\$1 AND \$1)
THR	\$ 3.00 (\$1, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$8)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8, \$4 AND \$4)

(h) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 101.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 101 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 101; and/or

(ii) Vary the number of tickets sold in Instant Game Number 101 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 101.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for

Instant Game Number 101 all of the following validation requirements apply:

- (i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.
- (ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.
- (iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.
- (iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-102 Instant Game Number 102 ("Mistledough"). (1) Definitions for Instant Game Number 102.

(a) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$7.00"; "\$19.00"; "\$40.00"; "\$80.00"; and "\$1,000." One of these play symbols appears in each of the nine play spots under the latex covering on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 102, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 19.00	NINTEEN
\$ 40.00	\$FORTY\$

\$ 80.00	\$EIGHTY
\$ 1,000	ONETHOU

(c) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(d) Pack-ticket number: The eleven-digit number of the form 10200001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 102 constitute the "pack number" which starts at 10200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(e) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 102, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
SVN	\$ 7.00
NNT	\$19.00

(f) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 102.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

The bearer of a ticket having the following play symbols in any three of the nine spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 1.00	play symbols	- Win	\$ 1.00
Three \$ 2.00	play symbols	- Win	\$ 2.00
Three \$ 4.00	play symbols	- Win	\$ 4.00
Three \$ 7.00	play symbols	- Win	\$ 7.00
Three \$ 19.00	play symbols	- Win	\$ 19.00
Three \$ 40.00	play symbols	- Win	\$ 40.00
Three \$ 80.00	play symbols	- Win	\$ 80.00
Three \$ 1,000	play symbols	- Win	\$ 1,000

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 102 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 102; and/or

(ii) Vary the number of tickets sold in Instant Game Number 102 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 102.

(a) A valid instant game ticket for Instant Game Number 102 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations.

(i) Exactly one play symbol must appear in each of the nine play spots under the removable latex covering on the front of the ticket.

(ii) Each of the nine play symbols must have a caption below it, and each must agree with its caption.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the captions must be exactly one of those described in subsection (1)(b) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-103 Instant Game Number 103 ("Lucky Duck"). (1) Definitions for Instant Game Number 103.

(a) Play symbols: The following are the "play symbols": "0," "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 103, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
0	ZRO
1	ONE
2	TWO
3	THR
4	FOR

5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$50.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 103, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 50.00	\$FIFTY\$
\$ 5,000	FIVTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10300001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 103 constitute the "pack number" which starts at 10300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 103, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00 (\$1)
TWO	\$ 2.00 (\$1 AND \$1)
FOR	\$ 4.00 (\$2, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$4, \$2 AND \$2)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8 AND \$8)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 103.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer

of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 103 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 103; and/or

(ii) Vary the number of tickets sold in Instant Game Number 103 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 103.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 103 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-104 Instant Game Number 104 ("Money Match"). (1) Definitions for Instant Game Number 104.

(a) Play symbols: The following are the "play symbols": "0," "1," "2," "3," "4," "5," "6," and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 104, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZRO
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$7.00," "\$50.00," "\$500.00," and "\$10,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 104, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 7.00	SVN DOL
\$ 50.00	\$FIFTY\$
\$500.000	FIVHUN
\$ 10,000	TENTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10400001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 104 constitute the "pack number" which starts at 10400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the

front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 104, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1)
SVN	\$ 7.00 (\$2, \$2, \$2 AND \$1; \$7)
ELV	\$ 11.00 (\$7, \$2 AND \$2)
TTN	\$ 21.00 (\$7, \$7 AND \$7)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 104.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 104 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 104; and/or

(ii) Vary the number of tickets sold in Instant Game Number 104 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 104.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 104 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file

with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

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

NEW SECTION

WAC 315-11A-105 Instant Game Number 105 ("Cash Cards"). (1) Definitions for Instant Game Number 105.

(a) Play symbols: The following are the "play symbols": "A," "K," "Q," "J," "10," "9," and "8." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 105, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
A	ACE
K	KNG
Q	QUE
J	JAC
10	TEN
9	NIN
8	EGT

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$40.00," and "\$8,000." One of these prize symbols appears below each of the play symbol captions, except for the caption of the play symbol labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 105, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 40.00	\$FORTY\$
\$ 8,000	EGTTHOU

(e) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The eleven-digit number of the form 10500001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 105 constitute the "pack number" which starts at 10500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 105, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
EGT	\$ 8.00 (\$4, \$2 AND \$2; \$4 AND \$4; \$8)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$8 AND \$8)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 105.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as

set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 105 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 105; and/or

(ii) Vary the number of tickets sold in Instant Game Number 105 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 105.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 105 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-20-005 Adjudicative proceedings— Authority—Office of administrative hearings rules adopted. (1) Washington state lottery adjudicative proceedings are conducted under the authority of chapter 34.05 RCW, the Washington Administrative Procedure Act, and chapter 67.70 RCW, the Washington State Lottery Act.

(2) Chapter 10-08 WAC as periodically amended, rules of the office of administrative hearings is hereby adopted for

the administration of lottery adjudicative proceedings. The lottery commission may adopt additional rules, pursuant to applicable rule making procedures, pertaining to adjudicative proceedings.

NEW SECTION

WAC 315-20-075 Adjudicative proceedings—Subpoenas—Discovery. (1) The presiding officer may issue subpoenas to persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums, or other records deemed relevant or material and the presiding officer may issue protective orders all as a part of an adjudicative proceeding. The agency or its legal representative may issue subpoenas as may the attorney of the party against whom action is taken. All subpoenas must be filed with the presiding officer, together with proof of proper service, at least five days prior to the date of the hearing for which they are issued. Such subpoenas will issue and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120.

(2) The presiding officer, upon motion or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.

NEW SECTION

WAC 315-20-085 Adjudicative proceedings—Depositions and interrogatories—Right to take. Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding. The deposition of a commissioner, the director, or the deputy director, may be taken only upon application to the presiding officer, for good cause shown and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

NEW SECTION

WAC 315-20-095 Adjudicative proceedings—Depositions and interrogatories—Notice. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than seven days in writing to all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party on whom the notice is served, the presiding officer may, for good cause shown, enlarge or shorten the time. If the parties so stipu-

late in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

NEW SECTION

WAC 315-20-105 Depositions and interrogatories in adjudicative proceedings—Protection of parties and deponents. (1) After notice is served for taking a deposition, upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that the presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

(2) At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the hearing officer may order the party conducting the examination to cease forthwith from taking the deposition as above provided.

(3) If the order made terminates the examination, it shall be resumed only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

NEW SECTION

WAC 315-20-115 Production of documents and use at an adjudicative proceeding. (1) Upon request by any party to the adjudicative proceeding, copies of all materials to be presented at the adjudicative proceeding shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When exhibits of a documentary character are to be offered into evidence at the hearing, the party offering the exhibit shall provide a minimum of two copies, one for the opposing party and one for the presiding officer.

(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 315-20-070 Depositions in contested cases—Right to take.
- WAC 315-20-080 Official notice—Material facts.

WAC 315-20-090	Form and content of decisions in contested cases and proposed orders.	WAC 315-11-461	Criteria for Instant Game Number 46.
WAC 315-20-100	Petitions for rule making, amendments or repeal—Who may petition.	WAC 315-11-462	Ticket validation requirements for Instant Game Number 46.
WAC 315-20-110	Petitions for rule making, amendments or repeal—Requisites.	WAC 315-11-470	Definitions for Instant Game Number 47 ("Fabulous Fifties").
WAC 315-20-120	Petitions for rule making, amendments or repeal—Agency must consider.	WAC 315-11-471	Criteria for Instant Game Number 47.
WAC 315-20-130	Petitions for rule making, amendments or repeal—Notice of disposition.	WAC 315-11-472	Ticket validation requirements for Instant Game Number 47.
WAC 315-20-140	Declaratory rulings.	WAC 315-11-480	Definitions for Instant Game Number 48 ("Black Jack").
WAC 315-20-150	Forms.	WAC 315-11-481	Criteria for Instant Game Number 48.
		WAC 315-11-482	Ticket validation requirements for Instant Game Number 48.
		WAC 315-11-490	Definitions for Instant Game Number 49 ("Play it Again").
		WAC 315-11-491	Criteria for Instant Game Number 49.
		WAC 315-11-492	Ticket validation requirements for Instant Game Number 49.
		WAC 315-11-500	Definitions for Instant Game Number 50 ("Wall Street").
		WAC 315-11-501	Criteria for Instant Game Number 50.
		WAC 315-11-502	Ticket validation requirements for Instant Game Number 50.
		WAC 315-11-510	Definitions for Instant Game Number 51 ("Double Dough").
		WAC 315-11-511	Criteria for Instant Game Number 51.
		WAC 315-11-512	Ticket validation requirements for Instant Game Number 51.
		WAC 315-11-520	Definitions for Instant Game Number 52 ("Grand Slam").
		WAC 315-11-521	Criteria for Instant Game Number 52.
		WAC 315-11-522	Ticket validation requirements for Instant Game Number 52.
		WAC 315-11-530	Definitions for Instant Game Number 53 ("Aces Wild").
		WAC 315-11-531	Criteria for Instant Game Number 53.
		WAC 315-11-532	Ticket validation requirements for Instant Game Number 53.
		WAC 315-11-540	Definitions for Instant Game Number 54 ("Two for the Money").
		WAC 315-11-541	Criteria for Instant Game Number 54.
		WAC 315-11-542	Ticket validation requirements for Instant Game Number 54.
		WAC 315-11-550	Definitions for Instant Game Number 55 ("Jackpot").
		WAC 315-11-551	Criteria for Instant Game Number 55.
		WAC 315-11-552	Ticket validation requirements for Instant Game Number 55.
		WAC 315-11-560	Definitions for Instant Game Number 56 ("Silver Bells").

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-11-400	Definitions for Instant Game Number 40 ("Double Header").
WAC 315-11-401	Criteria for Instant Game Number 40.
WAC 315-11-402	Ticket validation requirements for Instant Game Number 40.
WAC 315-11-410	Definitions for Instant Game Number 41 ("Three of a Kind").
WAC 315-11-411	Criteria for Instant Game Number 41.
WAC 315-11-412	Ticket validation requirements for Instant Game Number 41.
WAC 315-11-420	Definitions for Instant Game Number 42 ("Zodiac").
WAC 315-11-421	Criteria for Instant Game Number 42.
WAC 315-11-422	Ticket validation requirements for Instant Game Number 42.
WAC 315-11-430	Definitions for Instant Game Number 43 ("7-11-21").
WAC 315-11-431	Criteria for Instant Game Number 43.
WAC 315-11-432	Ticket validation requirements for Instant Game Number 43.
WAC 315-11-440	Definitions for Instant Game Number 44 ("Money Tree").
WAC 315-11-441	Criteria for Instant Game Number 44.
WAC 315-11-442	Ticket validation requirements for Instant Game Number 44.
WAC 315-11-450	Definitions for Instant Game Number 45 ("Pot O' Gold").
WAC 315-11-451	Criteria for Instant Game Number 45.
WAC 315-11-452	Ticket validation requirements for Instant Game Number 45.
WAC 315-11-460	Definitions for Instant Game Number 46 ("Big Wheel").

- WAC 315-11-561 Criteria for Instant Game Number 56.
- WAC 315-11-562 Ticket validation requirements for Instant Game Number 56.
- WAC 315-11-570 Definitions for Instant Game Number 57 ("Treasure Island").
- WAC 315-11-571 Criteria for Instant Game Number 57.
- WAC 315-11-572 Ticket validation requirements for Instant Game Number 57.
- WAC 315-11-580 Definitions for Instant Game Number 58 ("Photo Finish").
- WAC 315-11-581 Criteria for Instant Game Number 58.
- WAC 315-11-582 Ticket validation requirements for Instant Game Number 58.
- WAC 315-11-590 Definitions for Instant Game Number 59 ("Lucky Draw").
- WAC 315-11-591 Criteria for Instant Game Number 59.
- WAC 315-11-592 Ticket validation requirements for Instant Game Number 59.

WSR 93-12-105
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed June 1, 1993, 4:10 p.m.]

Original Notice.

Title of Rule: WAC 308-13-020 Qualifications for admittance to the examination, 308-13-022 Reexamination, 308-13-024 Application for examination, 308-13-025 Proctoring, 308-13-032 Licensing examination, and 308-13-100 Reinstatement.

Purpose: To clarify and distinguish exam qualifications from exam application as two separate activities. To clarify exam procedures and procedures for reinstatement of license. To repeal two sections that are no longer relevant.

Statutory Authority for Adoption: RCW 18.96.060.

Statute Being Implemented: For WAC 308-13-020 is RCW 18.96.070; for WAC 308-13-024 is RCW 18.96.080; for WAC 308-13-023 is RCW 18.96.090; and for WAC 308-13-100 is RCW 18.96.110 and 18.96.140.

Summary: These amendments separate the exam qualification from exam application, clarify the examination procedure and reinstatement of license procedures, and repeal two sections that are no longer relevant to the landscape architect examination application process.

Reasons Supporting Proposal: To clarify information that candidates must have to document eligibility for examination or reinstatement of license.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 2424 Bristol Court, Olympia, 753-6967.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment of WAC 308-13-020 Qualifications for admittance to the examination, clarifies eligibility

requirements for applicants seeking registration and better conforms the rule to implementing statute; new WAC 308-13-024 Application for examination, clarifies the administrative procedures to submit application for registration and examination in conformance to new implementing statute; the amendment of WAC 308-13-032 Licensing examination, needed to conform to new implementing statute and to specify the examinations required for registration; and the amendment of WAC 308-13-100 Reinstatement, needed to implement 1993 legislation and specify the administrative procedures for reinstatement of professional license.

Proposal Changes the Following Existing Rules: The repeal of WAC 308-13-022 Reexamination, is required with the amendment of WAC 308-13-032 which will include the reexamination administrative procedures; and the repeal of WAC 308-13-025 Proctoring, is required with the amendment of WAC 308-13-020 which eliminates the requirement for professional internship and the proctoring program.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Ground Floor Auditorium Conference Room, Tacoma Public Utilities Administration Building, 3628 South 35th Street, Tacoma, WA 98409-3115, on July 16, 1993, at 9:30 a.m.

Submit Written Comments to: James D. Hanson, Landscape Architect Board, P.O. Box 9649, Olympia, WA 98507-9649, TDD (206) 753-1966, FAX (206) 586-0998, by July 9, 1993.

Date of Intended Adoption: July 16, 1993.

May 26, 1993
 James D. Hanson
 Program Administrator

AMENDATORY SECTION (Amending Order PM 707, filed 2/12/88)

WAC 308-13-020 Qualifications for admittance to the examination. Applicants for the examination shall ~~((file with the director of licensing on or before March 15 an application, on forms provided by the board, accompanied by fee and verification of academic and practical training and such additional evidence as may be required to satisfy the board that the applicant has the following qualifications:~~

~~((1) Possession of good moral character, verified by five references, three from landscape architects and two from other persons.~~

~~((2) Attainment of at least eighteen years of age.~~

~~((3)) provide documentation verifying a minimum of seven years of any combination of academic and practical training experience approved by the board((,-e-g)).~~

~~((a)) (1) ACADEMIC TRAINING~~

~~((i)) (a) With a passing grade, 32 semester credit hours or ((48)) 45 quarter credit hours is considered to be one year. Any fraction, one-half year or greater, will be counted one-half year, and less than one-half year will not be counted.~~

~~((ii)) (b) A degree in landscape architecture or credits from ((a-registered)) an accredited college will be weighted at one hundred percent with a four year maximum credit for academic training.~~

~~((iii)) (c) Credits in landscape architecture from a college not((,-registered)) accredited may be weighted up to~~

PROPOSED

seventy-five percent with a three year maximum credit for academic training.

~~((iv))~~ (d) Credits in architecture or civil engineering will be weighted at fifty percent with a two year maximum credit for academic training.

~~((b))~~ (2) PRACTICAL TRAINING

~~((i))~~ (a) Practical training experience, work in landscape architecture and related work experience, will be measured in ~~((calendar years))~~ months.

~~((ii))~~ (b) No training prior to graduation from high school will be accepted.

~~((iii))~~ At least one year of practical training experience shall be attained after termination of academic training.

~~((iv))~~ Employment duration less than three months will not be counted.

~~((v))~~ One third of the required minimum practical training must be under the direct supervision of a landscape architect.

~~((vi))~~ Work under the direct supervision of a landscape architect will be weighted at one hundred percent, no limit.

~~((vii))~~ Work under the direct supervision of an architect, engineer, city or urban planner, nurseryman or landscape contractor will be weighted at seventy five percent, in any combination limited to two thirds of the required training experience.)

(c) Full time practical work experience must be at least thirty-five hours per week for a minimum of ten consecutive weeks; and part time practical work experience must be at least twenty hours per week for six or more consecutive months.

NEW SECTION

WAC 308-13-024 Application for examination. (1)

The application for examination must be submitted on forms approved by the board, accompanied by academic and/or practical experience verification to document eligibility under the provisions of RCW 18.96.070. Applications for admission to an examination if scheduled, must be submitted or postmarked not later than the following dates. If the cut-off date falls on a Saturday or Sunday, the postmark deadline will be the following Monday.

<u>Examination Months</u>	<u>Cut-off Dates</u>
June	April 1
December	October 1

(2) Examinees may retake any sections offered that have not been passed. Applications for examination or reexamination must be accompanied by the application fee for examination or reexamination and the appropriate examination fee as established by the director and published in chapter 308-13 WAC, landscape architect fees. For reexamination applicants, examination fees are listed by separate section.

(3) A completed application includes:

(a) A notarized application form LA 656-3;

(b) Three references from landscape architects having personal knowledge of the applicant's landscape architectural experience;

(c) Transcript of academic experience showing courses taken and degree received with registrar's seal/stamp/signature. Photocopies of transcripts are not acceptable;

(d) Verification of work experience;

(e) Application and examination fees.

(4) Notice of acceptance (examination admission letters) will be mailed to eligible applicants approximately six weeks prior to the examination along with detailed information as to times, place, and scheduled examination sections.

(5) Application fees for examination and reexamination are administrative charges and will not be refunded. The examination fees (cost of each test) may be refunded if notice of cancellation is received by the department prior to ordering of examinations from the national testing service.

AMENDATORY SECTION (Amending 92-10-030, filed 4/30/92, effective 5/31/92)

WAC 308-13-032 Licensing examination. The form of the examination required of applicants shall consist of a written and graphic examination. Subject to the provisions of RCW 18.96.090, the board adopts the landscape architectural registration examination and grading procedure prepared by the Council of Landscape Architectural Registration Boards (CLARB) as ~~((its))~~ the state examination ~~((to test the applicant's qualifications and minimum competency))~~ for registration.

~~((The board shall periodically, and in no event not less than once every year, review the passing grade score established by CLARB to ensure that such score conforms with the provisions of RCW 18.96.090. The board may convert raw scores received from CLARB to conform to the passing grade percentage established in RCW 18.96.090.~~

~~(1) Procedure for admittance to the examination:~~

~~(a) Upon completion of the qualifications for admittance to the examination under WAC 308-13-020, submit the completed application provided by the board, including fees. The complete application, including fees, must be post-marked by March 15th or earlier to be considered for the next scheduled examination.~~

~~(b) No application fee will be refunded because of withdrawal from the examination.~~

~~(c) Examination fees are refundable when notice of withdrawal is given prior to May 15th.~~

~~(d) A completed application includes:~~

~~(i) Notarized application form LA 656-3;~~

~~(ii) Three landscape architect references;~~

~~(iii) Transcript of academic experience showing courses taken and degree awarded with registrar's seal;~~

~~(iv) Verification of work experience;~~

~~(v) Application and examination fees.~~

~~(e) Notice of acceptance, along with preexamination information, will be mailed to accepted applicants approximately six weeks in advance of the examination, accompanied by specific details regarding the time and place of the examination.)~~ The ~~((written))~~ examination is administered according to the published national schedule.

~~((2) Examination scoring:~~

~~(a) The written parts of the examination are machine scored. The graphic parts of the examination are manually graded at the national grading session.~~

~~(b))~~ To pass the examination, an applicant must achieve a passing score of seventy-five percent on each of the sections of the examination. ~~((e))~~ Applicants are notified of their grades by mail. No grades are given by telephone.

~~((d))~~ Reexamination information shall be provided to candidates along with scores if the candidate has not passed all sections.

An applicant must successfully complete the entire examination within a five-year period. The five-year period shall begin with the month an applicant begins the examination process. Passing scores for any section of the examination may be carried forward for a period of five years from the date the applicant passed that section of the examination. Applicants shall retake any section of the examination which was passed more than five years previously, along with any section of the examination not yet passed.

AMENDATORY SECTION (Amending Order PL 511, filed 1/31/85)

WAC 308-13-100 Reinstatement of delinquent, suspended, or revoked licenses. ~~((A hearing with the board will be required of any person applying for restoration of a suspended or revoked license. The fee for reissue of license shall be the then current annual renewal fee.))~~ (1)(a) Reinstatement of a license, delinquent less than five years, requires a letter to the board administrator requesting reinstatement, payment of all delinquent renewal fees plus the current penalty fee.

(b) Reinstatement of a license, delinquent five or more years, requires a letter of application to the board requesting reinstatement, payment of all delinquent renewal fees plus the current penalty fee, a resume of landscape architectural activities and projects since the date of expiration, a detailed explanation of the circumstances surrounding the failure to maintain current licensure and a summary analysis of the law and rules governing landscape architects in sufficient detail to demonstrate a thorough understanding of the law and rules. Additional requirements may be established by the board.

(2) Requests for reinstatement of a suspended or revoked license shall be submitted in a letter of application to the board and shall include a resume of professional activities and projects since suspension or revocation, a summary analysis of the law and rules governing landscape architects in sufficient detail to demonstrate a thorough understanding of the law and rules and such other documents and materials as directed by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-13-022 Reexamination.
- WAC 308-13-025 Proctoring.

WSR 93-12-106
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed June 1, 1993, 4:26 p.m.]

Original Notice.

Title of Rule: Degree Authorization Act, chapter 250-62 WAC.

Purpose: Higher Education Coordinating Board needs rules in order to administer the Degree Authorization Act for certain degree-granting institutions which are required to be authorized by this agency in order to operate in the state of Washington.

Statutory Authority for Adoption: RCW 28B.80.370.
Statute Being Implemented: Chapter 28B.85 RCW.

Summary: Rules provide a basis for administrative implementation of the Degree Authorization Act. The rules are intended to serve as a supplement to the act, focusing primarily on provisions that require elaboration: Scope and purpose; duties of executive director; exemptions; educational standards; application, bonding, cancellation/refund, catalog, and closure requirements; and appeal, complaints, violations and hearings procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elaine Jones, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, (206) 586-4595.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The act provides that all nonexempted institutions must be authorized by the Higher Education Coordinating Board; pay an authorization fee; post a surety bond; and agree to comply with certain standards. In the event of a complaint or other evidence of a violation of these requirements, the institution is liable to certain fines, criminal sanctions, orders to cease and desist, judgments against their bond, and court injunctions. The rules provide a basis for administrative implementation of the act and elaborate the provisions of the act. The rules will strengthen exemption eligibility criteria; improve consumer protection and enhance educational standards; clarify the scope of the act; and streamline the application and review process.

Proposal Changes the Following Existing Rules: WAC 250-61-010 through 250-61-180 repealed.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Sheraton-Spokane Hotel, South A and B Ballroom, North 322 Spokane Falls Court, Spokane, WA 99201-0165, on July 14, 1993, at 9:00 a.m.

Submit Written Comments to: Elaine Jones, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, by July 1, 1993.

Date of Intended Adoption: September 16, 1993.

June 1, 1993

James C. Sainsbury

Acting Executive Director

Chapter 250-62 WAC
REGULATIONS FOR THE DEGREE AUTHORIZATION ACT

NEW SECTION

WAC 250-62-010 Scope and purpose. The Degree Authorization Act, chapter 28B.85 RCW establishes a requirement that degree-granting institutions operating in Washington obtain authorization from the Washington higher

education coordinating board, unless specifically exempted from the authorization requirement by the act. This chapter is promulgated by the board as a supplement to the act in order to establish necessary regulations for the authorization of degree-granting institutions. The standards set forth in this chapter also supplement the federal regulations governing institutions seeking approval from the appropriate Washington state approving agency (Washington higher education coordinating board or Washington work force training and education coordinating board) to offer degrees to persons eligible to receive benefits from the United States Department of Veterans' Affairs.

The purpose of the act is to insure fair business practices and adequate quality among degree-granting institutions operating in the state of Washington and to protect citizens against substandard, fraudulent, and deceptive practices.

The act applies to degree programs and academic credit courses offered within the state. The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.

A degree-granting institution shall not operate, conduct business, grant or offer to grant any courses or degree programs unless the institution has obtained authorization from the board or has been determined by the board to be exempt.

Institutions domiciled in Washington and accredited by the Northwest Association of Schools and Colleges seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans' Affairs shall meet the requirements of the appropriate Washington state approving agency.

Institutions domiciled in Washington and accredited by another association recognized by the United States Department of Education and out-of-state institutions operating in Washington accredited by any association recognized by the United States Department of Education seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans' Affairs shall first be authorized by the board and shall meet the requirements of the appropriate Washington state approving agency.

Nonaccredited institutions domiciled in Washington and nonaccredited out-of-state institutions operating in Washington seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans' Affairs shall first be authorized by the board and shall meet the requirements of the appropriate Washington state approving agency.

Institutions seeking approval for their professional education programs from the state board of education first must be accredited by an accrediting association recognized by the United States Department of Education and authorized or exempted by the board.

NEW SECTION

WAC 250-62-020 Previous regulations repealed.

Regulations previously adopted by this agency pursuant to chapter 28B.85 are repealed and superseded by this chapter. Degree-granting institutions authorized under the previous regulations shall be governed by the previous regulations, and are not required to reapply for authorization, until the

expiration date of such authorization. Degree-granting private vocational schools exempted under the previous regulations shall be required to apply for authorization within six months of the effective date of these regulations. Religious institutions exempted under the previous regulations shall be required to apply for religious exemption under these regulations within six months of the effective date of these regulations.

NEW SECTION

WAC 250-62-030 Delegation and board supervision. (See RCW 28B.80.430)

(1) Unless otherwise indicated, the board delegates authority for administering the act and these regulations to the executive director.

(2) Any action taken pursuant to these regulations by the executive director shall be subject to supervision by the board.

(3) All actions taken by the executive director pursuant to these regulations shall be reported periodically to the board for its review.

NEW SECTION

WAC 250-62-040 Duties of executive director. In addition to other administrative responsibilities vested in the executive director of the higher education coordinating board under the act and this chapter, the executive director shall carry out the following administrative responsibilities:

(1) Process authorization applications, fee payments, and bonds or security deposits, including the denial, issuance, and suspension of authorization.

(2) Process exemption applications, including the denial and issuance of exemption.

(3) Cause the payment of any unsatisfied final judgment against an authorized institution from the resources available through the institution's surety bond or other security deposit.

(4) Upon written notice from an authorized institution, release the surety on the institution's bond or return the institution's security deposit.

(5) In the event of impaired liability of the surety upon a bond, notify the institution of suspension until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.

(6) To the extent that there is a payment by a surety, release the bond to the extent of the payment.

(7) Establish and maintain all records stipulated under the provisions of the act and this chapter.

(8) Maintain a current inventory of degree-granting institutions authorized or exempted under this chapter, including student complaints against such institutions.

(9) The executive director may waive or modify the authorization requirements contained in this chapter for a particular institution if the executive director finds that such waiver or modification will not frustrate the purposes of this chapter and that literal application of this chapter creates a manifestly unreasonable hardship on the institution.

NEW SECTION

WAC 250-62-050 Definitions. The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.

(1) "Act" means the Degree Authorization Act, chapter 28B.85 RCW.

(2) "Board" means the Washington higher education coordinating board.

(3) "Executive director" means the executive director of the board or the executive director's designee.

(4) "Accrediting association" means a national, regional, or professional/specialized accrediting association which is recognized by the United States Department of Education.

(5) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.

(6) "College" means an institution which offers two-year and/or four-year programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.

(7) "University" means a multi-unit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to the doctorate.

(8) "Seminary" means an institution which offers one or more professional programs to candidates for the ministry, rabbinate, or priesthood.

(9) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(a) "Associate degree" means a lower division undergraduate degree that requires no fewer than sixty semester hours or ninety quarter hours.

(b) "Baccalaureate degree" means an undergraduate degree that requires no fewer than one hundred twenty semester hours or one hundred eighty quarter hours.

(c) "Master's degree" means a graduate degree that requires no fewer than twenty-four semester hours or thirty-six quarter hours beyond the baccalaureate degree.

(d) "Doctorate" degree means a postgraduate degree that requires no fewer than three years of full-time study beyond the baccalaureate degree.

(10) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

(11) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

(12) "Telecommunication instruction" means a course or series of courses or degree programs which have as their primary mode of delivery television, video, computer, film, or other electronic communications.

(13) "Credit hour" means the unit by which an institution measures its course work. The number of credit hours assigned to a course is defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit hour is usually assigned for three hours of student work per week or its equivalent, one hour of lecture and two of study or three hours of laboratory. Semester and quarter credit hours are the most common systems of measuring course work. A semester credit hour is based on a fifteen week calendar or its equivalent. A quarter credit hour is based on a ten week calendar or its equivalent.

(14) "Full-time faculty" means personnel who are appointed as such and have an annual contract related to teaching, research, and/or other aspects of the instructional programs of the institution.

(15) "Part-time faculty" means personnel usually assigned to teach one or more specific classes and perform class-related activities.

(16) "To operate" means to do business and/or to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are granted directly or through contracting.

(a) Offering courses in person, by correspondence, or electronic media, at any Washington location for degree credit, including electronic courses transmitted into the state of Washington.

(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

(c) Maintaining or advertising a Washington location, mailing address, or telephone number for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.

(17) "To offer" means to provide, advertise, or publicize education or educational credentials directly or through contracting. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(18) "Suspend" means that because of deficiencies, the board interrupts the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term.

NEW SECTION

WAC 250-62-060 Exemptions. The provisions of this chapter do not apply to:

(1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other education credentials in compliance with state law.

(2) Any public college, public university, public community college, or public technical college or institute operating as part of the public higher education system of Washington state.

(3) Any institution domiciled in Washington that is accredited and in good standing with the Northwest Association of Schools and Colleges, and accredited at the level(s) of the degree(s) proposed. Candidacy status or accreditation that is modified by probationary status shall disqualify an institution from this exemption provision.

(4) Any branch campus, extension center, or off-campus facility of an out-of-state institution operating in Washington that is separately accredited and in good standing with the Northwest Association of Schools and Colleges, and accredited at the level(s) of the degree(s) proposed. Accreditation that is modified by probationary status or candidacy status shall disqualify an institution from this exemption provision.

(5) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers instruction for other persons, the institution shall be subject to authorization.

(6) Tribally controlled Native American colleges.

(7) Institutions which offer program(s) of study of which the sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church-related and are represented in an accurate manner in institutional catalogs and other official publications: *Provided*, That an institution's degree programs, in title, curriculum content, and objectives, reflect the strictly religious nature of the institution.

(a) The following procedures shall be employed in the implementation of this subsection:

(i) The chief academic officer shall contact board staff and arrange for a preliminary conference to discuss the religious exemption standards and the application/review procedures.

(ii) A religious institution which is granted an exemption under this regulation shall place the following statement in a prominent position on the front page of any catalog, general bulletins, and course schedules: "The Washington Higher Education Coordinating Board has determined that (name of institution) qualifies for religious exempt status from the Degree Authorization Act for the following programs: (list). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board at P.O. Box 43430, Olympia, WA 98504-3430."

(iii) A religious institution which is granted a religious exemption is subject to biennial reporting, and maintenance of the conditions under which exemption is granted. Such institutions are prohibited from publicizing that they are accredited, unless they are accredited by an association recognized by the United States Department of Education and identify that association in any such statements or publicity.

(iv) In the case of a religious institution that offers both religious and secular programs of instruction, the requirements of chapter 28B.85 RCW and this chapter shall pertain only to the secular programs of the institution.

(b) The executive director shall suspend or revoke an institution's religious exemption if it is found that:

(i) Any statement contained in the application for exemption is untrue.

(ii) The institution has failed to maintain the conditions under which the exemption was granted.

(iii) Advertising or representations made on behalf of and sanctioned by the institution are deceptive or misleading.

(iv) The institution has violated any provision of the religious exemption regulations.

(c) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies

and has been given a reasonable time to regain compliance.

(8) Institutions not otherwise exempt which offer only workshops and seminars lasting no longer than three calendar days and for which academic credit is not awarded.

NEW SECTION

WAC 250-62-070 Interagency agreement for degree-granting private vocational schools. Degree-granting private vocational schools' programs shall be regulated pursuant to the terms of an interagency agreement between the higher education coordinating board and the work force training and education coordinating board. Copies of the agreement shall be available from either agency upon request.

NEW SECTION

WAC 250-62-080 Authorization standards. The following standards form the basis for review of an institution by board staff and guide decisions of the executive director and the board. To receive and maintain authorization, an institution shall meet each of the following requirements for administration, academic programs, and instructional resource and support services, as well as specific requirements of this chapter.

NEW SECTION

WAC 250-62-090 Administrative requirements. (1) **Name.** The official name of the institution shall be consistent with and appropriate to the program(s) of study offered.

(2) **Purpose.** The institution shall clearly define its mission or purpose in an official statement which describes its role in higher education. The statement shall reflect the actual practice of the institution.

(3) **Administration and governance.** The institution shall be governed by policies, regulations, or bylaws that clearly define the chain of responsibility or authority.

(a) Administrators shall be graduates of accredited institutions and shall be qualified by education and experience to provide competent leadership in their area of responsibility. The backgrounds of administrators, as a group, shall reflect diverse educational and professional experiences consistent with the mission of the institution.

(b) The main campus of the institution shall have, as a minimum, a chief executive officer, an academic officer, a registrar, a business officer, a student services officer, a library director, and, if financial aid services are offered, a financial aid officer. These officers shall be accessible to students, faculty, and other personnel located at the main campus and at educational sites or centers in Washington.

(i) The chief executive and academic officers shall possess at least the master's degree and experience in postsecondary management, teaching, and academic administration commensurate with the size and complexity of the institution.

(ii) The registrar, business, and student services officers shall possess at least the baccalaureate degree and experience in admissions/student records, accounting/managerial services, and student services respectively.

(iii) The financial aid officer and library director shall possess at least the baccalaureate degree and experience in their assigned areas.

(c) The institution shall specify an individual who will serve as the principal contact person for each educational site or academic center in Washington. This institutional representative shall be responsible for instructional program coordination and student services.

(d) The institution shall have policies and provisions for the involvement of faculty in the academic affairs, curriculum development, and governance of the institution. The institution also shall have policies and provisions for faculty selection, orientation, teaching load, supervision, evaluation, and professional development.

NEW SECTION

WAC 250-62-100 Academic program requirements.

(1) **Educational programs.** Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of the accrediting association(s) to which the institution would apply for institutional or program accreditation.

(a) An associate degree shall require at least ninety quarter credits or sixty semester credits. An associate degree intended for occupational preparation shall require, as a minimum, general education courses consistent with the standards established by the Washington state board for community and technical colleges. The general education requirements of all other associate degrees shall be consistent with the current guidelines of the Washington inter-college relations commission.

(b) The following associate degree designations shall be acceptable:

(i) The associate in arts (A.A.), associate in sciences (A.S.) and associate in arts and sciences (A.A.S.) degrees for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.

(ii) The associate in applied technology (A.A.T.) or the associate in technical arts (A.T.A.) degree for programs which emphasize preparation for occupations at the technical level. These programs generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer oriented.

(c) The baccalaureate degree shall require at least one hundred eighty quarter credits, one hundred twenty semester credits, or four full academic years of postsecondary study. The degree shall require approximately two academic years of study in a distinct major and related subjects and, as a minimum, thirty percent of the program shall be in general education curricula.

(d) Master's degree programs shall require a least thirty-six quarter credits, twenty-four semester credits, or one full academic year of postgraduate study, specialization in a academic or professional area, and a demonstration of mastery.

(e) The following master's degree designations shall be acceptable:

(i) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.

(ii) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc., for programs which emphasize professional preparation. For students with disparate academic backgrounds, it may be appropriate to require a limited number of introductory courses in the field.

(f) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.

(g) The following doctoral degree designations shall be acceptable:

(i) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.

(ii) A professional doctoral degree (Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.

(h) Home study, correspondence, and electronic media degree programs shall be comparable in content and faculty/academic support resources to those offered in residency, and include student-faculty interaction by computer, telephone, mail, and face-to-face meetings.

(i) Undergraduate credit for noncollegiate learning may be awarded when validated through a portfolio or similar procedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process. Noncollegiate learning credit shall constitute no more than twenty-five percent of an undergraduate degree program.

(j) No credit shall be awarded for noncollegiate learning at the graduate level.

(2) **Faculty.** Faculty shall be professionally prepared with degree levels and professional experience demonstrably higher than the instructional activities for which they are responsible. Faculty shall be graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse. The composition and qualifications of faculty shall generally meet the standards of the accrediting association(s) to which the institution would apply for institutional or program accreditation.

(a) Faculty teaching in an undergraduate degree program shall possess a master's degree in the assigned or related program area. Faculty teaching specialized courses of a vocational-technical nature shall possess educational credentials and practical experience compatible with their teaching assignment.

(b) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall possess an earned doctorate in a related

field and experience in teaching and directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall possess, as a minimum, a master's degree and documented achievement in a related field.

(c) Faculty teaching at the doctoral level shall possess an earned doctorate in a related field and experience in teaching and directing independent study and research.

(d) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services. At least twenty-five percent of the curriculum of each program offered each year on the main campus shall be taught by full-time faculty. At least twenty-five percent of the curriculum of each program offered each year at each location away from the main campus shall be taught by full-time faculty.

(3) **Admissions.** Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through preenrollment assessments, testing and advising (based on the characteristics of the institution) the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the American Council on Education.

(a) High school graduation or the equivalent shall be required for freshman admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs.

(b) This subsection is not intended to prohibit early admissions and dual-degree programs for which systematic procedures have been established and published in the institution's catalog.

(4) **Enrollment contract.** The institution shall not require a student to sign an enrollment contract before the student acknowledges in writing that he or she has discussed it with institutional personnel, and understands all financial obligations and responsibilities.

(5) **Evaluation.** The institution shall provide provisions for continual evaluation of educational programs, improvement of instruction, and overall operations of the institution.

(a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.

(b) All areas of the institution and its employees and authorized programs shall be evaluated periodically to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. At a minimum, every three years the institution's chief academic officer or designee shall conduct an on-site review of the Washington operation to ensure it meets institutional and authorization standards and submit the results of the review to board staff.

(a) Student records shall be maintained in accordance with the guidelines established by the American Association of Collegiate Registrars and Admissions Officers.

(b) Students with disabilities shall have access to and reasonable accommodations in all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.

(c) Placement services and employment opportunities shall be accurately described.

(d) Financial aid administration and distribution shall be performed according to institutional, state, and federal policies.

(e) Counseling and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.

(2) **Facilities and academic support resources.** The institution shall have space, facilities and equipment, instructional materials, and staff to support quality education and services.

(a) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.

(b) The institution shall provide reasonable accommodations for students and employees with disabilities. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.

(3) **Library.** The institution shall provide accessible library resources and facilities to support the educational needs of students and faculty.

(a) If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.

(b) The institution shall provide a biennial library operating budget which appropriates sufficient financial support to sustain library holdings, facilities, and services for the needs of the program(s) of study.

(4) **Finances.** The institution shall possess and maintain adequate financial resources necessary to sustain its purpose and commitment to students.

(a) Financial management and fiscal practices shall be consistent with the generally accepted standards issued by the financial accounting standards board and the National Association of College and University Business Officers.

(b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.

(5) **Recruitment and publications.** All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading.

(a) The institution shall provide disclosure statements in its catalog regarding its state degree authorization and its accreditation status.

(b) Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the board. Such institutions may only state that they are authorized by the board.

NEW SECTION

WAC 250-62-110 Instructional resources and support services requirements. (1) **Student services.** The institution shall provide adequate services for students in addition to formal instruction. These services normally shall include admissions, counseling and guidance, financial assistance, student records, and job placement.

(6) **Educational credentials.** The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.

(a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, correspondence, and credit by examination.

(b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.

(c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. Transcripts, records, and accounts shall be kept permanently after a student has discontinued enrollment.

NEW SECTION

WAC 250-62-120 Catalog requirements. (1) An institution shall publish a catalog, supplemented as necessary by other published materials, at least every two years. The catalog shall include at least the following information:

- (a) Official name, address, and telephone number of institution.
- (b) Identifying data, such as volume number, date of publication, and year(s) for which the catalog is effective.
- (c) A statement of purpose, objectives, and educational program of the institution.
- (d) A list of faculty and administrators, including their titles and academic qualifications.
- (e) A list of owners and/or board members, including their firms, professional titles, and residence.
- (f) A description of the objectives, requirements, and length of each program offered.
- (g) Admission, retention, and degree completion requirements.
- (h) A schedule of tuition and fees and other student charges.
- (i) Cancellation and refund policies.
- (j) Policies and procedures relative to the granting of credit for previous education and experience.
- (k) A statement of the institution's policy on acceptance of transfer credits and credits by examination.
- (l) A statement explaining the transferability of the institution's credits to other institutions and the process by which a student may determine whether the institution's credits are transferrable to another institution.
- (m) Policies and procedures for the development of individualized courses and programs.
- (n) A description of the types of financial aid assistance available to students.
- (o) A description of student support services and auxiliary services available to students.

(p) A description of the institution's library, facilities, and equipment.

(q) A table of contents and appropriate indexes.

(r) An institutional calendar showing legal holidays, beginning and ending dates of each term, and other important dates.

(s) Policies outlining students' academic responsibilities, standards of academic progress, grading policies, and reentrance policies for students dismissed for unsatisfactory progress.

(t) Regulations of conduct and disciplinary procedures.

(u) Name, title, and address/office location of personnel responsible for handling student complaints.

(v) An authorization statement on the cover or front page of the catalog which reads: "The (name of institution) is authorized by the Washington Higher Education Coordinating Board and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree Authorization Act. This authorization is valid until (expiration date) and authorizes (name of institution) to offer the following degree programs: (list). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board office at PO Box 43430, Olympia, WA 98504-3430." This authorization statement shall also be prominently displayed at each Washington instructional site.

(2) An institutional catalog and other official publications shall not include accreditation statements unless the institution is accredited by an association recognized by the United States Department of Education and the statements identify the association.

NEW SECTION

WAC 250-62-130 Cancellation and refund requirements. (1) An institution shall publish its cancellation and refund policies in clear language that can be easily understood by prospective students. No student shall be enrolled without having received the explanatory materials. These policies shall apply to all terminations for any reason, by either party.

(2) The refund policy for resident-based institutions, as a minimum, shall comply with the following requirements:

- (a) An applicant rejected by an institution shall be entitled to a refund of all money paid, less an application fee, not to exceed one hundred dollars.
- (b) All money paid by a successful applicant, less an application fee not to exceed one hundred dollars, shall be refunded to the applicant if requested in writing and post-marked within six business days after signing an enrollment agreement.
- (c) After the initial six-day period but before the first day of instruction, the tuition and fee charges retained by the institution shall not exceed ten percent of the tuition and fees paid for the current term.
- (d) Starting on the first day of classes and continuing through the first calendar week, the tuition and fee charges retained by the institution shall not exceed twenty-five percent of the tuition and fees paid for the current term.
- (e) Starting on the eighth calendar day and continuing through the fourteenth day, the tuition and fee charges

retained by the institution shall not exceed fifty percent of the tuition and fees paid for the current term.

(f) Starting on the fifteenth calendar day and continuing through the twenty-first day, the tuition and fee charges retained by the institution shall not exceed seventy-five percent of the tuition and fees paid for the current term.

(g) Refund computation shall be determined from the date on which the student initially requests cancellation or the date on which the institution withdraws a student.

(h) If a student, without written notice to the institution, fails to attend classes for thirty calendar days, the institution shall notify the student in writing that enrollment has been terminated, effective the thirtieth calendar day, and shall refund tuition and fees according to its published refund policy.

(i) The institution shall provide an exact pro rata refund to the student for any arbitrary and unilateral change by the institution of scheduled times of instruction, reduction in length of instruction, reduction of course content, or other actions that reduce the ratio of instruction to course costs.

(j) All money due to the applicant shall be refunded within thirty days after written notice of cancellation or termination.

(3) Tuition and fees shall be charged by the academic term.

(4) The institution shall give prior notice to the student of any changes in its tuition, fee, or refund policies.

(5) Correspondence, home study, telecommunications, and weekend programs shall have pro rata refund and cancellation policies consistent with those required for resident-based programs.

NEW SECTION

WAC 250-62-140 Surety bond requirement. (1) Before an institution shall be authorized, the institution shall provide the board with a surety bond or other security acceptable to the executive director. The amount of the surety bond or other security shall be ten percent of the preceding year's total tuition and fee charges received for educational services in Washington, but not less than twenty-five thousand dollars nor more than two hundred fifty thousand dollars.

(2) In the case of new institutions, the bond or security amount for the first year shall be twenty-five thousand dollars.

(3) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

NEW SECTION

WAC 250-62-150 Closure requirements. (1) In the event an institution proposes to discontinue its operation, the chief administrative officer of the institution shall:

(a) Immediately notify the executive director by certified mail.

(b) Furnish enrolled students with a written notice explaining reasons for closure, procedures required to secure refunds and official records, and what arrangements have been made for providing continuing instruction at other institutions.

(c) Provide for the permanent maintenance of official records acceptable to the executive director.

(2) In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the board, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.

NEW SECTION

WAC 250-62-160 Application requirements. (1) **Initial application requirements.**

(a) To apply for authorization, an institution based outside of Washington must be authorized to do business in the state in which it is primarily located, and must furnish evidence that the institution is in good standing with its accrediting association and that the association has either approved of or been notified of the proposed Washington operation(s).

(b) Institutions seeking initial authorization shall contact the board staff and arrange for a preliminary conference to discuss the authorization standards and application/review procedures.

(c) At least one year prior to operation, an institution shall apply to the board for authorization by completing an application form. As a minimum, the application shall include:

(i) Name and address of institution.

(ii) Purpose of institution.

(iii) Names and addresses of the owner(s) and shareholders holding more than ten percent interest in the institution, and if applicable, members of the institution's board.

(iv) Names and addresses of the chief administrative officer and representative(s) of the institution in Washington.

(v) Bylaws and regulations established for the governance and operation of the institution.

(vi) Bank or other financial institution that may be consulted as a financial reference.

(vii) Resumes for administrators and faculty and their respective duties, course assignments, and full-time/part-time employment status.

(viii) A description of the degrees to be offered, including course syllabi as requested, and provisions for evaluating the achievement of stated objectives.

(ix) Projected enrollments.

(x) A description of the facilities, equipment, and academic support resources.

(xi) A signed written statement from the chief administrative officer attesting to the truth and accuracy of the information provided and pledging that the institution shall comply with the requirements of the act and this chapter.

(d) An application shall be accompanied by the following:

(i) An initial application fee payable to the Washington state treasurer for two thousand dollars.

(ii) A surety bond or other form of security as specified in chapter 28B.85 RCW and this chapter.

(iii) A financial statement prepared by an independent certified public accountant and consistent with the general accounting principles established by the financial accounting standards board or the National Association of College and

University Business Officers, and a two-year budget for the proposed Washington operation.

(iv) A copy of enrollment agreements or student contracts.

(v) A copy of the institution's articles of incorporation and bylaws filed with the Washington state office of the secretary of state.

(vi) A copy of the institution's catalog.

(vii) Documentation verifying the institution's accreditation status and authorization status in primary location.

(viii) Documentation that fire, safety, and health codes are met by the institutional facility in Washington.

(e) If additional program(s) of study or new locations for existing programs are proposed during the current authorization period, the institution shall submit a supplemental application at least ninety days before the program is expected to be offered. The program(s) of study and location(s) shall be authorized prior to operation, which includes advertising and recruitment.

(2) Biennial renewal application requirements.

(a) At least six months prior to the expiration date of the institution's current authorization, the institution shall:

(i) Submit a renewal application fee payable to the Washington state treasurer for one thousand dollars.

(ii) Provide evidence of continued compliance with the surety bond or security requirement.

(iii) Submit a financial statement prepared by an independent certified public accountant and consistent with the general accounting principles established by the financial accounting standards board or National Association of Colleges and University Business Officers, and a two-year budget for the continuing Washington operation.

(iv) File a renewal application with a signed, written statement from the chief administrative officer, attesting to the truth and accuracy of the information provided in the renewal application and pledging continued compliance with all the requirements of the act and this chapter.

(b) A change of ownership or control of an institution shall nullify any previous authorization, and the chief administrator representing the new owner(s), shall comply with all the application requirements applicable to the initial application for authorization outlined in this section. If the chief administrator furnishes a written statement asserting that all conditions set forth in the act and these regulations are being met or will be met before offering instruction, the executive director may issue a temporary certificate of authorization for a maximum of ninety days.

NEW SECTION

WAC 250-62-170 Application review procedures.

(1) **Staff analysis.** Following receipt of a complete application, board staff shall review and analyze the application and supporting documentation.

(2) **Site visit and additional documentation.** In the case of an application where the board staff determines it is necessary to verify or supplement the information provided in the application, the staff shall require additional written documentation and/or arrange for a site visit.

(3) **Outside consultants.** At their discretion, board staff shall use the expertise of other higher education profession-

als to assist in a site visit and in the evaluation of the documentation submitted.

(4) **Staff report.** Following the analysis, board staff shall summarize their findings and develop a recommendation for the executive director's consideration. This recommendation shall be shared with the applicant and shall include one of the following three findings:

(a) That the institution be granted authorization, subject to biennial reporting and compliance with the standards set forth in these regulations or implied in the statute.

(b) That the institution be granted conditional authorization, subject to annual reporting and compliance with the standards set forth in these regulations or implied in the statute.

(c) That the institution be denied authorization.

(5) **Authorization notification.** Following the executive director's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the executive director to the chief academic officer of the institution. The letter shall serve as official authorization for the institution to operate in Washington and offer the stated program(s) of study at the stated location(s).

(6) To receive reconsideration for authorization, an institution denied authorization shall file a new application.

NEW SECTION

WAC 250-62-180 Suspension and revocation of authorization. (1) The executive director shall suspend or revoke an institution's authorization if it is found that:

(a) Any statement contained in the application for authorization is untrue.

(b) The institution has failed to maintain faculty, facilities, equipment, and programs of study on the basis of which the authorization was granted.

(c) Advertising or representations made on behalf of and sanctioned by the institution are deceptive or misleading.

(d) The institution has violated any provision of this chapter.

(2) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given reasonable time to restore itself to the level of the required standards.

(3) Actions of the executive director and the board are subject to due process hearing procedures of the Washington Administrative Procedure Act.

NEW SECTION

WAC 250-62-190 Complaints. A student with a complaint against an authorized institution shall make a reasonable effort to resolve the complaint directly with the institution. If a mutually satisfactory solution cannot be reached, the following procedure shall be followed:

(1) Upon written receipt of a complaint that an institution has failed or is failing to comply with provisions of the act or this chapter, and documentation that a reasonable effort was made to resolve the complaint directly with the institution, the executive director shall notify the institution by mail of the nature of the complaint and shall conduct an investigation.

(2) If preliminary findings indicate that a violation(s) may have occurred or is occurring, the executive director

shall attempt, through mediation and conciliation, to effect compliance and achieve a settlement.

(3) If no agreement is reached, the executive director shall file a formal complaint with the board and notify the institution of the conduct which prompted the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for revocation, suspension or other actions deemed proper after the hearing.

(4) To be considered by the board, a complaint shall be filed within one year after the student's last recorded date of attendance.

NEW SECTION

WAC 250-62-200 Appeal. Any dispute arising from the following actions shall require a hearing pursuant to this chapter:

- (1) A denial of exemption.
- (2) A denial of authorization.
- (3) A cease and desist order issued under the provisions of chapter 28B.85 RCW.

NEW SECTION

WAC 250-62-210 Hearings. Any hearing called for under the act shall be conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW.

(1) The presiding officer, who shall be the executive director or the hearing officer designated by the executive director, shall conduct the hearing under the provisions of chapter 34.05 RCW and shall enter an initial order under RCW 34.05.461 (2) through (9).

(2) The board shall review the initial order under RCW 34.05.464 and either enter a final order or remand the matter for further proceedings under RCW 34.05.464(7).

(3) If the challenged agency action is upheld, the party that initiated the hearing process shall pay the costs of the administrative hearing within sixty days following final disposition of the matter.

(4) Any further review of final action must be taken in accordance with RCW 34.05.510 et seq.

WSR 93-12-108
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed June 2, 1993, 8:17 a.m.]

Original Notice.

Title of Rule: Amending chapter 173-322 WAC, Remedial action grants.

Purpose: Establishes the eligibility criteria for grants to local governments to provide drinking water through public water systems to areas contaminated by hazardous waste sites; increases the funding limit for site hazard assessments; allows limited funding for landfill closure; and eliminates funding for routine cleanups.

Statutory Authority for Adoption: RCW 43.21A.080.

Statute Being Implemented: Chapter 70.105D RCW.

Summary: This amendment increases the remedial action grant program's effectiveness by allowing timely assistance to local governments for the health threats from drinking water contaminated by hazardous waste sites. The amendment increases the program's efficiency by providing for increased participation by local governments in assessing site hazards and eliminating the little-used routine cleanup provision, and it responds to the needs of local governments for assistance with landfill closure costs as part of remedial action.

Name of Agency Personnel Responsible for Drafting: Julia Woods, Lacey, Washington, 438-7265; Implementation and Enforcement: Dan Swenson, Lacey, Washington, 438-7474.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment increases the remedial action grant program's effectiveness by establishing eligibility criteria for grants to local governments to provide drinking water through public water systems to areas contaminated by hazardous waste sites. It also increases the program's efficiency by providing for increased participation by local governments in assessing site hazards through increasing the funding limit for this purpose, eliminating the little-used provision for routing cleanups and responding to the needs of local governments for assistance with landfill closure costs as part of remedial action.

Proposal Changes the Following Existing Rules: Adds grants for drinking water projects; increases the funding limits for site hazard assessments from \$50,000 to \$200,000 per health district/department per biennium; allows limited funding for landfill closure as part of remedial action; and eliminates the provision for routine cleanup funding.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The purpose of chapter 173-322 WAC is to establish eligibility criteria and funding requirements for a program of Department of Ecology grants to local governments for remedial action pursuant to RCW 70.105D.7 [70.105D.070] (3)(a) and (7).

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an impact on more than 20 percent of all industry or 10 percent of the businesses in any one industry be reviewed and altered to minimize their impact on small businesses. Small businesses are defined as businesses which have less than 50 employees.

The rule proposed has been reviewed. The Department of Ecology has determined that because the proposed rule amendment pertains to a grant program rather than a regulatory program requiring compliance activities by businesses, the rule will not impose an economic burden on business in general or small business in particular. The primary impact of the rule will be to relieve ratepayers and taxpayers of a portion of the financial burdens of cleaning up some local governments' hazardous waste sites.

Therefore, the Department of Ecology has determined that a small business economic impact statement is not required for the proposed rule.

Hearing Location: July 7, 1993, Department of Ecology Waste Management Grants Office, 677 Woodland Square Loop S.E., Lacey, on July 7, 1993, at 4 - 6 p.m.

Submit Written Comments to: Julia Woods, Waste Management Grants Section, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by July 16, 1993.

Date of Intended Adoption: August 30, 1993.

June 1, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-010 Purpose and authority. This chapter recognizes that the state contains hundreds of hazardous waste sites which threaten the state's water resources, including those used for public drinking water; that many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and the environment; and that the costs of eliminating these threats in many cases are beyond the financial means of local governments and ratepayers.

~~((The purpose of this chapter is to establish))~~ This chapter establishes requirements for a program of grants to local governments for remedial action pursuant to RCW 70.105D.070 (3)(a) and (7). The department ~~((shall))~~ may provide grants to local governments for remedial actions including site hazard assessments, ~~((remedial investigations, feasibility studies, pilot studies, remedial designs, interim actions, and cleanup actions at hazardous waste sites))~~ site study and remediation, and safe drinking water actions.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-020 Definitions. ~~((+))~~ Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

~~((2))~~ "Act" means the "Model Toxics Control Act," chapter 70.105D RCW

~~((3))~~ "Agreed order" means an order issued under WAC 173-340-530.

~~((4))~~ "Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action.

~~((5))~~ "Consent order" means an order issued under chapter 90.48 or 70.105B RCW.

~~((6))~~ "Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to WAC 246-293-110(10).

"Decree" means a consent decree under ~~((WAC 173-340-520))~~ chapter 70.105D RCW. "Consent decree" is synonymous with decree.

~~((7))~~ "Department" means the department of ecology.

~~((8))~~ "Enforcement order" means an order issued under WAC 173-340-540.

~~((9))~~ "Grant agreement" means a binding agreement between the local government and the department that authorizes the transfer of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

~~((10))~~ "Hazard ranking" means the ranking for hazardous waste sites ~~((to be))~~ used by the department pursuant to chapter 70.105D RCW.

~~((11))~~ "Hazardous substances" means any substances as defined in WAC 173-340-200(19).

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

~~((12))~~ "Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or decree.

~~((13))~~ "Interim action" means a remedial action conducted under WAC 173-340-430 that partially addresses the cleanup of a site.

~~((14))~~ "Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

~~((15))~~ "Minimum functional standards" means the requirements of chapter 173-304 WAC, the minimum functional standards for solid waste handling.

~~((16))~~ "National ~~((Priority))~~ Priorities List (NPL)" means a list of hazardous waste sites at which the United States Environmental Protection Agency intends to proceed with enforcement or cleanup action.

~~((17))~~ "Oversight costs" are remedial action costs of the department or the United States Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

~~((18))~~ "Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

~~((19))~~ "Potentially liable person (PLP)" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

~~((20))~~ "Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor or and used primarily in connection with the system and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Remedial action" means any action or expenditure to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the

environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

~~((21))~~ "Remedial design (RD)" means an engineering study during which technical plans and specifications are developed to guide subsequent cleanup action at a hazardous waste site.

~~((22))~~ "Remedial investigation/feasibility study (RI/FS)" means a study intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action.

~~((23))~~ "Routine cleanup action" means a remedial action that consists of a cleanup action meeting the requirements in WAC 173-340-130(7).

~~((24))~~ "Safe drinking water" means water meeting drinking water quality standards set by WAC 246-290-310.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide potable water through public water systems to areas contaminated by hazardous waste sites.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Site study and remediation" means remedial investigation, feasibility study, pilot study, remedial design, interim action or cleanup action at hazardous waste sites at which a local government is a potentially liable person (PLP) identified by the department.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste investigation and cleanup.

(2) Nothing in this chapter shall modify the legal settlements and enforcement orders the department has secured with potentially liable (~~parties~~) persons for remedial action. The execution of remedies pursuant to court order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-040 ((General)) Applicant eligibility. ~~((1))~~ Appropriation and allocation of funds. Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.

~~((2))~~ Remedial action grants shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

~~((3))~~ The department may fund all or portions of eligible grant applications. (1) All applicants must be local governments as defined in this chapter.

(2) Site study and remediation grants. Eligibility for site study and remediation grants is limited to applicants that meet the following standards.

(a) The applicant must be a local government which is a potentially liable person (PLP) at a hazardous waste site. The local government may be the sole PLP, or there may be other PLPs at the site.

(b) The local government must meet one of the following standards:

(i) The department must have required the local government to perform some phase of remedial action. That requirement may take any of the following forms, hereinafter referred to as "order or decree": A consent decree under chapter 70.105D or 70.105B RCW requiring remedial action at the site, or an enforcement order or an agreed order under chapter 70.105D or 70.105B RCW prior to March 1, 1989, requiring remedial action at the site, or an enforcement order or a consent order under chapter 90.48 RCW requiring remedial action at the site or an amendment to such an order subsequent to March 1, 1989.

(ii) The local government which is also a potentially responsible party under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) must have entered into a decree requiring remedial action at a hazardous waste site with the United States Environmental Protection Agency, provided that such agreement has been signed or acknowledged by the department in writing as a sufficient basis for remedial action grant funding.

(iii) The local government must have signed an agreement with the department requiring another PLP to perform remedial action at a landfill site and that agreement must take one of the forms specified in (b)(i) of this subsection. The local government must also have entered into an agreement with that PLP to reimburse the PLP for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.

(3) Safe drinking water action grants. Eligibility for safe drinking water action grants is limited to applicants who meet the following standards:

(a) The applicant must be a local government purveyor as defined in WAC 173-322-020 or be a local government applying on behalf of a purveyor.

(b) The subject water system must be in an area determined by the department of ecology to be a hazardous waste site.

(c) The subject water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) exceeding standards set by WAC 246-290-310 or EPA standards as determined by the department of health, or exhibit levels of contamination which exceed the standards set by WAC 173-340-700 as determined by the department of ecology, or be certified by the state public health officer as constituting an imminent threat to public

health which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance, but not nitrate alone or trihalomethanes alone.

(d) An order or decree must be issued to the identified potentially liable persons requiring that safe drinking water be provided to the contaminated area as a remedial action; except if the department has determined that no viable potentially liable persons exist, this requirement is waived.

(e) If water line extensions are included in the proposed projects, such extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

(4) Site hazard assessment grants. The purpose of site hazard assessment grants is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site. Eligibility for site hazard assessment grants is limited to applications that meet the following standards:

(a) The applicant must be a local health district or department.

(b) The scope of work for a site hazard assessment must conform to WAC 173-340-320 and prescribed guidelines issued by the department.

(c) The assessment must be for sites agreed to by the department.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-050 ((~~Applicant~~) **Project and cost eligibility.** ((~~1~~) All applicants must be local governments as defined in this chapter.

(~~2~~) Any local government is eligible to apply for a remedial action grant, except that only a local health district may apply for a site hazard assessment grant.

(~~3~~) Eligibility for all remedial action grants except site hazard assessment grants is limited to applicants that meet the following standards:

(a) The applicant must be a local government which is a potentially liable person (PLP) at a hazardous waste site. The local government may be the sole PLP, or there may be other PLPs at the site.

(b) The local government must meet one of the following standards:

(i) The department must have required the local government to perform some phase of remedial action. That requirement may take any of the following forms, hereinafter referred to as "order or decree": A consent decree under chapter 70.105D or 70.105B RCW requiring remedial action at the site, or an enforcement order or an agreed order under chapter 70.105D or 70.105B RCW requiring remedial action at the site, or an enforcement order or a consent order under chapter 90.48 RCW requiring remedial action at the site prior to March 1, 1989, or an amendment to such an order subsequent to March 1, 1989.

(ii) The local government which is also a potentially responsible party under the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) must have entered into a decree requiring remedial action at a hazardous waste site with the United States Environmental Protection Agency, provided that such agreement has been signed or acknowledged by the department in writing as a sufficient basis for remedial action grant funding.

(iii) The local government must have signed an agreement with the department requiring another PLP to perform remedial action at a landfill site and that agreement must take one of the forms specified in (b)(i) of this subsection. The local government must also have entered into an agreement with that PLP to reimburse the PLP for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.) (1) Costs for site study and remediation.

(a) Eligible costs include reasonable costs, including sales tax, incurred in performing:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Landfill closures as required by chapter 173-304 WAC if included in the order or decree for remedial action, and as limited by WAC 173-322-090;

(vii) Other remedial action included in the order or decree for remedial action;

(viii) Capital costs of long-term monitoring systems;

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs:

(i) Retroactive costs except as limited by WAC 173-322-100;

(ii) Legal fees and penalties;

(iii) Oversight costs;

(iv) Operating and maintenance costs after the first year of accomplishing the remedial action;

(v) Operating and maintenance costs of long-term monitoring;

(vi) Costs incurred in conducting independent remedial actions;

(vii) At sites other than landfills, additional ineligible costs will include costs incurred to meet departmental requirements for source control and prevention.

(2) Costs for safe drinking water actions.

(a) Eligible costs include reasonable costs, including sales tax, imposed for:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Fire hydrants;

(vi) Project inspection, engineering, and administration;

(vii) Other costs identified by the state department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards;

(viii) Individual service connections, including installation charges and service meters, on the condition that a utility local improvement district (ULID) has been formed which includes the area requiring safe drinking water for the purpose of paying for a portion of project costs;

(ix) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard according to WAC 173-160-415;

(x) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds.

(b) Ineligible costs include:

(i) Components of hook-up fees which cover system capital costs;

(ii) Legal fees and penalties;

(iii) Ecology oversight costs;

(iv) Latecomer charges;

(v) Operating and maintenance costs;

(vi) Retroactive costs except as limited by WAC 173-322-100.

(3) Costs for site hazard assessments. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority-setting process.

(4) Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-060 ((Applicant screening and evaluation)) **Application process.** (((1) Remedial action grant applications, except those for site hazard assessments, will be evaluated by the department on a first come, first served basis. If pending grant applications exceed available funding, then the department may prioritize applications in accordance with subsection (4) of this section.

(2) Remedial action grant applications must:

(a) Include a commitment by the local government for local funds to match grant funds according to the requirements of WAC 173-322-080.

(b) Include a scope of work which accomplishes the requirements of an order or decree with the department except for the site hazard assessments, which must include a scope of work which conforms to the requirements of WAC 173-340-320(4).

(3) Routine cleanup actions must meet the criteria under WAC 173-340-130(7).

(4) When pending grant applications, except those for site hazard assessments, exceed the amount of funds available, the department may prioritize applications based upon the following criteria:

(a) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the United States Environmental Protection Agency's National Priority List ranking. Higher ranking sites will receive a

higher funding priority, except that routine cleanup actions may have lower ranking.

(b) Continuity of commitment. Higher priority will be given to projects which continue cleanup work at a hazardous waste site where the department has previously provided grant funding assistance.

(c) Evidence that the grant will expedite cleanup.

(d) Readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) Until June 30, 1991, those local governments that applied for remedial action grants during the 1988 application period, and that meet the eligibility requirements of WAC 173-322-050(3), will be given funding priority for all remedial action grants, except site hazard assessment grants.

(6) Site hazard assessment grants will be evaluated and prioritized for funding based upon the following criteria:

(a) Potential public health or environmental threat from the site.

(b) Ownership of the site. Publicly owned sites will receive priority over privately owned sites.

(c) Evidence that the assessment will expedite cleanup.)

(1) Application period. The department shall determine appropriate application periods.

(2) Grant applications must:

(a) Include a commitment by the applicant for local funds to match grant funds according to the requirements of WAC 173-322-090.

(b) Include a scope of work which accomplishes the requirements of an order or decree with the department except for site hazard assessments, which must include a scope of work which conforms to the requirements of WAC 173-340-320(4).

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-070 ((Eligible costs)) **Application evaluation and prioritization.** (((1) Costs for remedial action at landfills.

(a) Eligible costs include reasonable costs incurred in performing:

(i) Site hazard assessments.

(ii) Remedial investigations.

(iii) Feasibility studies.

(iv) Remedial designs.

(v) Pilot studies.

(vi) Interim actions.

(vii) Cleanup actions required by order or decree with the department, including costs of activities to close a landfill in excess of the requirements of chapter 173-304 WAC.

(viii) Capital costs of long term monitoring systems.

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(x) At a landfill which has been closed according to the requirements of chapter 173-301 WAC, costs to upgrade the landfill closure that are required by the department as part of cleanup action at the site.

(xi) For economically disadvantaged local governments, costs to close a landfill that are required for cleanup by order

or decree with the department, including costs of the closure requirements of chapter 173-304 WAC.

~~(b) Ineligible costs:~~

~~(i) Costs to close a landfill according to the requirements of chapter 173-304 WAC, except for landfills of economically disadvantaged local governments.~~

~~(ii) Retroactive costs except as limited by WAC 173-322-110.~~

~~(iii) Legal fees and penalties.~~

~~(iv) Oversight costs.~~

~~(v) Operating and maintenance costs after the first year of accomplishing the remedial action.~~

~~(vi) Operating and maintenance costs of long-term monitoring.~~

~~(vii) Costs incurred in conducting independent remedial actions.~~

~~(2) Costs for remedial actions at sites other than landfills.~~

~~(a) Eligible costs will include, in addition to costs listed in subsection (1)(a) of this section, costs incurred to perform remedial action required by order or decree with the department.~~

~~(b) Ineligible costs will include, in addition to costs listed in subsection (1)(b) of this section, costs incurred to meet departmental requirements for source control and prevention.~~

~~(3) Costs for site hazard assessments. Eligible costs include activities performed pursuant to WAC 173-340-320.~~

~~(4) Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement.) (1) When pending grant applications for site study and remediation grants exceed the amount of funds available, the department may prioritize applications based upon the following criteria:~~

~~(a) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the United States Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority.~~

~~(b) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

~~(2) When pending grant applications for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications based on the following criteria:~~

~~(a) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority.~~

~~(b) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

~~(c) Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems.~~

~~(3) When pending grant applications for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications based on the following criteria:~~

~~(a) Potential public health or environmental threat from the sites.~~

(b) Ownership of the sites. Publicly-owned sites will receive priority over privately-owned sites.

(c) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-080 ((State assistance share.)) Allocation of grant funding. ((1) Costs eligible under WAC 173-322-070 (1)(a) and (2)(a) will be considered for grant funding at up to fifty percent.

(2) Costs eligible under WAC 173-322-070 (1)(a) and (2)(a) and that are for routine cleanup actions will be considered for grant funding of up to one hundred percent for the first fifty thousand dollars of eligible costs. No grant for routine cleanup action shall exceed fifty thousand dollars.

(3) Costs for site hazard assessments which are eligible under WAC 173-322-070(3) will be considered for grant funding of up to one hundred percent for the initial twenty-five thousand dollars of costs, and up to fifty percent for the next fifty thousand dollars of eligible costs. No grant for site hazard assessment shall exceed fifty thousand dollars.

(4) In addition to grant funding under this section, economically disadvantaged local governments may apply for up to twenty-five percent supplemental funding, not to exceed seventy-five percent of eligible costs. This additional funding will be contingent on satisfactory demonstration of extraordinary financial need.

(5) If a decree or order requires a PLP other than a local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding.

(6) For applicants eligible under WAC 173-322-050 (3)(b)(iii), funding from either the local government or the PLP may be used to match remedial action grant funds.) In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants. Within that administrative allocation, the department will allocate subamounts for site study and remediation grants, safe drinking water action grants, and site hazard assessment grants. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-090 ((Grants to economically disadvantaged local governments.)) State assistance share, local cash match, economic disadvantage, and role of potentially liable persons. ((1) This section authorizes a program of grants to assist economically disadvantaged local governments to pay for remedial action required by the department at landfill sites.

(2) A local government is considered economically disadvantaged if it is a county, or a local government within a county, which meets both of the following criteria:

(a) Per capita income, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

~~(b) It is economically distressed as defined by chapter 43.165 RCW.~~

~~(3) The department will include a list of counties which are economically disadvantaged as defined herein in the guidelines for remedial action to be published on a biennial basis.~~

~~(4) The department will consider applications from economically disadvantaged local governments which meet the applicant eligibility requirements of WAC 173-322-050(3-)) (1) Costs eligible under WAC 173-322-050 (1)(a) and (2)(a) and (b) will be considered for grant funding at up to fifty percent, except that no single landfill closure project shall be eligible for more than five hundred thousand dollars in grant assistance.~~

~~(2) Costs for site hazard assessments which are eligible under WAC 173-322-050(3) will be considered for grant funding of up to one hundred percent. No grant for site hazard assessment shall exceed two hundred thousand dollars per health district or department per biennium.~~

~~(3) Grant funding for economically disadvantaged local governments.~~

~~(a) In addition to grant funding under subsection (1) of this section, economically disadvantaged local governments may apply for up to twenty-five percent supplemental funding, not to exceed seventy-five percent of eligible costs. This additional funding will be contingent on satisfactory demonstration of extraordinary financial need.~~

~~(b) A local government is considered economically disadvantaged if it is a county, or a local government within a county, which meets both of the following criteria:~~

~~(i) Per capita income, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and~~

~~(ii) It is economically distressed as defined by chapter 43.165 RCW.~~

~~(c) The department will include a list of counties which are economically disadvantaged as defined herein in the guidelines for remedial action to be published on a biennial basis.~~

~~(4) If a decree or order requires a PLP other than a local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding.~~

~~(5) For applicants eligible under WAC 173-322-040 (2) and (3), funding from either the local government or the PLP may be used to match remedial action grant funds.~~

~~(6) As established by chapter 70.105D RCW and implementing regulations, the potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant program may not be used to circumvent the PLP responsibility.~~

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-100 (~~(Grants for site hazard assessments-))~~ Fiscal controls. (~~((1) This section authorizes a program of grants to local health districts to perform site hazard assessments at suspected hazardous waste sites. The purposes of this program are to supplement department efforts to rank hazardous waste sites, to encourage local~~

~~government initiative in the cleanup of hazardous waste sites, and to expedite cleanup actions.~~

~~(2) The grant may assist hazard assessment at any site, but public sites will receive priority.~~

~~(3) The scope of work for a site hazard assessment will conform to WAC 173-340-320 and prescribed guidelines issued by the department.~~

~~(4) The department retains the authority to review and verify the results of a site hazard assessment.~~

~~(5) The assessment must be for a site not previously assessed by the department or the United States Environmental Protection Agency.~~

~~(6) No local health district may receive more than one site hazard assessment grant per biennium-)) (1) The department will establish reasonable costs for all grants, require applicants to manage projects in a cost effective manner, and ensure that all potentially liable persons (PLPs) assume responsibility for remedial action.~~

~~(2) The department retains the authority to issue grants which reimburse the recipient for less than the maximum percentage allowable under WAC 173-322-090.~~

~~(3) Cap on site funding. After the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate a grant agreement. The grant amount in this agreement will be the final department remedial action grant fund commitment for cleanup at that hazardous waste site. Grant agreements may be amended, but requests to increase the remedial action grant budget at that site will receive a lower priority than other applications.~~

~~(4) Retroactive funding. Grant funding of costs already incurred prior to the date of the grant agreement may be allowed to local government PLPs where the order or decree with the department postdates March 1, 1989, under one or more of the following circumstances:~~

~~(a) If the grant application period is closed when the order or decree becomes effective;~~

~~(b) If the department unreasonably delays the processing of a remedial action grant application;~~

~~(c) If there are inadequate funds in the local toxics control account to cover the entire scope of work required by decree or order; and/or~~

~~(d) If remedial actions not required by decree or order have proceeded, grants for this work may be made if the department later formally includes such work items in a decree or order.~~

~~(5) Reimbursement of grant funds. If the department awards remedial action funds to a local government that pursues a successful settlement action against a PLP who has not settled with the department, then the department shall be reimbursed for a proportional share of the settlement, after the local government's legal fees in pursuing such contribution have been deducted.~~

AMENDATORY SECTION (Amending Order 89-45, filed 5/1/90, effective 6/1/90)

WAC 173-322-110 (~~(Fiscal controls-))~~ Grant administration. (~~((1) Cap on site funding. After the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an~~

~~eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate a grant agreement. The grant amount in this agreement will be the final department remedial action grant fund commitment for cleanup at that hazardous waste site. Grant agreements may be amended, but requests to increase the remedial action grant budget at that site will receive a lower priority than other applications.~~

~~(2) Retroactive funding. Grant funding of costs already incurred prior to the date of the grant agreement may be allowed to local governments where the order or decree with the department postdates March 1, 1989, under one or more of the following circumstances:~~

~~(a) If the grant application period is closed when the order or decree becomes effective;~~

~~(b) If the department unreasonably delays the processing of a remedial action grant application;~~

~~(c) If there are inadequate funds in the local toxics control account to cover the entire scope of work required by decree or order; and/or~~

~~(d) If remedial actions not required by decree or order have proceeded, grants for this work may be made if the department later formally includes such work items in a decree or order.~~

~~(3) Reimbursement of grant funds. If the department awards remedial action funds to a local government that pursues a successful settlement action against a PLP who has not settled with the department, then the department shall be reimbursed for a proportional share of the settlement, after the local government's legal fees in pursuing such contribution have been deducted.) (1) Local governments will be periodically informed of the availability of remedial action grant funding.~~

~~(2) A grant application package will be sent to all parties expressing interest in remedial action grants and to all local governments that have been required by decree or order to perform remedial actions. Grant application packages will include grant guidelines and application forms.~~

~~(3) Application must be made within sixty days after the date that a decree or order becomes effective.~~

~~(4) The department will prepare a guidance manual on a biennial basis to assist grant applicants and to facilitate compliance with this regulation.~~

~~(5) Appropriation and allocation of funds. Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.~~

~~(6) Remedial action grants shall be used to supplement local government funding and funding from other sources to carry out required remedial action.~~

~~(7) The department may fund all or portions of eligible grant applications.~~

WSR 93-12-109
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 92-32—Filed June 2, 1993, 8:24 a.m.]

Original Notice.

Title of Rule: Chapter 173-303 WAC, Dangerous waste regulations.

Purpose: Chapter 173-303 WAC is being amended to adopt rules EPA requires us to adopt in order to update and maintain authorization to implement the hazardous waste program in Washington, and amend the rules for clarification and to make them effective, practical and implementable.

Statutory Authority for Adoption: Chapters 70.105 and 70.105D RCW.

Statute Being Implemented: Chapters 70.105 and 70.105D RCW.

Summary: Rules are being proposed for adoption at this time following eighteen months of rule development.

Reasons Supporting Proposal: The dangerous waste program amends the dangerous waste regulations approximately every eighteen months to adopt federal regulations and update the rules.

Name of Agency Personnel Responsible for Drafting: Patricia Hervieux, P.O. Box 47600, Olympia, WA, (206) 459-6597; Implementation and Enforcement: Tom Eaton, P.O. Box 47600, Olympia, WA, (206) 459-6316.

Name of Proponent: Department of Ecology, governmental.

Rule is necessary because of federal law, 40 CFR sections promulgated in 1986: 261.32, Appendix III to Part 261, Appendix VII to Part 261, 261.33(f), 264.75 (h)-(j), 265.75 (h)-(j), 261.5 (f)(3), 261.5 (g)(3), 261.6 (a)(3)(i), 262.41(a), 262.41 (a)(3)-(5), 262.41(b), 262.50, 262.51, 262.52 (a)-(d), 262.53 (a)-(f), 262.54 (a)-(i), 262.55 (a)-(c), 262.56 (a)-(b), 262.57 (a)-(b), 262.58, 262.60 (a)-(c), 262.70, Uniform Hazardous Waste Manifest Appendix, 263.20(a), 263.20(c), 263.20 (e)(2), 263.20 (f)(2), 263.20 (g)(3), and 263.20 (g)(4).

40 CFR sections promulgated in 1987: 270.14 (c)-(d), 270.14 (d)(i-v), 270.14 (d)(2)-(3), 264.100(e), 264.100 (e)(1)-(2), 264.101(c), 270.41 (a)(3), 270.41 (a)(3)(i)-(iii), 270.4(a), 270.10(k), 270.1(c), 270.1 (c)(5), 270.1 (c)(5)(i)-(ii), 270.1 (c)(ii)(A)-(B), and 270.1 (c)(6)(i)-(iii).

40 CFR sections promulgated in 1989: 264.13 (a)(1), 264.13 (a)(3)(i), 264.13 (b)(1), 260.11(a), 261.32. Appendix VII and VIII to Part 261, and 261.31.

40 CFR sections promulgated in 1990: 262.23(e) and 261.31.

40 CFR sections promulgated in 1992: 264.101, 264.90, 270.72 (a)(5), 270.60 (b)(3)(i), 270.60 (c)(3)(vii), and Part 268.

Explanation of Rule, its Purpose, and Anticipated Effects: The dangerous waste regulations set forth the requirements for designating solid wastes which are dangerous, establish a system for tracking dangerous waste from generation to treatment or disposal, and establish requirements for facilities that manage dangerous waste so that all dangerous wastes are managed safely and responsibly in Washington state.

Proposal Changes the Following Existing Rules: Designation of dangerous waste, WAC 173-303-070(3),

amended for the following reasons: To clarify the steps a person must take to designate a solid waste, to account for the consolidation of the dangerous waste mixtures and criteria sections, to allow for the adoption of federal land disposal restrictions (40 CFR Part 268), and to clarify when a person may use their knowledge about a waste or when they must test the waste for designation. Except as required in subsection (4) or (5) of this section, or in other sections of this chapter, a person need not determine additional designations for a solid waste once it has been designated as a dangerous waste. For the purposes of designation, new subsection (3)(c)(ii)(A) is not intended to supersede the allowances under WAC 173-303-100 Dangerous waste criteria, for persons designating a solid waste from known information. If a person knows only some of the toxic or persistent constituents in a waste and the waste is either designated or undesignated for those constituents, then that waste has been properly designated unless testing is elsewhere required.

WAC 173-303-070(4), amended to allow for the consolidation of the dangerous waste mixtures and dangerous waste criteria sections and to clarify when the department may require a person to test a waste. Initially, it is the decision of the generator or TSD owner/operator whether or not to test their waste; however, if the department determines that the test results were not valid or technically proficient, or that there was not a sufficient basis for the use of knowledge by a person to designate their waste (under new subsection (3)(c)) then the department **may** require testing.

Domestic sewage/permit by rule, WAC 173-303-070 (8)(b)(ii)(F), 173-303-071 (3)(a), 173-303-802(4), and 173-303-802 (5)(a)(i), during the 1991 amendments, ecology revised the domestic sewage exclusion (WAC 173-303-071 (3)(b)) and permit by rule (PBR) regulations (WAC 173-303-802 (4) and (5)). Some unintended results of these regulation amendments followed. First, because our 1991 amendments on the domestic sewage exclusion under WAC 173-303-071 [(3)(a)] limited applicability to sanitary wastes from residential sources, any industrial wastes discharged to sewers were still considered to be dangerous wastes. This label applied even when these wastes had been treated by treatment, storage, or disposal (TSD) facilities with state of the art treatment units that left some residual levels of listed wastes in the wastewater discharged to sewers. Any publicly owned treatment works (POTW) on the receiving end of this dilute listed hazardous wastewater was considered to be receiving dangerous waste for treatment. As such, POTWs were required to follow WAC 173-303-802(4) permit by rule requirements. Compliance with this rule would have led to costly requirements for POTWs who were included in the new permit by rule requirements.

The 1991 amendments also proved to be problematic for small quantity generators (SQGs), especially those operations that involved rinsewaters discharged to sewers (i.e. dental offices, pathology labs, etc.). SQGs could not discharge any amount of hazardous rinsewaters, including listed rinsewater, to a POTW unless the POTW met PBR requirements (and none in the state did). Alternative disposal options for SQGs were to either collect all hazardous rinsewaters and transport them to a TSD, a costly proposition, or to set up their own PBR treatment system, a complex and costly procedure. In addition, SQGs would have to count any hazardous

rinsewaters towards their quantity exclusion limit (QEL), potentially elevating their generator status to medium quantity generator (MQG) or even large quantity generator (LQG).

Furthermore, since the 1991 amendments were adopted, some sewer utilities have expressed a desire to allow some SQG hazardous wastes to enter treatment plants where processes can render the wastes nonhazardous. In some cases, especially when treatment technology for the small quantity generator's wastestream is infeasible or unavailable, the POTW is the logical recipient of these dilute SQG wastewaters.

Ecology has evaluated the above problems that arose after the 1991 amendments and is addressing these problems with new amendments. These new amendments are intended to create reasonable options for handling dangerous wastes, especially for small quantity generators, without loss of environmental protection.

For the purpose of this preamble, the following definitions apply: "**Rinsewater**" refers to water used in a cleaning or rinsing operation that goes directly down a drain and may be contaminated with small amounts of hazardous waste. The rinsewater may designate as a characteristic or criteria waste and could be a listed hazardous waste.

"**Wastewater**" refers to water from an industrial process solution that may designate as hazardous waste, and is being discharged to a wastewater treatment unit (WWTU), or contained in a WWTU, or discharged to the sewer.

First, amendments to WAC 173-303-040 and 173-303-071 will change the domestic sewage definition, the domestic sewage exclusion, and the conditions for the exclusion. If a generator, owner, or operator has obtained either a state waste discharge permit, pretreatment permit, or written discharge authorization from the local sewage utility or treatment plant prior to discharging wastes to sanitary sewers, then these wastes will not be subject to most dangerous waste requirements. Discharges to septic tanks, surface water, storm sewers, tanks, drain fields, soil or groundwater is not allowed. Any of these discharges will be viewed as illegal discharges of hazardous wastes. For purposes of this preamble, a generator is assumed to have written authorization if he has a list prepared by the POTW, describing wastes which can be discharged into the sewer, and his waste meets the description of one of these wastes.

In order to emphasize the applicability of this exclusion to SQGs, similar language is included under WAC 173-303-070 (8)(b)(ii)(F). Previous rule language would not allow SQGs to discharge any hazardous wastewaters to sanitary sewers unless the SQG had wastewater treatment units operated in compliance with permit by rule or the receiving POTW met PBR. With this amendment, SQGs are allowed to discharge **hazardous waste, wastewaters, and rinsewaters** to sanitary sewers for treatment at a POTW if they obtain a pretreatment permit, a state waste discharge permit, or a written authorization from the local sewage utility.

For MQGs, LQGs, and TSDs, this new domestic sewage exclusion is intended to ensure that dilute hazardous wastewaters or rinsewaters that are either treated or untreated before discharge to sanitary sewers are not considered to be hazardous waste after discharge to sanitary sewers. Again, the exclusion applies only when the generator or TSD has

obtained a state waste discharge permit, a pretreatment permit, or written discharge authorization from the sewer utility.

A major reason for this exclusion is that it may not be economical to collect these rinsewaters and wastewaters for further on-site treatment or recycling and the waste may not constitute an undue environmental threat. Ecology encourages waste reduction and recycling whenever feasible, however many dilute hazardous wastewaters do not lend themselves to these options. Ecology believes that dilute hazardous wastewaters are not likely to be designated under the hazardous waste characteristics or criteria and may remain hazardous solely because of minute amounts of listed hazardous wastes. The low risks associated with these dilute wastewaters do not warrant triggering hazardous waste requirements such as delivery to a TSD.

This exclusion is not intended to allow MQGs, LQGs, or TSDs to discharge hazardous wastes or to dilute hazardous wastes that are not originally wastewaters or rinsewaters at the point of generation. Dilution of hazardous wastes to render them nonhazardous is illegal.

For MQGs, LQGs, and TSDs, this exclusion only applies to dilute industrial wastewaters and rinsewaters **after** they are discharged to sanitary sewers. The **management** of dilute industrial hazardous wastewaters prior to discharge to sanitary sewers is still subject to regulation including permit by rule management requirements. SQGs are allowed to discharge hazardous wastes in addition to rinsewaters and wastewaters if they meet the conditions in WAC 173-303-070 (8)(b)(ii)(F). The management of SQG wastes under permit by rule before discharge to sewers is only required if the quantity exclusion limit (QEL) is exceeded (see QEL discussion below).

The counting requirements for these newly excluded wastes are as follows. Generators (including SQGs) are not required to count rinsewaters toward the QEL. However, all generators must count wastewaters that designate as listed, criteria, or characteristic wastes toward the QEL. In addition, SQGs must count any hazardous wastes that they discharge to sewers toward their QEL. This is discussed further below under the explanation of the amendments to WAC 173-303-070(8). Examples of rinsewaters are also included.

With this new domestic sewage exclusion, POTW sludges are not considered listed hazardous waste. However, sludges may still be characteristic or criteria hazardous wastes and must be properly designated and handled appropriately.

Under this exclusion, ecology envisions that POTW's or local sewage utilities could grant discharge authority on a case-by-case basis, through categorical industry approvals such as "spent glutaraldehyde solution from dental offices" or "spent formalin from pathology labs" or via published sewer utility operating rules. Ecology seeks comment on the feasibility of placing responsibility on POTW's and local sewage utilities for defining what levels or kinds of dangerous wastes may be discharged to the tributary sewers.

A second change in today's amendments addresses the problem the SQGs have had in handling small quantities of hazardous wastes and rinsewaters that could logically be discharged to sanitary sewers for treatment by POTWs. Before today's amendments, SQGs did not have the option

to discharge any hazardous waste, rinsewaters, or wastewaters to the sanitary sewers unless the SQG or receiving POTW met permit by rule requirements. For example, minute amounts of auto shop spent solvents from washing hands could not legally be discharged to sanitary sewers unless either the shop or the POTW met permit by rule requirements.

Today's amendments will add an (F) to WAC 173-303-070 (8)(b)(ii) to allow POTWs to accept hazardous rinsewaters, hazardous wastewaters, and SQG hazardous wastes provided that the SQG (or a category of SQGs) has obtained a pretreatment permit, a state waste discharge permit, or a written discharge authorization from the sewer utility. A SQG must count only the hazardous waste discharges toward their hazardous waste QEL. SQG rinsewaters are exempted from counting toward a QEL. The result of these amendments is that SQGs need not institute costly treatment units if POTWs are able to treat their wastes (in some cases treatment technology does not even exist). Nor would SQGs automatically need to follow permit by rule requirements after installation of a treatment technology that is subject to permit by rule. SQGs will only be subject to permit by rule if they exceed their QEL from counting wastes that designate, including sludges and filters from wastewater treatment units. Examples of SQG hazardous wastes that are subject to designation and counting before discharging to sanitary sewers would be spent glutaraldehyde solution from dental offices or outdated or spent formalin from pathology labs. SQGs must also count any wastewaters that designate as hazardous waste. Examples of SQG rinsewaters that are exempt from counting include pathology lab tissue sample rinsewaters, dental amalgam rinsewaters, and glassware rinsewaters.

In other amendments, ecology is further streamlining and clarifying two permit by rule sections of the regulations. Although this rule contains no amendment to WAC 173-303-802(4), ecology wishes to clarify that the only situation where permit by rule applies to POTWs is the rare case when the POTW is receiving hazardous waste via rail, direct pipeline from the generator (i.e. not through the sanitary sewer), or through a tanker truck from a generator. Any of these wastes not reaching the POTW through sanitary sewers must still meet the same pretreatment standards that apply to wastewaters discharged through the sewers. Therefore, the POTW may now grant discharge authorizations, or apply pretreatment standards for hazardous industrial wastewaters and rinsewaters (for LQGs, MQGs, and SQGs), or for small quantities of hazardous wastes (for SQGs only) discharged to sewers without the POTW needing to comply with permit by rule standards. WAC 173-303-400 (2)(c)(iii) also remains unchanged and would only apply in the rare case when a POTW has a permit by rule under WAC 173-303-802(4).

Under WAC 173-303-802(5) ecology is removing reference to all known and available treatment (AKART) because this has been difficult to define. This change will allow local sewer utilities and POTWs to be flexible in either imposing best management practices as a condition for discharging, or setting pretreatment standards, whichever is appropriate. Furthermore, these changes make it clear that WAC 173-303-802(5) applies only to treatment units that have a discharge. If a generator has an elementary neutral-

ization unit (ENU) or a totally enclosed treatment unit (TETU) that doesn't discharge to a sewer or surface water, this unit may be addressed through a treatment by generator mechanism or it may require a hazardous waste treatment permit for operation. In these cases, the permit by rule provisions may not apply.

Lastly, sludges and filters that result from treatment of wastes in ENUs, TETUs, or WWTUs would be listed if listed wastes were being treated and may also designate under characteristics or criteria. They must be properly designated and handled accordingly. It is important to reiterate that the domestic sewage exclusion applies only **after** discharge. That is why the sludge and filters are subject to designation and the permit by rule requirements apply when wastewaters are being treated in ENUs, WWTUs, or TETUs that have discharges.

Treated wood exclusion (arsenical-treated wood), WAC 173-303-071 (g)(i), today's rule amends the state's exclusion for arsenical-treated wood to reflect recent changes in the federal rules made on July 10, 1992. Currently, WAC 173-303-071 excludes from the definition of dangerous waste discarded arsenical-treated wood and wood products that fail the test for the toxicity characteristic **solely for arsenic**, and were not dangerous for any other reason. The exclusion applies only to wastes generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

In the process of promulgating the TC rule in March of 1990, EPA inadvertently narrowed the arsenical-treated wood exclusion to apply only to wood that failed TC for arsenic. Ecology then amended WAC 173-303-071, resulting in the current exclusion language for arsenical-treated wood. EPA then realized that arsenical-treated wood could also fail TC for chrome. EPA's intention was to exclude all arsenical-treated regardless of whether it failed for arsenic, or chrome, or any other former EP Tox constituent (now D004 through D017). Therefore, to correct this error, EPA amended the arsenical-treated wood exclusion on July 10, 1992, to exclude any arsenical-treated wood and wood products that fail TC for any of the old EP Tox constituents i.e. D004 through D017.

Ecology is now also correcting this error in WAC 173-303-071. Today's rule, therefore, corrects the state's arsenical-treated wood and wood products exclusion by excluding arsenical-treated wood and wood products from chapter 173-303 WAC if they exhibit the TC for any of the old EP constituents (D004 through D017) and are used for their intended purpose. Should arsenic-treated wood also be dangerous for any of the state criteria including, acute toxicity, or persistence, or carcinogenicity, such wood is also excluded by today's rule amendment.

Treated wood exclusion, WAC 173-303-071 (g)(ii), the Department of Ecology is amending the dangerous waste regulations, chapter 173-303 WAC, to provide an exclusion for treated wood or wood products which are dangerous waste solely because they are state-only criteria wastes.

The exclusion for treated wood is being added into the dangerous waste regulations with the condition that such wood be disposed of in a lined landfill that has a leachate collection system. Test data have demonstrated that most treated wood does not leach at levels exceeding the TCLP threshold, and because of the low level of leaching, the

department has determined that these materials can be safely disposed of in a lined landfill which has a leachate collection system. In addition, creosote-treated wood is excluded when burned for energy recovery in industrial furnaces or boilers which have a valid air pollution control permit.

Currently, Washington state is one of only a few states which regulates either creosote-treated wood or pentachlorophenol-treated wood as a dangerous waste. Since these wastes generally do not fail the TCLP test, they are not regulated as hazardous wastes under federal regulations.

Prior to 1991, the dangerous waste regulations provided a similar broad exclusion for treated wood. In order to maintain consistency with new federal regulations, ecology amended the regulations in April 1991, to include the TCLP with a list of chemical constituents that included cresols and pentachlorophenol. At the same time, ecology removed the state exclusion for treated wood because it was believed that this state exclusion would have made the state rules less stringent than the federal TCLP rules that included both cresols and pentachlorophenol. (By law, the state cannot be less stringent than the federal hazardous waste program.) When actual TCLP test data became available for wood treated with creosote or pentachlorophenol, the wood did not classify as a hazardous waste under the federal TCLP test. However, some treated wood did designate under the state criteria. This was not the original intent of the regulatory amendments of 1991. Today's amendments are intended to correct this situation.

Today's exclusion does apply to waste resulting from use of newly treated wood (such as scrap lumber, shavings, and sawdust), and to sawmill wastes (such as sawdust, shavings, and chips). It also applies to treated wood which has been removed from service and is discarded. The exclusion includes treated wood waste generated from domestic uses as well as industrial uses. However, any of these wastes which are found to be TCLP wastes are not part of this exclusion as described in the wording of the exclusion.

This exclusion does not apply to wood which has been treated with arsenical salts, since there is an existing exclusion for such treated wood at WAC 173-303-071(g). In addition, this exclusion does not apply to any waste which designates as a TCLP waste, or which is listed in 40 CFR Part 461. Treated wood which fails the TCLP test for any constituent is a RCRA waste and subject to all RCRA requirements, unless specifically excluded. (See arsenical treated wood at WAC 173-303-071.) This exclusion also does not apply to any wastes generated from the wood treatment process including wastewaters, process residuals, preservative drippage, and spent formulations. Such wastes are listed on the RCRA nonspecific sources list as F034 and F036.

Ecology encourages the reuse of treated wood as a preferred management alternative. Reuse of treated wood is not regulated provided such reuse is consistent with the intended end use of the treated wood. Examples of reuse include use as fence posts, retaining walls, landscaping, decks, bulkheads, general construction, and the like. Ecology also encourages the burning of **creosote-treated** wood for energy recovery in industrial furnaces or boilers which have a valid air pollution control permit.

Wood ash exclusion, WAC 173-303-071 (3)(v), the proposed exclusion is for wood ash that designates solely for corrosivity by WAC 173-303-090 (6)(iii). Wood ash is a low toxicity, high volume waste which **sometimes** designates as a state-only dangerous waste due to high Ph (> 12.5). For the purpose of this exclusion wood ash means ash residue, bottom ash, and emission control dust generated from the combustion of **untreated** wood and wood fiber materials (i.e., wood chips, sawdust, paper waste, waste mixed paper, cardboard, tree stumps, untreated timbers, and untreated lumber). It has been demonstrated that wood ash from the combustion of untreated wood is not high in metals nor does it exhibit any other criteria or characteristics other than, at times, corrosivity as a solid material. Metals and other TC constituents are far below RCRA and DW regulatory levels. By limiting the exclusion to untreated wood, ecology feels assured that wood ash can be managed safely in regard to public health and environment outside of the dangerous waste regulations. This proposal does not include wood ash from the combustion of treated wood or treated wood waste such as railroad ties, telephone poles, bulkhead, treated posts, and treated lumber. Ecology did not intend for wood treated with arsenic, chrome, cadmium, creosote, pentachlorophenols, pentachlorophenates, formulations thereof, or any other types of wood preservatives or wood surface protection agents to be covered by the proposed exclusion. This exclusion also allows for the use of certain "over firing fuels" (oils, gas, coal, and other fossil fuels) in the combustion process. Fuels that are necessary to begin the combustion process of wood ash are referred to as "over firing fuels" and are considered a necessary part of that process. This allowance to the exclusion was in response to industry concern regarding the use of "over firing fuels", that wood ash generated would not fit the exclusion because these fuels would not fit the definition of untreated wood and wood fiber materials. Examples of **acceptable** "over firing fuels" include crude oil, RCRA used oil, gas, and coal. Materials **not considered acceptable** to fulfill the intent of this exclusion include, but are not limited to, oily waste, ignitable dangerous waste, solvents and solvent wastes, stoddard solvents, ink and ink oils, antifreeze, and dangerous waste fuels.

Request for comments on D002 solid corrosives, the hazardous waste regulatory section is also soliciting comments on the issue of retaining or repealing the **state-only D002 solid corrosive** designation in the state dangerous waste regulations, chapter 173-303 WAC. The D002 designation is a category of wastes that occur in a solid phase with a pH of either less than or equal to 2.0 or greater than or equal to 12.5. Wastes fitting this description are not recognized by the federal hazardous waste program (RCRA) as being hazardous waste. Based on 1990 generator reporting data, approximately 70 separate waste streams were reported that exhibited only the D002 designation. These waste streams include: Boiler ash, contaminated soil and debris, solid acids, hydroxides (such as ammonium, lithium, sodium and potassium), resins, batteries, metal cleaners, electroplating waste, and copper sulfate. Solid corrosives were originally designated as dangerous waste because they have the potential to cause injury to biological tissues when solubilized. Possible hazards of any corrosive material when mismanaged or through accidents include injury to human

tissue, solubilization of toxic contaminants, dangerous chemical reactions when codisposed with other wastes, injury to aquatic life, and injury/damage to animate and inanimate objects. It has been suggested to ecology (and ecology is considering) that the D002 state-only designation for solid corrosives be repealed from the dangerous waste regulations. The reason given for this suggestion is that the D002 state-only designation poses impediments to reuse and recycling options for such wastes that outweigh any potential harm that cannot be addressed by regulation as a solid waste. Ecology would like your comments on the issue of retaining or repealing the state-only D002 solid corrosive designation.

Dangerous waste criteria, WAC 173-303-100, the designation of toxic, persistent and carcinogenic dangerous wastes are an inherent component of the state of Washington dangerous waste regulations, providing important protection to human health and the environment. Because of the importance of these designations, it is essential that they are presented in a manner that will ease interpretation and minimize misunderstanding. The methods for designating a solid waste as toxic, persistent or carcinogenic are consolidated into a single section for simplification and clarification. The consolidation of WAC 173-303-084 Dangerous waste mixtures, 173-303-101 Toxic dangerous wastes, 173-303-102 Persistent dangerous wastes and 173-303-103 Carcinogenic dangerous wastes, was accomplished with as few changes to the actual requirements under the regulation as possible. Substantive changes or additions are: A quantity exclusion limit (QEL) has been added to the subsection to clarify how these dangerous wastes are aggregated for generator status; an equation has been added to determine if a toxic dangerous waste is designated DW or EHW for borderline wastes when using the book designation method; the toxic dangerous waste subsection has been amended to indicate the status of a waste when designation from known information (book designation) and test data (bioassay results) give inconsistent results; and the carcinogenic designation method from WAC 173-303-103 (rather than 173-303-084) was adopted.

Carcinogens, WAC 173-303-100(7), the proposed changes are in response to concerns that the referenced IARC list included too many compounds, some of which were not intended to be regulated by the dangerous waste regulations such as bracken fern, engine exhaust fumes, silica and soots, and that the regulatory level of 100 ppm for each compound was calculated specifically for individual chemicals nor was it risk-based.

Ecology is therefore amending carcinogenic section to include a new table, WAC 173-303-9908, which lists the cancer causing chemicals and their associated regulatory concentration levels that ecology intends to regulate as carcinogenic dangerous waste. References to the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) and the International Agency for Research on Cancer (IARC) lists are deleted.

The new table is a compilation of data taken from EPA's integrated risk information system (IRIS) and health effects assessment summary table (HEAST) to identify carcinogens. It includes the categories A, B1, B2, and C from the IRIS which includes known human as well as, probable and possible human and animal carcinogens. The IRIS and HEAST lists were selected to replace the IARC list

so that the regulated concentration levels are risk based and more compatible with cleanup legislation. Both MTCA and EPA's CERCLA (Superfund) use the IRIS and HEAST database to establish cleanup standards. It should be pointed out that the carcinogenic oral slope factors provided in the IRIS list have been verified by EPA's carcinogenic risk assessment verification (CRAVE) workgroup, whereas oral slope factors provided by HEAST may be either interim or verified. (Note: Chemicals on the IRIS/HEAST lists with no assigned oral slope factor were not included in the table because a concentration level could not be calculated. Of the 169 chemicals on the list, 145 had oral slope factors. Of the remaining 24 chemicals, 14 would be regulated under either "lists" or the TCLP.)

The Model Toxic Control Act (MTCA) Method C, Industrial Soil formula values provide the regulated concentration levels for each compound. The values under the column titled "concentration level" are the result of calculations from the MTCA Method C formula and the associated oral slope factors (a.k.a. potency factor). The rationale for selecting the MTCA Method C levels for industrial soils was that this scenario seemed most compatible in distinguishing between dangerous waste and solid waste management. That is, the one in one hundred thousand (1/100,000) risk and the exposure factors associated with the Method C equation (e.g. average body weight 70 kgs., exposure duration 20 years, and frequency of contact 0.4) can be managed appropriately as solid waste, whereas a risk in excess of 1×10^{-5} will be managed according to the more conservative dangerous waste requirements.

There is no extremely hazardous waste (EHW) designation for carcinogenic waste. Ecology has chosen to implement one scientifically based designation limit and given it a dangerous waste (DW) designation.

Ecology expects that carcinogenic waste(s) not exceeding the concentration levels will be either disposed of in a compliant Subtitle D Municipal Solid Waste (MSW) landfill or will be subject to wastewater permitting requirements. The MSW landfill should have a lining, leachate collection, groundwater monitoring wells, and meet closure and financial assurance requirements in order to provide necessary safeguards to protect human health and the environment.

Land disposal restrictions, WAC 173-303-140(2), the federal land disposal restrictions (LDR) at 40 CFR Part 268 are adopted by reference. The LDRs, which apply to all listed and characteristic wastes, prohibit land disposal of hazardous waste unless the wastes meet treatment standards that substantially diminish the toxicity of wastes or reduce the likelihood that hazardous constituents from wastes will migrate from the disposal site. The treatment standards may be either methods of treatment or concentration levels. Wastes that designate as both state and federal dangerous waste, such as wastes that designate under the TCLP and are EHW, must continue to meet the state land disposal restrictions at WAC 173-303-140 (4) through (7).

Treatment by generator, WAC 173-303-170(3), 173-303-400 (2)(c)(vii), 173-303-600 (3)(l) and 173-303-200 (1)(b), today ecology is amending the dangerous waste rules to specifically allow a generator to treat their own dangerous waste(s) on-site, in accumulation tanks or containers, without a dangerous waste treatment, storage or disposal (TSD) permit. This is being accomplished by exempting such

activities from most interim status (see WAC 173-303-400) and final facility (see WAC 173-303-600) requirements, and by adding generator standards (see WAC 173-303-170) to the rules. In a situation where such standards apply, it will be called treatment by generator (TBG).

As revised from the preamble language in the federal register (51 FR 10168) a generator may treat their own dangerous waste on-site, in accumulation tanks or containers, if they meet certain requirements in chapter 173-303 WAC. Specifically the generator must meet the requirements of WAC 173-303-200 or 173-303-201 (for tanks, 173-303-202), and 173-303-283(3). For generators of between 220 and 2200 pounds per month who do not accumulate on-site more than 2200 pounds (1000 kg) of dangerous waste, the reduced requirements of WAC 173-303-201 apply. Also for such generators, if treatment is in an accumulation tank, the reduced tank standards of WAC 173-303-202 (2) through (6) apply. If these requirements are met, the generator needs no interim or final status permit for on-site treatment of their own wastes.

Under the existing dangerous waste regulations, ecology has established standards for tanks that apply to **both** the storage and treatment of dangerous waste. To ensure that tank integrity is not breached, the same standards apply to a tank, regardless of whether treatment or storage is occurring. The same reasoning will apply to the standards for facilities that store containers of dangerous waste, and either store or treat those wastes in the containers. Also, ecology allows for limited on-site storage (accumulation) without the need for a permit or interim status. The accumulation standards are 90 days for over 2200 pounds per month generators, and 180 days for 220-2200 pounds per month generators. Therefore, the department has decided that treatment in accumulation tanks or containers is permissible, provided the tanks or containers are managed strictly in compliance with all applicable standards. Ecology has amended the existing rules to reflect that decision. Generators are not required to obtain interim status (or final facility status) and a Resource Conservation and Recovery Act (RCRA) permit, if their only on-site management is treatment of their own waste(s) in an accumulation tank or container exempt from TSD permitting during periods of accumulation.

Ecology believes this rule making will provide more options for generators. It greatly lessens ecology's direct involvement in the process since case-by-case approval is no longer required. At the same time, it gives direction to generators for the proper treatment of hazardous waste such that human health and the environment is protected.

The Department of Ecology is actively promoting treatment by generator (TBG) for several reasons: The Hazardous Waste Management Act (RCW 70.105.150) has a waste hierarchy where treatment is preferred over disposal of waste. By encouraging proper on-site treatment, ecology is working towards the goals of that hierarchy. The Washington state hazardous waste plan (January, 1992) recommends a "close to home" policy of "self-sufficiency on the part of individual generators and TSDs, the state as a whole, and the Pacific Northwest region." Part 2.3 of the plan states that "The management of wastes on-site should be more actively promoted, to the extent this is environmentally desirable and economically feasible. If other environmental factors are equal, on-site or local management is preferred

because it minimizes transportation risks, limits the transfer of risk to other communities, and results in the application of appropriate, waste-specific technologies." Lastly, the recently-released ecology "Regulatory Impediment Study" states that treatment by generator is an option "that is not being used to full advantage." The study says TBG lacks clear authority, is not self-implementing, and lacks a description for administrative procedures. This rule amendment solves those problems.

Small quantity generators as defined in WAC 173-303-070(8) may treat their own wastes on-site without a treatment permit. They are not subject to any of the TBG requirements of the rule, such as accumulation time limits, reporting requirements, tank and container standards, etc. SQG's are subject to the moderate waste (MRW) system under the authority of local governments.

This rule amendment provides for treatment of solid state-only wastes (e.g., high pH wood ash) in units other than tanks or containers. In this situation, the state is not constrained by the federal regulations, since the wastes are not regulated under RCRA. For the same reason, ecology is not constrained by EPA guidance (i.e., preamble language) for such wastes. Generators may treat solid state-only dangerous waste in units other than tanks or containers, provided it is completed within the applicable accumulation time frame (either 90 or 180 days). The treatment unit must be designed, constructed and operated in a manner that prevents a release of waste and waste constituents. The treatment must not adversely affect the health of employees or the public. In addition, excessive noise is not allowed. Negative aesthetic impact on the use of adjacent property must be prevented. Lastly, inspections must be routinely performed and repairs conducted promptly.

In addition, a rule amendment under WAC 173-303-200 is being added to the container accumulation standards. It requires proper removal of waste residues and decontamination of containers, in which waste was accumulated (or treated). This change is being made to assure consistency with federal standards.

Accumulating dangerous waste on-site, WAC-173-303-200 (1)(a), this subsection is amended to include "or recycled on-site" to specify that this is an allowable activity for a generator, provided the dangerous waste is recycled within 90 days.

WAC 173-303-200 (1)(d), added to the "Note" is a provision whereby the department may require signs to be posted at each entrance to the accumulation area bearing a legend such as "Danger — unauthorized personnel keep out" to be legible from 25 feet or more.

WAC 173-303-200 (2)(c), this section of the dangerous waste regulations (the only section that addresses satellite accumulation) has been difficult to interpret for both regulators and the regulated community and was inconsistent with the federal satellite regulations, 40 CFR 262.34 (c)(1). The department proposes to amend this rule to increase clarity and to be more consistent with 40 CFR. The proposed changes and the reasons for these changes include:

Satellite accumulation defined, the term "satellite accumulation" is not found in 40 CFR; it is mentioned only in a federal register. Because the term is widely used, a definition was added in WAC 173-303-040.

Consistency with 40 CFR, the federal format, container management standards, and the "72 hour rule" are adopted. The "72 hour rule" allows generators 72 hours after exceeding 55 gallons to move the waste from the satellite area into an accumulation or storage area. Companies have expressed difficulties in organizing transport for full drums immediately. Some companies stated that when drums become full late Friday afternoon, they cannot be moved until a forklift driver arrives on Monday morning. The department realized the "72 hour rule" is necessary for these types of situations.

Clarify "operator's control" and "secured", in order to allow a generator to have more flexibility in deciding where to locate their satellite accumulation area, it has been specified that a satellite accumulation area may be either "under control of the operator of the process generating the waste" or "secured at all times." The "secured at all times" option would allow a satellite container to be located farther away from the process generating the satellite waste. This option was added, in part, to allow facilities to satellite accumulate in one area, waste streams such as batteries and fluorescent light tubes that are generated throughout a facility. While "secured" is not specifically defined, it will be interpreted to ensure that the waste in the satellite container is protected from improper or unauthorized disposal at all times. "Secure" might be achieved through the use of a locked area (possibly located outside of the building), a locking device on the container, or through administrative controls. Additionally, by allowing the "secured" performance standard, ecology intends to allow facilities to satellite accumulate waste streams that are generated throughout the facility (i.e. batteries) in one, secured, satellite area.

Case-by-case, a provision has been included in the rule that will allow the department to require additional management requirements for a satellite accumulation area which causes particular concern and is determined to be [a] threat, or potential threat, to human health or the environment.

The department received a number of comments asking for this rule amendment to clarify such vague terms as "near the process" or "under the operator's control." In reviewing the original federal registers discussing the need for satellite accumulation regulations, it was found that industry expressed the need for flexibility in handling the small amounts of waste generated during their work. There are uncountable processes where dangerous waste is generated; therefore, requiring a specific limit, such as 10 feet for the distance a satellite area must be located from the process, would be limiting the ability of the facility and regulators to effectively and safely manage waste. Additionally, to add controls (such as locks) to all satellite accumulation containers to prevent improper disposal would be limiting to many companies. Therefore, performance standards were kept and expanded upon to allow companies the most creative ways to safely and economically manage their dangerous wastes.

WAC 173-303-200(3), clarifies that the 90 day accumulation period begins on the date that the waste is first placed into a container located in a 90 day accumulation or storage area.

Generator recordkeeping, WAC 173-303-210(3), amended to specify a minimum level of information that must be recorded to document sampling and testing activity performed for the purpose of designating solid wastes. This

information is required so that it can be determined whether or not the test results adequately characterize a waste. It is important to note that this amendment is intended only to provide a **record of the steps that were taken** to acquire test results and to point out to people that if their waste is tested, the QA/QC information should be available. The QA/QC is important information that the generator should receive from the lab. (This amendment is not meant to affect the type, sophistication or the amount of sampling/testing performed to designate a solid waste.)

Notice of intent, WAC 173-303-281 (3)(a)(v), the environmental checklist from the SEPA rules is deleted as **part of the notice of intent**. This change was made so that the checklist will be submitted later, at a more appropriate time in the permit process. No new reference is being adopted in a different section of this chapter regarding the SEPA checklist; **however**, it is mandated by the State Environmental Policy Act (SEPA) and therefore must be completed.

Required notices, WAC 173-303-290(1), amends the notification requirements for importation of dangerous wastes into Washington state. Current notification requirements do not provide sufficient information to adequately monitor imported wastes. The department has observed hazardous conditions involving importations of dangerous waste and believes that proper identification, packaging and management of imported wastes needs to be monitored. With this amendment, notification is to be required annually and four weeks in advance of the first shipment. Foreign exporter information, waste descriptions and quantities, and proposed waste management methods are also required.

Personnel training, WAC 173-303-330(2), a requirement is added that training records must be signed and dated by the employee receiving the training. The intent behind this change is to ensure that employees are allowed to review the training that they are required to complete. Traditionally, there has been a problem of employees not receiving all of their required training. (This requirement is similar to the Department of Labor and Industries' requirement that training records must be signed.)

Manifest system, WAC 173-303-370 (4)(a), incorrect generator, transporter, or designated facility EPA/state ID numbers; incomplete listing of EPA and state waste codes; and failure to include a twenty-four hour emergency response number have been added as significant manifest discrepancies. Incomplete listing of waste codes was added for the purpose of ensuring proper waste handling and that the generator is making appropriate decisions regarding land disposal restriction requirements.

Closure, WAC 173-303-400 (3)(ix) and 173-303-610 (2)(b)(i), under the proposed revision, interim and final status dangerous waste facilities will be required to close dangerous waste management units to the cleanup levels of Model Toxics Control Act regulations, WAC 173-340-700 through 173-303-760 (excluding WAC 173-303-745). WAC 173-303-130, 173-303-350, 173-303-360, 173-303-410, and 173-303-440 are referenced; however, they do not apply to clean closure. The new cleanup standard is adopted for consistency among cleanup activities conducted under authority of the Model Toxics Control Act, corrective action, and closure of dangerous waste management units.

The basis of chapter 173-340 WAC is cleanup to health-risk based levels. A combination of background, practical quantification levels, and other applicable and relevant state or federal laws to establish cleanup levels is utilized. For purposes of demonstrating clean closure, there is no point of compliance as discussed in WAC 173-303-645 (6)(a) or as defined in WAC 173-340-200. Instead, clean closure levels must be obtained throughout the unit and will include contamination released from the unit.

Clean closure requires the removal of all dangerous waste constituents, including contaminated containment system components, contaminated soils, and other contaminated structures and equipment at dangerous waste management units. Dangerous waste constituents in all media must be removed or decontaminated to the cleanup levels established by WAC 173-340-700 through 173-340-760, excluding WAC 173-303-745. Cleanup levels to demonstrate clean closure will be established using Method A or B, as defined in chapter 173-340 WAC. Method C of chapter 173-340 WAC is not applicable to clean closure of dangerous waste management units because pursuant to chapter 173-340 WAC, cleanup actions which leave waste constituents in place that exceed Method A or B levels require a periodic review no less than once every five years. Similarly, Method A of WAC 173-340-745 is not applicable to clean closure requirements because of the institutional control requirements.

The demonstration of clean closure must consider all dangerous constituents generated or managed at the facility. If waste streams are unknown or suspect, then analysis of the constituent list in Appendix IX of 40 CFR 264 may be appropriate. When groundwater monitoring is required by ecology for purposes of confirming clean closure, the clean closure decision will be delayed until ecology is satisfied that groundwater meets the clean closure level.

For concrete, the cleanup levels specified in WAC 173-340-740 for soils may be applied; however, the facility proponent may prefer to conduct individual risk assessments on concrete structures that will be left in place after closure. Cleanup levels and procedures for other bases, liners, or equipment encountered during closure will be handled on a case-by-case basis. Prior to these revisions, the dangerous waste regulations specified that dangerous waste, dangerous waste residues, or dangerous waste constituents which designated under 40 CFR Part 261 should be removed or decontaminated to background environmental levels for final status facilities (WAC 173-303-610). Wastes that designated only under the state criteria were required to be removed or decontaminated to the designation levels. Closure of interim status facilities, adopted by reference at WAC 173-303-400 (3)(a), was the closure standard at 40 CFR 265.111.

Special requirements for dangerous wastes burned for energy recovery, WAC 173-303-510, the section is restructured for clarity and simplification. A new definition subsection is created to define marketers, distributors, blenders, and dangerous waste fuel. (The previous version addressed the standards for marketers of dangerous waste fuel under one subsection which contained the definition of a marketer.) The definition of marketers clarifies that there are three types of marketers: Generators who market to a burner, distributors, and blenders. These are familiar terms that have been used in the existing regulation. The subsec-

tion on the standards for marketers has been reorganized to address each type of marketer. This allows the reader to determine which term applies to their situation and to skip directly to the applicable standards. This is an improvement over the previous language that required the reader to examine each standard, then determine whether or not it was applicable in their situation.

In defining fuel, ecology did not include provisions which define the minimum energy value of a dangerous waste fuel. Existing guidance from EPA on the blending of wastes into fuel is out of date. The recent adoption at the federal level of a final rule for boilers and industrial furnaces throws into question EPA's intent regarding a minimum energy value for hazardous waste fuels. Further guidance is expected to be published in the Federal Register on this point. Ecology chose not to define a minimum energy value for dangerous waste fuel at this time in order to evaluate the impact of doing so on the dangerous waste fuel industry.

An issue which is not addressed in this amendment is that of consistency with the federal boiler and industrial furnace rules (BIF) exempting storage of blended fuel for small quantity burners. WAC 173-303-510 does not allow this activity without a permit. When ecology begins the process of adopting the federal BIF rule, this issue will be considered.

Use and management of containers, WAC 173-303-630(6), requirement added for the owner or operator to maintain an inspection log and to keep it at the facility for at least five years from the date of inspection. The requirement already exists in the rules that container management areas must be inspected. However, the requirement to maintain a log was not previously adopted due to an oversight.

General permit conditions, WAC 173-303-810 (14)(a)(i), "Note" added to explain that an independent qualified registered professional engineer is responsible for certifying only those portions of the facility that are identified in chapter 173-303 WAC as specifically requiring certification by an independent registered professional engineer (one who did not design the facility).

Corrective action, introduction, Washington is seeking federal authorization of a state corrective action program. Currently, corrective action requirements are implemented by EPA Region 10 in accordance with RCRA Sections 3004(u), 3004(v), and 3008(h) and with regulatory requirements at 40 CFR § 264.101. The proposed state corrective action program, as specified in these regulation amendments, will be more stringent in implementation requirements than the existing federal program but will not subject additional facilities to corrective action (with the exception of state-only dangerous waste treatment, storage, recycling, or disposal facilities which will become newly subject to corrective action as a result of this rule making).

Corrective action will be only one aspect of Washington's multi-faceted dangerous waste regulatory program. The dangerous waste program is largely a preventative program, focused on waste minimization, waste management standards, and compliance monitoring and designed to minimize or eliminate the need for future corrective action. Weakening the preventative portions of the dangerous waste regulatory program to emphasize a corrective action program would be short-sighted. However,

ignoring the legitimate needs for remediation and cleanup at some dangerous waste management facilities poses unacceptable risks to the health and environment of Washington citizens. In designing a state corrective action program, ecology has attempted to find a balance between the preventative and corrective action aspects of dangerous waste regulation.

Definitions. An adequate and focused definitional structure is vital to the success of any regulatory program. Ecology has crafted a definitional structure for corrective action which will facilitate environmentally protective and expedient corrective action cleanups. Ecology has revised the definition of **facility** to ensure equivalency and consistency with the federal corrective action program. The revised definition emphasizes that, for the purposes [purposes] of implementing corrective action imposed pursuant to WAC 173-303-646 (2) or (3), the term facility encompasses all contiguous property under the control of an owner/operator seeking or required to have a dangerous waste management permit (including an interim status permit) under the provisions of chapter 70.105 RCW or chapter 173-303 WAC.

The definitions of **land disposal**, **landfill**, and **miscellaneous unit** have been amended to reflect new standards for corrective action management units and corrective action temporary units.

Ecology has added definitions of **release**, **remediation waste**, **solid waste management unit**, **corrective action management unit**, and **temporary unit**.

To ensure consistency between corrective actions undertaken pursuant to WAC 173-303-646 (2) or (3) and cleanups conducted under the Model Toxics Control Act (MTCA) and to facilitate corrective action under the alternative authorities initiative, the new **definition of release** includes the MTCA definition of release at RCW 70.105D.020(10).

Definition of dangerous constituent. Ecology has defined dangerous constituent at **WAC 173-303-646 (1)(c)** only for the purposes of implementing corrective action. To ensure consistency between corrective actions undertaken pursuant to WAC 173-303-646 (2) or (3) and cleanups conducted under the Model Toxics Control Act and to facilitate corrective action under the alternative authorities initiative, the definition of dangerous constituent includes all constituents defined as hazardous substances at RCW 70.105D.020(5). Ecology believes that the inclusion of petroleum products in the definition of hazardous substance at RCW 70.105D.020(5) will not conflict with any federal or state exclusions for petroleum or petroleum contaminated media or debris under RCRA. Ecology will continue to allow all applicable petroleum specific RCRA exemptions to petroleum contaminated wastes generated through implementation of corrective action requirements.

Interim status facilities. Owners/operators of interim status facilities are required by **WAC 173-303-400 (2)(a)(i)** to fulfill the corrective action requirements of WAC 173-303-646(2). As under the federal RCRA system, owner/operators of interim status facilities who wish to, or are required to, exit the RCRA system must fulfill all applicable closure requirements and conduct corrective action prior to interim status termination. A conforming change has been made to **WAC 173-303-805 (7)(a)(v)** to allow ecology to approve changes during interim status which are necessary

to comply with corrective action requirements imposed in a corrective action order or a final dangerous waste management permit. For more information on corrective action requirements see discussion of WAC 173-303-646 (2) and (3).

Corrective action for releases from regulated units.

Owner/operators of dangerous waste management facilities are required by **WAC 173-303-645** to conduct a three phase program for detecting, characterizing, and responding to releases to the uppermost aquifer from regulate [regulated] units, this program is known as non-HSWA corrective action. In order to facilitate coordination of non-HSWA corrective action and corrective action under WAC 173-303-646(2), ecology may allow owner/operators to fulfill non-HSWA corrective action requirements through implementation of an enforceable action issued pursuant to the Model Toxics Control Act (MTCA). Voluntary cleanups conducted under the Model Toxics Control Act will not constitute compliance with the requirements for non-HSWA corrective action under WAC 173-303-645. Ecology intends that non-HSWA corrective action requirements imposed pursuant to the MTCA will be equivalent in scope and stringency to conventionally imposed non-HSWA corrective actions requirements. For clarification, ecology has retitled WAC 173-303-645, Releases from regulated units, and made conforming changes throughout the section to correctly reference new section WAC 173-303-646.

Mandatory corrective action requirements (WAC 173-303-646 (1) and (2)). Owners/operators of facilities seeking or required to have a permit for treatment, storage, recycling, or disposal of dangerous waste must conduct corrective action for all releases of dangerous wastes and dangerous constituents at the facility, including any and all from solid waste management units (SWMUs). Corrective action is required regardless of the time at which waste was managed at the facility or in SWMUs and regardless of whether the facility or SWMU was intended for the management of solid or dangerous waste.

Washington's requirements for corrective action for all releases of dangerous waste and dangerous constituents are more stringent than federal corrective action requirements at 40 CFR § 264.101. Under the federal system, corrective action requirements are limited to releases from solid waste management units; under Washington's system, corrective action may be required for any release regardless of its origin. Ecology believes this additional stringency will benefit the agency and the regulated community by, improving the efficiency of cleanups, by addressing sites holistically instead of in pieces. Ecology believes this will allow for more integrated, site specific and cost effective remedies, allowing ecology to give some facilities some assurances that environmental cleanup under the dangerous waste regulations will satisfy the requirements of the Model Toxics Control Act by conforming RCRA and MTCA cleanup responsibilities and standards (no more double jeopardy), reducing duplication of effort between ecology programs, and reducing regulatory confusion and the regulatory burden at facilities subject to corrective action.

Owner/operators of dangerous waste management facilities must implement corrective action, as necessary to protect human health and the environment, for releases which have migrated beyond the facility boundary.

Ecology's requirements for corrective action beyond the facility boundary are more stringent than federal requirements, ecology is not limited by the "best efforts" language of the federal regulations. Financial assurances for corrective action must be provided.

Ecology may impose corrective action requirements in a final dangerous waste management facility permit, or an administrative order issued pursuant to chapter 70.105 RCW. In the case of owner/operators seeking a final permit, corrective action and schedules of compliance for such corrective actions must be specified in the permit.

Alternative authorities; alternative corrective action (WAC 173-303-646(3)). Ecology may require owner/operators of dangerous waste management facilities to fulfill their corrective action requirements through implementation of an enforceable action imposed pursuant to the Model Toxics Control Act (MTCA). In the case of facilities seeking a final dangerous waste management facility permit, corrective action requirements imposed pursuant to the MTCA and a schedule of compliance for such corrective actions will be incorporated into the permit at the time of permit issuance. When imposing corrective action requirements pursuant to the MTCA, the requirements of chapter 173-303 WAC must be met as applicable, relevant and appropriate requirements (ARARs) to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

Implementation of corrective action requirements using the MTCA is known as the alternative authorities initiative. The alternative authorities initiative was established to provide a mechanism for states with existing environmentally protective cleanup authorities to use those authorities to perform corrective action at RCRA facilities [facilities]. Under the alternative authorities initiative ecology is applying for authorization of a corrective action program which relies on the Model Toxics Control Act (MTCA) regulations to implement corrective action requirements. The alternative authorities initiative represents a truly innovative and cooperative effort between state and federal agencies to untangle the complexities of environmental cleanup requirements. Authorization of ecology's alternative authorities initiative will be the first EPA authorization of a state alternative authority and will serve as the national model.

Ecology intends that corrective action requirements imposed pursuant to the MTCA will be equivalent in scope and stringency to conventionally imposed corrective actions. Ecology will incorporate "RCRA-only" provisions, such as the provisions for corrective action management units, into alternative corrective actions as ARARs. Voluntary cleanups conducted under the Model Toxics Control Act will not constitute [constitute] compliance with the corrective action requirements of WAC 173-303-646(2).

It is important to note that the corrective action requirements specified by WAC 173-303-646(2) are the mandatory corrective action provisions, and preserve ecology's ability to require corrective action in an order or permit issued pursuant to chapter 70.104 RCW and chapter 173-303 WAC, independent of any potential requirements for a facility to conduct a cleanup under the MTCA. The ability to impose corrective action requirements pursuant to the MTCA is a regulatory option which will be implemented at ecology's discretion.

Corrective action management units (CAMUs), the director of ecology may designate an area of a facility as a corrective action management unit (CAMU) for purposes of implementing the corrective action requirements of WAC 173-303-646(2). Placement of remediation waste into or within a CAMU does not constitute land disposal of dangerous waste, and consolidation or placement of remediation wastes into or within a CAMU does not constitute creation of a new unit subject to the minimum technology requirements of WAC 173-303-140(2). Designation of a CAMU will not change the department's existing authority to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

The provisions for CAMUs in **WAC 173-303-646 (4), (5), and (6)** are equivalent to the federal CAMU provisions codified in the February 16, 1992, Federal Register (55 FR 8658). CAMUs may accept only remediation waste, as defined at WAC 173-303-040. CAMUs may not accept remediation waste, or any other waste, from off-site (except that remediation waste generated through cleanup of an on-site release which has migrated off-site may be managed in a CAMU). CAMUs must be designated by ecology in a corrective action order or a final dangerous waste management facility permit. Facility owner/operators requesting a CAMU must provide ecology with information sufficient to make a CAMU determination. Ecology must provide opportunity for public review and comment on all CAMU determinations.

It is ecology's intent to use the CAMU provisions of WAC 173-303-646 (4), (5), and (6) to facilitate more environmentally protective, cost-effective, site-specific, and appropriate remedial decisions. While CAMUs could, in some cases, be used to consolidate remedial wastes at a facility, it is ecology's intent that CAMUs will primarily be used to perform more on-site treatment and more innovative treatment of remedial wastes.

Ecology must specify the following when establishing a CAMU, the areal configuration of the CAMU, requirements for groundwater monitoring which are sufficient to continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases from sources within the CAMU and detect and subsequently characterize releases which may occur from areas of the CAMU where waste will remain after CAMU closure, requirements for CAMU closure which are consistent with the closure performance standard at WAC 173-303-610 (2)(a) and which may include requirement for excavation, removal, treatment, or containment of remediation wastes, for areas where wastes will remain after CAMU closure, requirements for capping, requirements for removal and decontamination of equipment, devices, and structures used in waste management activities within the CAMU, and requirements for post-closure activities, as necessary to protect human health and the environment, including, for areas of the CAMU where wastes will remain after closure, monitoring and maintenance activities and the frequency with which such activities shall be performed to ensure the integrity of any cap, final cover, or other containment system.

Incorporation of a regulated unit in a CAMU, the director of ecology may designate a regulated unit as a CAMU and/or may incorporate a regulated unit into a

CAMU only if the regulated unit is closed or closing (per WAC 173-303-610) and its inclusion will enhance implementation of effective, protective, and reliable remedial actions at the facility. The requirements of WAC 173-303-610 Closure and post-closure, 173-303-620 Financial requirements, 173-303-645 Releases from regulated units, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

Temporary tank and container units (WAC 173-303-646(7)), the director of ecology may designate a temporary tank or container unit for the purposes of implementing corrective action requirements. In designating a temporary tank or container unit, the director may determine that a design, operating, or closed standard applicable to a tank or container unit may be replaced by alternative requirements which are protective of human health and the environment. Temporary units must be located within the facility boundary and may operate for only one year, except that under the specific provisions of WAC 173-303-646 (7)(e) temporary units may be allowed to operate for one additional year. As with corrective action management unit determinations, the director must document the rationale for designating a temporary unit and for granting time extensions for temporary units and must make such documentation available for public review and comment.

Corrective action for underground injection wells, owner/operators of underground injection wells regulated by the permit by rule provisions of WAC 173-303-802 and permitted after November 8, 1984, must comply with the corrective action requirements of WAC 173-303-646(2). Equivalent to federal rules promulgated in the December 1, 1987, Federal Register (52 FR 45788).

Corrective action for NPDES permit-by-rule facilities, owner/operators of publicly owned treatment works regulated by the permit by rule provisions of WAC 173-303-802 and permitted after November 8, 1984, must comply with the corrective action requirements of WAC 173-303-646(2). Equivalent to federal rules promulgated in the December 1, 1987, Federal Register (52 FR 45788).

Corrective action at facilities applying for a final dangerous waste management permit, owner/operators of facilities applying for a final dangerous waste management permit are required by **WAC 173-303-806 (a)(xxiii)** to submit information on all solid waste management units in Part B of the permit application. Equivalent to federal rules were promulgated in the December 1, 1987, Federal Register (52 FR 45788).

Small Business Economic Impact Statement: The amendments to dangerous waste regulations propose changes to fifty-four different sections of chapter 173-303 WAC. Department of Ecology is authorized by chapter 70.105 RCW, Hazardous Waste Management Act (HWMA), to adopt and enforce rules regulating the generation and management of hazardous wastes. The amendments are intended to clarify and simplify the existing regulations surrounding dangerous wastes in order that businesses may meet the compliance requirements more easily. It is through these aspects that amendments to dangerous waste regulations support the purpose of the HWMA, RCW 70.105.007.

Amendments to portions of eight sections of chapter 173-303 WAC were suggested by persons in the business community whose work is affected by the dangerous waste regulations. The majority of the amended sections are reworded, combined and partially or wholly deleted to clarify the compliance requirements and to make Washington's regulations regarding dangerous waste more closely resemble federal regulatory language surrounding the generation and management of hazardous waste. Eleven sections include new compliance requirements. As a whole, the amendments make the dangerous waste regulations more easily understandable and ease businesses' efforts to achieve compliance; also, ecology's task of enforcing the regulations will be simplified as a result of the proposed amendments. Insofar as many of the amendments clarify and simplify the compliance requirements for chapter 173-303 WAC, they serve as mitigation to businesses' compliance efforts in accordance with the Regulatory Fairness Act (RFA), chapter 19.85 RCW.

The amendments to dangerous waste regulations have been reviewed by ecology and found to impact businesses engaged in the generation, transport, or treatment, storage and disposal of dangerous waste. Data from ecology's solid and hazardous waste program indicated that firms in 257 different industries had dangerous waste identification numbers in 1990. As this represented approximately 68% of all industries in the state of Washington, preparation of a SBEIS was required under the RFA. Surveys were conducted on each of the three groups (generators, transporters, and TSD facilities) to assess the economic impact of the package of proposed revisions. Questions on the surveys were derived from the eleven amendments creating new compliance requirements.

In most cases, the compliance costs indicated on the surveys by businesses represented their initial estimates because the proposed language in the amendments had not been publicized at the time the surveys were conducted. Cost comparisons for small businesses [to] relative large ones were based on both per employee and per hour of labor costs. Business revenue figures were inadequate for making accurate comparisons across different size firms based on income. Data gathered from the surveys indicated the following overall results: No disproportionate impact on small businesses which are generators of dangerous waste; no disproportionate impact on small businesses which transport dangerous waste; and a disproportionate impact resulting from the amendment to WAC 173-303-350 on small businesses which are TSD facilities.

Survey data indicated a disproportionate economic impact on small businesses which are dangerous waste TSD facilities as a result of the proposed amendment to WAC 173-303-350 Contingency plan and emergency procedures. The average cost per employee for revising a facility contingency plan was \$30 for large businesses; this figure was greater than that given by the one small business responding to the TSD facility survey. The disproportionate impact of this amendment may be mitigated in the following ways: Ecology may exempt small businesses from this requirement; and ecology may provide professional and/or technical assistance to small businesses needing to revise their contingency plans.

Both recommendations are in accordance with the RFA and will mitigate the proportionately higher economic impact of amendments to dangerous waste regulations on small businesses which are TSD facilities and which must revise their contingency plans to comply with WAC 173-303-350(3) as amended. But in consideration of the fact that TSD facilities tend to manage large quantities of dangerous waste, the latter of the above recommendations is much more plausible in terms of upholding the purposes stated in the HWMA and chapter 173-303 WAC. Requiring comprehensive, accurate contingency plans at all TSD facilities is more likely to prevent problems related to the improper management of dangerous waste; and Department of Ecology may assist small businesses in revising their contingency plans as needed in order to ensure that dangerous waste in all TSD facilities is managed properly.

For copies of the complete small business economic impact study, please contact: Ty Thomas, Solid and Hazardous Waste Program, Department of Ecology, Mailbox 47600, Olympia, WA 98504-7600.

Hearing Location: On July 26, at 7 p.m. - 9 p.m., Public Health Center Room 140, 1101 West College Avenue, Spokane, WA; on July 27, at 7 p.m. - 9 p.m., PUD Auditorium, 1411 West Clark, Pasco, WA; on July 28, at 7 p.m. - 9 p.m., Attorney General Conference Room, Rowsix, Building One, 4424 6th Avenue Southeast, Lacey, WA; and on July 29, at 7 p.m. - 9 p.m., City Council Chamber, 600 4th Avenue, Seattle, WA.

Submit Written Comments to: Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7659, by August 6, 1993.
Date of Intended Adoption: November 17, 1993.

June 2, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-016 Identifying solid waste. (1) Purpose and applicability.

(a) The purpose of this section is to identify those materials that are and are not solid wastes.

(b)(i) The definition of solid waste contained in this section applies only to wastes that also are dangerous for purposes of the regulations implementing chapter 70.105 RCW. For example, it does not apply to materials (such as nondangerous scrap, paper, textiles, or rubber) that are not otherwise dangerous wastes and that are recycled.

(ii) This section identifies only some of the materials which are solid wastes and dangerous wastes under chapter 70.105 RCW. A material which is not defined as a solid waste in this section, or is not a dangerous waste identified or listed in this section, is still a solid waste and a dangerous waste for purposes of these sections if reason and authority exists under chapter 70.105 RCW and WAC 173-303-960. Within the constraints of chapter 70.105 RCW, this shall include but not be limited to any material that: Is accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or, due to the dangerous constituent(s) in it, when used or reused would pose a threat to public health or the environment.

(c) Certain materials are solid wastes but are excluded from the requirements of this chapter by WAC 173-303-071.

(2) The following terms are used and shall have the meanings as defined in WAC 173-303-040:

- (a) Boiler
 - (b) By-product
 - (c) Incinerator
 - (d) Industrial furnace
 - (e) Reclaim
 - (f) Recover
 - (g) Recycle
 - (h) Used or reused (see reuse or use)
 - (i) Sludge
 - (j) Scrap metal
 - (k) Spent material
- (3) Definition of solid waste.

(a) A solid waste is any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).

(b) A discarded material is any material which is:

- (i) Abandoned, as explained in subsection (4) of this section; or
- (ii) Recycled, as explained in subsection (5) of this section; or
- (iii) Considered inherently waste-like, as explained in subsection (6) of this section.

(4) Materials are solid waste if they are abandoned by being:

- (a) Disposed of; or
- (b) Burned or incinerated; or

(c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(5) Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in (a) through (d) of this subsection.

(a) Used in a manner constituting disposal. Materials noted with a "*" in column 1 of Table 1 are solid wastes when they are:

(i)(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(b) Burning for energy recovery. Materials noted with a "*" in column 2 of Table 1 are solid wastes when they are:

- (i) Burned to recover energy;
- (ii) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are themselves fuels.

(c) Reclaimed. Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed.

(d)(i) Accumulated speculatively. Materials noted with a "*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

(ii) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under WAC 173-303-071 (3)(n) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

TABLE 1

	Use constituting disposal WAC 173-303- 016 (5)(a)	Energy recovery/ fuel WAC 173-303- 016 (5)(b)	Reclamation WAC 173-303- 016 (5)(c)	Speculative accumulation WAC 173-303- 016 (5)(d)
Spent materials	(*)	(*)	(*)	(*)
Commercial chemical products	(*)	(*)	—	—
By-products listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
Sludges listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—	(*)
Sludges exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—	(*)
Scrap metal	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in WAC 173-303-040.

¹ The characteristics of dangerous waste are described in WAC 173-303-090.

² The dangerous waste criteria are described in WAC ((~~173-303-084 and 173-303-101 through 173-303-103~~) 173-303-100).

(6) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(a) Dangerous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(b) The department will use the following criteria to add wastes to (a) of this subsection:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in WAC 173-303-9905 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health or the environment when recycled.

(7) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-020 Applicability. Except as expressly provided elsewhere herein, this chapter 173-303 WAC shall apply to all persons who handle dangerous wastes and solid wastes that may designate as dangerous wastes including, but not limited to:

- (1) Generators;
- (2) Transporters;
- (3) Owners and operators of dangerous waste recycling, transfer, storage, treatment, and disposal facilities; and
- (4) The operator of the state's extremely hazardous waste management facility.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-040 Definitions. When used in this regulation, the following terms have the meanings given below.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

The effective date of the waste's designation by 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

"Acutely hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column, including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

"Aquatic LC₅₀" (same as TLM₉₆) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as *Lepomis macrochirus* (bluegill) or *Pimephales promelas* (flathead minnow), or cold water species such as salmonidae, when using the testing method described in WAC 173-303-110.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

~~("Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.)~~

"Batch" means any waste which is generated less frequently than once a month.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air,

and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material ((known to contain an IARC positive or suspected, human or animal carcinogen)) listed in the carcinogenic dangerous waste list, WAC 173-303-9908.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal manures and vegetable compost. The commercial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale the fertilizer is being sold and/or applied.

"Compliance procedure" shall mean any proceedings instituted pursuant to the Hazardous Waste Disposal Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

"Contract" means the written agreement signed by the department and the state operator.

"Corrective action management unit" or "CAMU" means an area within a facility used for the management of remediation waste, that is designated by the director pursuant to WAC 173-303-646 (4), (5), and (6) for the purpose of implementing the corrective action requirements of WAC 173-303-646(2).

"Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through ~~((173-303-103))~~ 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter ~~((including dangerous and extremely hazardous waste, while)).~~ The abbreviation "DW" will refer only to that part of the regulated universe which is ~~((dangerous only, and))~~ not extremely hazardous waste. (See also "extremely hazardous waste," ~~((and))~~ "hazardous waste," and "mixed waste" definitions.)

"Department" means the department of ecology.

"Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste

shipment and which is authorized pursuant to this chapter or RCRA to recycle or manage dangerous waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Director" means the director of the department of ecology or his designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste (~~(constituents (constituents))~~) constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment. ~~((Release includes, but is not limited to, the actions of: Spilling, leaking, pumping, pouring, emitting, dumping, emptying, depositing, placing, or injecting.))~~

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes ~~((from residential sources))~~ that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Elementary neutralization unit" means a device which: Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Environment" means any air, land, water, or ground water.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this

chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-070 through ~~((173-303-103))~~ 173-303-100 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" shall be used interchangeably. For the purposes of implementing corrective action imposed pursuant to WAC 173-303-646 (2) or (3), the term facility has the following meaning: All contiguous property under the control of an owner or operator seeking or required to have a permit under the provisions of chapter 70.105 RCW or chapter 173-303 WAC, including the definition of facility at RCW 70.105D.020(3).

"Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Ground water" means water which fills voids below the land surface and in the earth's crust.

"Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090(~~(, 173-303-101, 173-303-102, or 173-303-103)~~) or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"Incinerator" means any enclosed device (~~(using)~~) that uses controlled flame combustion ((that)) and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy; cement kilns, lime kilns, aggregate kilns, phosphate kilns, blast furnaces, smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces), titanium dioxide chloride process oxidation reactors, coke ovens, methane reforming furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and

pulping liquor recovery furnaces. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

"Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours or less, kills within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Land disposal" means placement (~~(in a facility or)~~) on the land (~~((with the intent of leaving the dangerous waste at closure))~~), except in a corrective action management unit, and includes, but is not limited to, placement ((for disposal purposes)) in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground mine or cave; concrete vault; bunker; or miscellaneous unit.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, ((or)) a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090(8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, corrective action management unit, temporary unit, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a nonradioactive hazardous component and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954.

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

~~("Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.)~~

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515.

"Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, shall be considered on-site travel if: The travel crosses the right of way at a perpendicular intersection; or, the right of way is controlled by the property owner and is inaccessible to the public.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-670 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

The department, pursuant to this chapter;

United States EPA, pursuant to 40 CFR Part 270; or

Another state authorized by EPA, pursuant to 40 CFR Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

"Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat and which is not listed as an industrial furnace.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more benzene rings. For the purposes of this chapter, the PAH of concern for designation are only those PAH with more than three rings and less than seven rings.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

January 26, 1983 for wastes regulated by 40 CFR Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, including dangerous constituents as defined at WAC 173-303-646 (1)(c), into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020(10).

"Remediation waste" means all solid or dangerous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, which contain listed dangerous wastes, or which themselves exhibit a dangerous waste characteristic or criteria, that are managed for the purpose of implementing corrective action requirements imposed pursuant to WAC 173-303-646 (2) or (3). For a given facility, remediation wastes may originate only from within the facility boundary, except that remediation waste may include wastes managed in implementing corrective action in accordance with WAC 173-303-646 (2)(b) for releases extending beyond the facility boundary.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where hazardous waste is initially

accumulated during routine operations prior to consolidation at a designated accumulation area or storage area. The area must be under control of the operator of the process generating the waste or secured at all times to prevent unauthorized disposal of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of either WAC 173-303-090 (6)(a)(ii) or (b).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or dangerous waste. Such units include any location at a facility at which wastes have been routinely and systematically released and any location at a facility at which spills have routinely or systematically occurred. Such units include regulated units as defined by chapter 173-303 WAC.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 CFR Part 261.

"Special waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090(~~(, 173-303-101, 173-303-102, or 173-303-103)~~) or 173-303-100. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 CFR Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long

as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Temporary unit" or "TU" means a tank or container treatment or storage unit used for the management of remediation waste, that is designated by the director pursuant to WAC 173-303-646(7) for the purpose of implementing the corrective action requirements of WAC 173-303-646 (2) or (3).

"Thermal treatment" means the ((use of)) treatment of dangerous waste in a device which uses ((primarily)) elevated temperatures as the primary means to ((treat a)) change the chemical, physical, or biological character or composition of the dangerous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"TLM₉₆" means the same as "Aquatic LC₅₀."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Transfer facility" ((or "collection facility" means a facility at which dangerous waste shipments are collected, consolidated, and stored for more than ten days before transfer to a storage, treatment, or disposal facility)) means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held for ten days or less during the normal course of transportation.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities.

"Waste water treatment unit" means a device (~~which~~) that:

Is part of a waste water treatment facility which is subject to regulation under either:

Section 402 or section 307(b) of the Federal Clean Water Act; or

Chapter 90.48 RCW, State Water Pollution Control Act, provided that (~~any dangerous~~) the waste treated at the facility is ((designated only by this chapter, chapter 173-303 WAC, and is not regulated as hazardous waste under 40 CFR Part 264)) a state-only dangerous waste; and

Handles dangerous waste ((as defined in WAC 173-303-070 through 173-303-103 in either of)) in the following manner:

Receives and treats or stores an influent (~~dangerous~~) waste water; or

Generates and accumulates or treats or stores a (~~dangerous~~) waste water treatment sludge; and

Meets the definition of tank or tank system in this section.

"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to ground water or surface water.

Any terms used in this chapter which have not been defined in this section shall have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else shall have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, shall be in reference to those rules as they existed on July 1, (~~1990~~) 1993. Copies of the appropriate referenced federal requirements are available upon request from the department.

AMENDATORY SECTION (Amending Order 92-32, filed 1/5/93, effective 2/5/93)

WAC 173-303-070 Designation of dangerous waste. (1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not his solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that his waste is designated DW or EHW shall be subject to all applicable requirements of this chapter.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC ~~((473-303-084 or 173-303-101 through 173-303-103))~~ 173-303-100, it does not exhibit any of the criteria of WAC ~~((473-303-101 through 173-303-103))~~ 173-303-100.

Such solid waste shall include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(3) Designation procedures.

(a) To determine whether or not ~~((his))~~ a waste is designated a person shall check ~~((his))~~ the waste against the following sections, and in the following order:

(i) First, Discarded chemical products, WAC 173-303-081;

(ii) Second, Dangerous waste sources, WAC 173-303-082;

(iii) Third, ~~((Infectious dangerous wastes, WAC 173-303-083;))~~ Dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, Dangerous waste ~~((mixtures, WAC 173-303-084; and~~

~~((Last, Dangerous waste characteristics, WAC 173-303-090))~~ criteria, WAC 173-303-100.

(b) ~~((In addition to the designation procedures specified in (a) of this subsection, a person may choose or may be required under subsection (4) of this section to check his waste against the following sections, and in the following order:~~

~~((i) First, Toxic dangerous wastes, WAC 173-303-101;~~

~~((ii) Second, Persistent dangerous wastes, WAC 173-303-102;~~

~~((iii) Last, Carcinogenic dangerous wastes, WAC 173-303-103.~~

~~((e)))~~ A person shall check each section, in the order set forth, until he determines ~~((that his))~~ whether the waste is designated as a dangerous waste. Once ~~((his))~~ the waste is designated through the lists, ~~((mixtures and))~~ characteristics, or criteria he need not determine any other designations for ~~((his))~~ the waste, except as required by subsection (4) or (5) of this section ~~((For the purposes of designating through the criteria, if a person determines that his waste is designated DW, then he must assure that it is not also EHW by checking it against the remaining sections)), or for the purposes of compliance with the federal land disposal restrictions, as adopted by reference in WAC 173-303-140. If the designation procedures identify a waste as both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for ((EP toxicity)) toxicity characteristic), the waste must be~~

designated EHW. If a person has checked ~~((his))~~ the waste against each section ~~((that he is required by this section to check))~~ and ~~((his))~~ the waste is not designated, then ~~((his))~~ the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW shall comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person shall either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for proper designation; and

(B) All data and records supporting this determination are retained on-site.

~~((Criteria designation))~~ Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not ((his)) the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100 ((through 173-303-103)), such testing may be required if the department has reason to believe that ((his)) the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that ((his)) the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW ((by the criteria))). If a person, pursuant to the requirements of this subsection, determines that ~~((his))~~ the waste is a dangerous waste or that its designation must be changed, then he shall be subject to the applicable requirements of this chapter 173-303 WAC. The department shall base a requirement to ~~((designate))~~ test a waste ~~((by the dangerous waste criteria))~~ on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW; or

(d) Evidence or information about a person's manufacturing materials or processes which indicate that his wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for proper designation.

(5) Special knowledge. If a generator has designated his waste under the dangerous waste lists, WAC 173-303-080 through 173-303-082, ~~((or mixtures, WAC 173-303-084))~~ or characteristics, WAC 173-303-090, and has knowledge that ((his)) the waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that ((his)) the waste also meets any of the dangerous waste criteria, WAC ((473-303-101 through 173-303-103, or both)) 173-303-100, then he shall also designate ((his)) the waste in accordance with those dangerous waste characteristics, or criteria, or both.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, he shall use all the dangerous waste numbers which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria. For example, if his waste is ignitable *and* contains extremely hazardous concentrations of halogenated hydrocarbons, he shall use the dangerous waste numbers of D001 and WP01. This shall not be construed as requiring a person to designate his waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is fully subject to the requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to certain requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste identified by this chapter. In such cases, the person must consider the aggregate quantity of his wastes when determining whether or not his waste amounts exceed the specific quantity exclusion limits (QEL). Waste quantities must be aggregated for all wastes with common QEL's. For the purposes of this subsection, when aggregating waste quantities, a person shall include in his calculation dangerous wastes produced by on-site treatment or recycling of dangerous wastes and dangerous wastes being accumulated or stored. For example, if a person generates, accumulates, or stores 300 pounds of an ignitable waste and 300 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (600 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates, accumulates, or stores one pound of an EHW discarded chemical product and 300 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). However, the total quantity of dangerous waste (QEL 220 pounds) and extremely hazardous waste (QEL 2.2 pounds) may not equal or exceed 220 pounds. Additional guidance on aggregating waste quantities is available from the department.

(c) The following are categories of waste that are excluded from the quantity determination and need not be aggregated as required by (b) of this subsection when calculating total waste quantities.

(i) Dangerous waste that is recycled and that is excluded from regulation under WAC 173-303-120 (2)(a), (3)(c), (e), or (f) is not included in the quantity determinations of this section and is not subject to any requirements of this section.

(ii) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(8) Small quantity generators.

(a) A person is a small quantity generator and is subject to the requirements of this subsection if his waste is designated under subsection (3) of this section, and the quantity of waste that he generates, accumulates, or stores (or the aggregated quantity if he generates more than one kind of waste) does not equal or exceed the quantity exclusion limit for such waste (or wastes) as listed in WAC 173-303-081(2), 173-303-082(2), and 173-303-090(4). If a person generates, accumulates, or stores any dangerous wastes that exceed the QEL, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time equals or exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter. A small quantity generator who generates, accumulates, or stores waste in excess of the quantity exclusion limit and becomes subject to the full requirements of this chapter cannot again be a small quantity generator until after all dangerous waste on-site at the time he became fully regulated have been removed, treated, or disposed.

(b) A small quantity generator will not be subject to the requirements of this chapter if he:

(i) Complies with subsections (1), (2), (3), and (4) of this section; and

(ii) Either treats or disposes of his dangerous waste in an on-site facility, or ensures delivery to an off-site facility, either of which is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims his dangerous waste, or that treats his waste prior to such recycling activities; or

(E) Permitted to manage municipal or industrial solid waste in accordance with state or local regulations, or in accordance with another state's solid waste laws if the waste is sent out of state; and

(F) A publicly owned treatment works (POTW) provided that the small quantity generator has obtained either a pretreatment permit, state waste discharge permit, or a written discharge authorization from the local sewage utility prior to discharging any wastes.

(iii) Submits an annual report in accordance with WAC 173-303-220 if he has obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter shall comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960:

(a) ~~((Domestic sewage. "Domestic sewage" means untreated sanitary wastes from residential sources that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.)) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment provided that the generator or owner/operator has obtained a pretreatment permit, state waste discharge permit, or a written discharge authorization from the local sewage utility prior to discharge.~~ This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system ~~((Owners or operators of POTWs managing dangerous wastes may qualify for a permit by rule pursuant to WAC 173-303-802(4)))~~;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes which are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quar-

ters, campgrounds, picnic grounds, and day-use recreation areas);

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC ~~((173-303-084(6) or 173-303-102))~~ 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials intended and used for structural and construction purposes (e.g., roads, dikes, paving) which are produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

~~(g) (Waste wood or wood products that fails the test for the toxicity characteristic solely for arsenic and which is not a dangerous waste for any other reason or reasons, if the waste is generated by persons who utilize the arsenical-treated wood or wood products for these materials' intended end use;))~~ Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' end use.

(ii) Wood treated with other preservatives provided such treated wood is disposed of at a landfill that is permitted and operated in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, and chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8). In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler which has a valid air permit.

(h) Irrigation return flows;

(i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 and that are dangerous either because they fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only) or because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC ~~((173-303-510, 173-303-515))~~ 173-303-505 through 173-303-525, and 173-303-960;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when, using EPA's PCB testing method 600/4-81-045, the waste can be shown to contain less than one part per million (ppm) PCB or when, using ASTM method D 4059-86, the waste can be shown to contain less than two parts per million (ppm) PCB;

(iii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are:

(A) Stored in a manner equivalent to the requirements of 40 CFR 761.65; and

(B) Within one year of removal from service, disposed of either in an incinerator that complies with 40 CFR 761.70, in a chemical waste landfill that complies with 40 CFR 761.75, in a high efficiency boiler that complies with 40 CFR 761.60 (a)(2)(iii) or (a)(3)(iii), or in a facility otherwise approved in accordance with 40 CFR 761.60(e);

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) ~~(Asbestos wastes or asbestos-containing wastes which would be designated only as respiratory carcinogens by WAC 173-303-084 or 173-303-103, and any other inorganic wastes which are designated only under WAC 173-303-084 or 173-303-103 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the asbestos management procedures of 40 CFR Part 61;~~

(n)) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit

ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

~~((o))~~ (n) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100 ~~(through 173-303-103))~~) or characteristics (WAC 173-303-090);

~~((p))~~ (o) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(v), (vi), (vii), (viii), or (ix). These wastes are not excluded if they exhibit one or more of the dangerous waste criteria;

~~((q))~~ (p) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) ~~((The generator ensures that))~~ A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials ((are delivered to a dangerous waste treatment, storage, or disposal facility or legitimate recycler. The generator must be able to provide documentation of such delivery. If the generator can demonstrate that the residues do not exhibit any of the dangerous waste characteristics (WAC 173-303-090) and criteria (WAC 173-303-100 through 173-303-103), then he is exempt from the requirements of this condition in this item (v)).

~~((r))~~ (q) Treatability study samples.

(i) Except as provided in ~~((r))~~ (q)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in ~~((r))~~ (q)(i) of this subsection is applicable to samples of dangerous waste being collected and

shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 1000 kg of any dangerous waste, 1 kg of acutely hazardous waste, or 250 kg of soils, water, or debris contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 1000 kg of dangerous waste, 1 kg of acutely hazardous waste, or 250 kg of soils, water, or debris contaminated with acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of ~~((+))~~ (q)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under ~~((+))~~ (r) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under ~~((+))~~ (q)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in ~~((+))~~ (q)(ii)(A) of this subsection, for up to an additional 500 kg of nonacute hazardous waste, 1 kg of acute hazardous waste, and 250 kg of soils, water, or debris contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study

evaluation when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to all the provisions in ~~((+))~~ (q)(i) and (ii)(B) of this subsection. The generator or sample collector must apply to the department (~~in the state~~) where the sample is collected and provide in writing the following information:

(A) The reason the generator or sample collector requires additional quantity of sample for the treatability study evaluation and the additional quantity needed;

(B) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the department considers necessary.

~~((+))~~ (r) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of ~~((+))~~ (r)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to ~~((+))~~ (r)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in ~~((+))~~ (r)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 250 kg of "as received" dangerous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the laboratory or testing facility for the purpose of evaluation in treatability studies does not exceed 1000 kg,

the total of which can include 500 kg of soils, water, or debris contaminated with acutely hazardous waste or 1 kg of acutely hazardous waste. This quantity limitation does not include:

- (A) Treatability study residues; and
- (B) Treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping paper associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in ~~((+))~~ (q) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

~~((+))~~ (s) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

~~((+))~~ (t) Special incinerator ash (as defined in WAC 173-303-040).

(u) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood and wood fiber materials (i.e., wood chips, saw dust, paper, cardboard, tree stumps, untreated timbers, and untreated lumber). This exclusion allows for the use of over firing fuels (oils, gas, coal, and other fossil fuels) in the combustion process.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-072 Procedures and bases for exempting and excluding wastes. (1) Purpose and applicability.

(a) The purpose of this section is to describe the procedures that will be followed by generators and the department when wastes are considered for exemption or exclusion from the requirements of this chapter. Any person(s) whose waste is exempted or excluded will not be subject to the requirements of this chapter unless the department revokes the exemption or exclusion.

(b) Any person seeking a waste exemption must submit a petition to the department according to the procedures of WAC 173-303-910(3). A petition for exemption will be assessed against the applicable bases for exemption described in subsections (3), (4), and (5) of this section.

(c) Any persons seeking to categorically exclude a class of wastes must submit a petition to the department according to the procedures of WAC 173-303-910(4). A petition for

exclusion will be assessed against the applicable bases for exclusion described in subsection (6) of this section.

(2) Department procedures. When considering, granting, or denying a petition for exemption or exclusion, the department shall follow the appropriate procedures described in WAC 173-303-910(1).

(3) Bases for exempting wastes. To successfully petition the department to exempt a waste, the petitioner must demonstrate to the satisfaction of the department that:

(a) He has been able to accurately describe the variability or uniformity of his waste over time, and has been able to obtain demonstration samples which are representative of his waste's variability or uniformity; and, either

(b) The representative demonstration samples of his waste are not designated DW or EHW by the dangerous waste criteria, WAC 173-303-100 (~~through 173-303-103~~); or

(c) It can be shown, from information developed by the petitioner through consultation with the department, that his waste does not otherwise pose a threat to public health or the environment. However, this basis for exemption is not applicable to wastes that exhibit any of the characteristics specified in WAC 173-303-090, except 173-303-090 (6)(a)(iii).

(4) Additional bases for exempting listed wastes. In addition to the demonstrations required by subsections (3)(a) and (b) of this section, for wastes listed in WAC 173-303-081 or 173-303-082 the petitioner must also demonstrate to the satisfaction of the department that his waste is not capable of posing a substantial present or potential threat to public health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The following factors will be considered by the department when assessing such a demonstration:

(a) Whether or not the listed waste contains the constituent or constituents which caused it to be listed. (For the purposes of this subsection, the constituents referred to will include any of the dangerous waste constituents listed in WAC 173-303-9905);

(b) The nature of the threat posed by the waste constituent(s);

(c) The concentration of the constituent(s) in the waste;

(d) The potential of the constituent(s) or any degradation product of the constituent(s) to migrate from the waste into the environment under the types of improper management considered in (h) of this subsection;

(e) The persistence of the constituent(s) or any degradation product of the constituent(s);

(f) The potential for the constituent(s) or any degradation product of the constituent(s) to degrade into nonharmful constituents and the rate of degradation;

(g) The degree to which the constituent(s) or degradation product of the constituent(s) bioaccumulates in ecosystems;

(h) The plausible types of improper management to which the waste could be subjected;

(i) The quantities of the waste generated at individual generation sites or on a state-wide basis. Under this factor, the department will also consider whether or not the waste is listed under WAC 173-303-081 as a discarded chemical product and occurs in a relatively pure form. Any waste discarded chemical product which exceeds the quantity

exclusion limit specified in WAC 173-303-081(2) for that waste will not be exempted;

(j) The nature and severity of the public health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent(s);

(k) Actions taken by other governmental agencies or regulatory programs based on the health or environmental threat posed by the waste or waste constituent(s); and

(l) Such other factors as may be appropriate.

(5) Bases for exempting wastes designated solely for the presence of chromium. The department will exempt a waste which is designated because of the presence of chromium if the petitioner can demonstrate that:

(a) The waste is not designated for any other characteristic under WAC 173-303-090, or for any of the criteria specified in WAC (~~173-303-101, 173-303-102 or 173-303-103~~) 173-303-100;

(b) The waste is not listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium;

(c) The waste is typically and frequently managed in nonoxidizing environments or under nonoxidizing conditions; and

(d) Either of the following demonstrations can be made:

(i) The waste is generated from a process which uses trivalent chromium exclusively (or nearly exclusively), the process does not generate hexavalent chromium, and the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium(~~;~~~~or~~

~~(ii) Under test procedures approved by the department, the toxicity characteristic extract of the waste can be shown to contain less than five milligrams per liter (5 mg/L) of hexavalent chromium).~~

(6) Bases for categorically excluding classes of wastes. This subsection does not apply to any waste class that includes hazardous waste regulated under 40 CFR Part 261. To successfully petition the department to categorically exclude a class of wastes, petitioners must demonstrate to the satisfaction of the department that the petition or petitions for exclusion:

(a) Accurately describe the class of wastes for which categorical exclusion is sought and show that the class of wastes does not include any wastes which would be regulated as hazardous waste under 40 CFR Part 261;

(b) Describe the variability or uniformity of the class of wastes over time and in relation to the individual wastes that comprise the class of waste;

(c) Discuss the generators and their individual wastes that belong to the class of wastes and, to the extent practical, any generators or individual wastes that, although belonging to the class of wastes, are not represented by the petition or petitions; and

(d) For each individual waste within the class of wastes, provide the demonstration described by subsection (3) of this section, except that where it is determined by consultation with the department to be impractical to provide the demonstration for each individual waste, the petitioner or petitioners shall provide the demonstration for samples of the individual wastes determined by consultation with the department to be representative of the class of wastes.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-075 Certification of designation. (1) Purpose and applicability.

(a) The purpose of WAC 173-303-075 is to establish procedures by which the generator of a solid waste may apply to the department for a review of his waste, and for a determination of the designation of his waste. When a final determination is made, the department shall issue a certificate of designation which shall describe the status of the generator's waste with respect to the designation requirements of this chapter 173-303 WAC.

(b) The provisions of this section are applicable to any person who produces a solid waste, who may be subject to the requirements of this chapter 173-303 WAC as the generator of a dangerous waste and who wishes to obtain a certificate designating the status of his waste.

(2) Certification. Any person who produces a solid waste which could be a dangerous waste may apply to the department, in accordance with the guidelines published pursuant to WAC 173-303-075(4), for a certificate of designation for his waste.

(a) The certificate of designation will describe the status of the designation for a waste or wastes as follows:

(i) Either, the certificate will state that the waste or wastes listed in the certificate are designated dangerous waste; or

(ii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the designation lists or characteristics of WAC 173-303-080 through 173-303-090; or

(iii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the dangerous waste lists, characteristics or criteria, WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100.

(b) The certificate of designation will, at a minimum, include the following information:

(i) The name, address, telephone number and, where applicable, the EPA/state identification number of the person to whom the certificate is issued;

(ii) A statement of the status of the designation of the waste or wastes listed in the certificate and, if designated, whether DW or EHW;

(iii) A listing of the waste or wastes for which the certificate has been issued;

(iv) The signature of the director or his designee;

(v) The date on which the certificate was issued; and

(vi) The period of time or conditions for which the certificate is valid.

(c) Once a certificate of designation has been issued to a person, that person is no longer subject to the designation procedures of WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100, unless the period of time for which the certificate is valid expires, the conditions under which the certificate is valid change, or the department withdraws its certification of designation in accordance with WAC 173-303-075(5). If the certificate states that the waste or wastes listed in it are designated, then the person to whom the certificate is issued shall comply with all applicable requirements of this chapter 173-303 WAC. If the certificate states that the waste or wastes listed in it are not designated, then

the person to whom the certificate is issued is not subject to the requirements of this chapter 173-303 WAC, unless the certificate becomes invalid or the department withdraws its certification.

(d) While an application for a certificate of designation is pending final action by the department, the person applying for certification must comply with all applicable requirements of this chapter 173-303 WAC.

(e) While a certificate of designation is being amended, in accordance with WAC 173-303-075(5), the certificate shall remain in effect except for those parts of the certificate which the department specifically suspends.

(3) Designation. Determination of the status of designation for a waste or wastes for which a certificate of designation is being sought shall follow the procedures set forth in this subsection.

(a) A waste shall be certified as a dangerous waste if it is designated under any of the methods set forth in WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100.

(b) A waste shall be certified as not a dangerous waste if:

(i) It has only been checked against WAC 173-303-080 through 173-303-090 (lists and characteristics) and it is not designated; or

(ii) It has been checked against the dangerous waste lists, characteristics and criteria, WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100, and it is not designated.

(4) Application. Any person who wishes to apply for a certificate of designation shall do so according to the certification guidelines published by and available from the department. The department shall follow the procedures specified in the certification guidelines when considering an application for a certificate.

(5) Review of certification. Review of and changes to or withdrawal of certificates of designation shall be performed by the department according to the procedures specified in the certification guidelines, available from the department. At a minimum, the certification guidelines provide for the following procedures:

(a) The department will periodically review each certificate of designation to insure that it is current and accurately states the proper designation for the waste or wastes listed on the certificate.

(b) The department may amend, or any person with a certificate of designation may request the department to amend, any certificate in the event that changes to the certificate are necessary to keep it current or maintain its accuracy. The person will obtain concurrence of the department if he wishes to amend his certificate to reflect changes in the information on the certificate (e.g., new wastes, changes in waste properties, changes of address, etc.).

(c) The department reserves the authority to withdraw any certificate of designation if there is reason to believe that the certificate results in a threat to public health or the environment. If a certificate is withdrawn, then the waste or wastes listed on the certificate shall be subject to all applicable requirements of this chapter 173-303 WAC.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-082 Dangerous waste sources. (1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste which is listed or which is a residue from the management of a waste listed on the dangerous waste sources list shall be designated a dangerous waste, and shall be identified as DW, except that WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW.

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. For the purposes of this chapter, the term "acutely hazardous waste" shall include dangerous waste sources F020, F021, F022, F023, F026, and F027;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture shall be designated as a dangerous waste source. The mixture shall have the same designation (DW or EHW), and shall have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003.

(5) 40 CFR Part 261 Appendix VII *Basis for Listing Hazardous Waste* is adopted by reference.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-083 ((Infectious dangerous wastes.))
(Reserved.)

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-084 ((Dangerous waste mixtures. (1) Purpose. It is the purpose of this section to describe the means for designating a waste mixture containing dangerous wastes which are not listed in WAC 173-303-081 through 173-303-083.

(2) ~~References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (Registry) is adopted by reference. The table in the United States EPA's regulations 40 CFR Table 302.4 (Spill Table) is adopted by reference.~~

(3) ~~Waste mixture defined. For the purposes of this section, a waste mixture shall be any waste about which some or all of its constituents and concentrations are known, and which has not been designated as:~~

(a) ~~A discarded chemical product under WAC 173-303-081;~~

(b) ~~A dangerous waste source under WAC 173-303-082;~~

(c) ~~An infectious dangerous waste under WAC 173-303-083; or~~

(d) ~~A dangerous waste that has been designated by the criteria of WAC 173-303-101 through 173-303-103.~~

(4) ~~A person who has a waste mixture shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH Registry and/or to the EPA Spill Table to determine:~~

(a) ~~Toxicity data or category for each known constituent in his waste;~~

(b) ~~Whether or not each known constituent of his waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings; and;~~

(c) ~~Whether or not each known constituent of his waste is an International Agency for Research on Cancer (IARC) human or animal, positive or suspected carcinogen.~~

(5) ~~Toxicity.~~

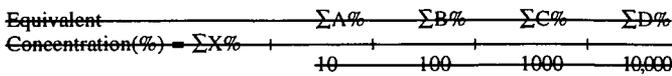
(a) ~~If a person has toxic constituents in his waste, he shall determine the toxic category for each known toxic constituent. The toxic category for each constituent may be determined directly from EPA'S Spill Table, or by obtaining data from the NIOSH Registry and checking this data against the toxic category table, below. If data is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If EPA'S Spill Table and the NIOSH Registry do not agree on the same category, then the category arrived at using the NIOSH Registry will take precedence. If toxicity data for a constituent cannot be found in EPA'S Spill Table, NIOSH Registry, or other source reasonably available to a person, then he need not determine the toxic category for that constituent.~~

TOXIC CATEGORY TABLE

Category	TL _{M50} (Fish) or, Aquatic (Fish)		Inhalation (Rat)		Dermal (Rabbit)	
	LC ₅₀ (ppm)	LD ₅₀ (mg/kg)	LC ₅₀ (mg/L)	LD ₅₀ (mg/kg)	LC ₅₀ (mg/L)	LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	<.2	<.2	<.2
A	.1 - 1	.5 - 5	.02 - .2	.2 - 2	2 - 20	20 - 200
B	1 - 10	5 - 50	.2 - 2	2 - 20	200 - 2000	2000 - 20000
C	10 - 100	50 - 500	2 - 20	20 - 200	2000 - 20000	20000 - 200000
D	100 - 1000	500 - 5000	20 - 200	200 - 2000	20000 - 200000	200000 - 2000000

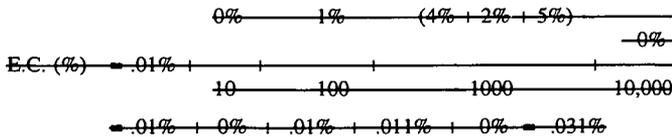
(b) ~~A person whose waste mixture contains one or more toxic constituents shall determine the equivalent concentration for his waste from the following formula:~~

PROPOSED



where $\Sigma(X, A, B, C, \text{ or } D) \%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste mixture contains: Aldrin (X Category) .01%; Diuron (B Category) 1%; Benzene (C Category) 4%; Phenol (C Category) 2%; Cyclohexane (C Category) 5%; Water (nontoxic) 87%. His equivalent concentration (E.C.) would be:



So his equivalent concentration equals .031%.

(e) A person whose waste mixture contains toxic constituents shall determine his designation from the toxic dangerous waste mixtures graph in WAC 173-303-9906 by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste as DW; if the plotted point is in the area marked EHW, he shall designate his waste as EHW.

(d) If a person knows only some of the toxic constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for toxicity under this subsection.

(e) Toxic dangerous waste mixtures graph. The toxic dangerous waste mixtures graph appears in WAC 173-303-9906.

(6) Persistence.

(a) A person whose waste mixture contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of those halogenated hydrocarbons for which he knows the concentrations in his waste mixture.

Example 2. A person's waste mixture contains: Carbon tetrachloride .009%; DDT .012%; 1,1,1 trichloroethylene .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(b) A person whose waste mixture contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in his waste mixture.

Example 3. A person's waste mixture contains: Chrysene .08%; 3, 4 benzopyrene 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(e) A person whose waste mixture contains halogenated hydrocarbons shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total halogenated hydrocarbon concentration for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total halogenated hydrocarbon concentration. If the plotted point is in the area marked DW, then he shall designate his waste DW; if the plotted point is in the area marked EHW, then he shall designate his waste EHW.

(d) A person whose waste mixture contains polycyclic aromatic hydrocarbons with more than three rings and less than seven rings shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total polycyclic aromatic hydrocarbon concentration of his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total polycyclic aromatic hydrocarbon concentration. If the plotted point is in the area marked EHW, then he shall designate his waste EHW. If the plotted point is outside of the area marked EHW, then his waste is not designated.

(e) If a person knows only some of the persistent constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for persistence under this subsection.

(f) Persistent dangerous waste mixtures graph. The persistent dangerous waste mixtures graph appears in WAC 173-303-9907.

(7) Carcinogens. Any person whose waste mixture contains one or more IARC human or animal, sufficient or limited carcinogen(s) shall designate his waste DW if:

(a) The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and

(b) The monthly or batch waste quantity exceeds 220 lbs. (100 kg).

(c) For designation purposes, any IARC human or animal, sufficient or limited carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC *Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans*.

(8) Assigning dangerous waste numbers. A person whose waste is a dangerous waste mixture shall assign a dangerous waste number from the generic dangerous waste numbers table in WAC 173-303-104, Generic dangerous waste numbers. He shall assign the dangerous waste number from the table which corresponds to the designation for his dangerous waste.)) Reserved.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-090 Dangerous waste characteristics.

(1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section shall be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of his waste exceeds 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability (~~(, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103,))~~) shall be designated DW, and shall be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, (~~as determined by a pH meter~~) using Method ~~((S-2))~~ 9040 or 9041 in *Test Methods for ((the Evaluation of)) Evaluating Solid Waste (SW 846)*, *Physical/Chemical Methods*, available from the department;

(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test tempera-

ture of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*. The NACE Standard is available from the department; or

(iii) It is solid or semi-solid, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110 (3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity (~~(, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103,))~~) shall be designated DW, and shall be assigned the dangerous waste number of D002.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity (~~(, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103,))~~) shall be designated DW, and shall be assigned the dangerous waste number of D003.

(8) Toxicity characteristic.

(a) A solid waste exhibits the toxicity characteristic if, using the *Toxicity Characteristic Leaching Procedure* (TCLP, found in Appendix II of 40 CFR Part 261 or available upon request from the department) or equivalent methods approved by the department under WAC 173-303-110(5), the extract from a representative sample of the waste contains any of the contaminants listed in the toxicity characteristic list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology

outlined in the TCLP, is considered to be the extract for the purposes of this subsection.

(b) A solid waste that exhibits the toxicity characteristic(~~(, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103,))~~) has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) Toxicity characteristic list. Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations at or above the EHW threshold shall cause that waste to be designated EHW. Any waste containing contaminants which occur at concentrations at or above the DW threshold only (i.e., no EHW contaminants), shall be designated DW.

TOXICITY CHARACTERISTICS LIST:

Maximum Concentration of Contaminants for the Toxicity Characteristic

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	EHW (mg/L)	DW (mg/L)
D004	Arsenic	(7440-38-2)	500	5.0
D005	Barium	(7440-39-3)	10,000	100.0
D018	Benzene	(71-43-2)	50	0.5
D006	Cadmium	(7440-43-9)	100	1.0
D019	Carbon tetrachloride	(56-23-5)	50	0.5
D020	Chlordane	(57-74-9)	3.0	0.03
D021	Chlorobenzene	(108-90-7)	10,000	100.0
D022	Chloroform	(67-66-3)	600	6.0
D007	Chromium	(7440-47-3)	500	5.0
D023	o-Cresol	(95-48-7)	1/1	20,000
D024	m-Cresol	(108-39-4)	1/1	20,000
D025	p-Cresol	(106-44-5)	1/1	20,000
D026	Cresol	1/1	20,000	200.0
D016	2,4-D	(94-75-7)	1,000	10.0
D027	1,4-Dichlorobenzene	(106-46-7)	750	7.5
D028	1,2-Dichloroethane	(107-06-2)	50	0.5
D029	1,1-Dichloroethylene	(75-35-4)	70	0.7
D030	2,4-Dinitrotoluene	(121-14-2)	1/2/	13
D012	Endrin	(72-20-8)	2	0.02
D031	Heptachlor (and its epoxide)	(76-44-8)	0.8	0.008
D032	Hexachlorobenzene	(118-74-1)	1/2/	13
D033	Hexachlorobutadiene	(87-68-3)	50	0.5
D034	Hexachloroethane	(67-72-1)	300	3.0
D008	Lead	(7439-92-1)	500	5.0
D013	Lindane	(58-89-9)	40	0.4
D009	Mercury	(7439-97-6)	20	0.2
D014	Methoxychlor	(72-43-5)	1,000	10.0
D035	Methyl ethyl ketone	(78-93-3)	20,000	200.0
D036	Nitrobenzene	(98-95-3)	200	2.0
D037	Pentachlorophenol	(87-86-5)	10,000	100.0
D038	Pyridine	(110-86-1)	1/2/	500
D010	Selenium	(7782-49-2)	100	1.0
D011	Silver	(7440-22-4)	500	5.0
D039	Tetrachloroethylene	(127-18-4)	70	0.7
D015	Toxaphene	(8001-35-2)	50	0.5
D040	Trichloroethylene	(79-01-6)	50	0.5
D041	2,4,5-Trichlorophenol	(95-95-4)	40,000	400.0

D042	2,4,6-Trichlorophenol	(88-06-2)	200	2.0
D017	2,4,5-TP (Silvex)	(93-72-1)	100	1.0
D043	Vinyl chloride	(75-01-4)	20	0.2

- 1/1 If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used. The DW level for total cresol is 200 mg/L and the EHW level for total cresol is 20,000 mg/L.
- 1/2 Quantitation limit is greater than the calculated regulatory level. The quantitation limit therefore becomes the regulatory level.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes(~~(, WAC 173-303-101));~~)
- (b) Persistent dangerous wastes(~~(, WAC 173-303-102));~~)
- and
- (c) Carcinogenic dangerous wastes(~~(, WAC 173-303-103; and~~)
- (d) ~~Dangerous waste characteristics, WAC 173-303-090).~~

(2) ~~((Applicability. Any person who has established that his waste meets any of the dangerous waste criteria is a dangerous waste generator, and shall comply with the applicable requirements set forth in this chapter. A person shall use the dangerous waste criteria to designate his waste pursuant to WAC 173-303-070 (3)(b), or (4), or to exempt his waste pursuant to WAC 173-303-072, or to otherwise establish the risk which his waste presents to public health and the environment.))~~ References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) is adopted by reference.

(3) A person shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH RTECS to determine:

- (a) Toxicity data or toxic category for each known constituent in the waste;
- (b) Whether or not each known constituent of the waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5), (6), and (7) of this section. If a person's solid waste meets one or more of these criteria then he shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month. NOTE: To be designated as EHW (WT01) toxic dangerous wastes must be generated above a specified quantity, which varies dependent upon the degree of toxicity, and which may be greater than 2.2 lbs.

(b) For all other wastes designating under this section - 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person shall determine if a solid waste

meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070 (4) or (5), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person shall determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	TLm ₉₆ (Fish) or, Aquatic (Fish)	Oral (Rat)	Inhalation (Rat)	Dermal (Rabbit)
	LC ₅₀ (ppm)	LD ₅₀ (mg/kg)	LC ₅₀ (mg/L)	LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	<2
A	.1 - <.1	.5 - <.5	.02 - <.2	2 - <20
B	1 - <10	5 - <50	.2 - <.2	20 - <200
C	10 - <100	50 - <500	2 - <20	200 - <2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(ii) A person whose waste contains one or more toxic constituents shall determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration}(\%) = \frac{\sum X\%}{10} + \frac{\sum A\%}{100} + \frac{\sum B\%}{1000} + \frac{\sum C\%}{10000} + \frac{\sum D\%}{100000}$$

where $\sum(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\text{E.C.}(\%) = \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{100} + \frac{(4\% + 2\% + 5\%)}{1000} + \frac{0\%}{10000}$$

$$= .01\% + 0\% + .01\% + .011\% + 0\% = .031\%$$

So the equivalent concentration equals .031%.

(ii) A person whose waste contains toxic constituents shall determine its designation from the toxic dangerous waste graph in WAC 173-303-9906 by finding the equivalent concentration percentage for the waste along the abscissa, finding the total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from the total waste quantity intersects the vertical line drawn from the waste's equivalent concentration. If the plotted point is in the area marked DW, the person shall designate the waste as DW, and shall assign the dangerous waste number of WT02; if the plotted point is in the area marked EHW, the person shall designate the waste as EHW, and shall assign the dangerous waste number of WT01. For borderline wastes, in which the plotted point falls near the diagonal line dividing DW and EHW, the designation may be determined using the following method: For equivalent concentrations (%) greater than 0.01, if the product of the equivalent concentration (%) multiplied by the total monthly or batch quantity (Lbs) is greater than 100, then the waste is designated as EHW.

(iv) Toxic dangerous waste graph. The toxic dangerous waste graph appears in WAC 173-303-9906.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions as follows:

(i) A person shall establish the toxicity category range (D category toxicity, or C category or greater toxicity) of a waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3).

(ii) A person shall designate a waste according to the toxic dangerous waste designation table below.

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxicity range is . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation, and waste # are . . .
D Category: (LC ₅₀ 1000 mg/L to 100 mg/L, or LD ₅₀ 5000 mg/kg to 500 mg/kg)	Any quantity	DW, WT02
X, A, B, or C (LC ₅₀ less than 100 mg/L, or LD ₅₀ less than 500 mg/kg)	Less than 220 lbs. (100 kg)	DW, WT02
	Greater than or equal to 220 lbs. (100 kg)	EHW, WT01

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3),

using both static acute fish and acute oral rat methods, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria shall be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria shall be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated hydrocarbons (HH), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to the chemical testing methods for complying with the dangerous waste regulation adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070 (4) and (5), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated hydrocarbons (HH) for which the concentrations are known, the total halogenated hydrocarbon concentration shall be determined by summing the concentration percentages for all of the halogenated hydrocarbons for which the concentrations are known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .020\% = .041\%$$

(c) A person whose waste contains one or more polycyclic aromatic hydrocarbons (PAH) with more than three rings and less than seven rings for which the concentrations are known shall determine the total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in the waste.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo[a]pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.30\%$$

(d) A person whose waste contains halogenated hydrocarbons and/or polycyclic aromatic hydrocarbons shall determine its designation from the persistent dangerous waste table or persistent dangerous waste criteria graph WAC 173-303-9907.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a total concentration level of . . .	Then your waste's designation, and waste # are . . .
Halogenated Hydrocarbons (HH)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WF01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WF01

* No DW concentration level for PAH.

(7) Carcinogenic criteria.

(a) Criteria. A substance which is listed in the carcinogenic dangerous waste list, WAC 173-303-9908, shall be a carcinogenic substance for the purposes of this section.

(b) Except as provided in WAC 173-303-070 (4) and (5), if a person knows only some of the carcinogenic constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for carcinogens under this subsection.

(c) Designation. A solid waste which contains one or more carcinogen(s) at concentrations equal to or greater than the concentration level indicated in the carcinogenic dangerous waste list, WAC 173-303-9908, shall be designated DW, and shall be assigned the dangerous waste number of WC02.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-101 ((Toxic dangerous wastes. (1) Purpose. This section describes methods for determining the toxicity of a waste and the criteria by which a toxic waste shall be designated DW or EHW.

(2) Categorization.

(a) The following toxic category table establishes categories (X, A, B, C, or D) for particular toxicity levels. The X category is the most toxic, and the D category is least toxic. Substances which have toxicity levels below the D category are generally considered to be nontoxic.

TOXIC CATEGORY TABLE

Category	TLm ₃₀ (Fish) or Aquatic (Fish)		Inhalation (Rat)		Dermal (Rabbit)	
	LC ₅₀ (ppm)	LD ₅₀ (mg/kg)	LC ₅₀ (mg/L)	LD ₅₀ (mg/kg)	LD ₅₀ (mg/kg)	LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	<.2	<.2	<.2
A	.1 - 1	.5 - 5	.02 - .2	.2 - 2	2 - 20	20 - 200
B	1 - 10	5 - 50	.2 - 2	2 - 20	200 - 2000	2000 - 20000
C	10 - 100	50 - 500	2 - 20	20 - 200	2000 - 20000	20000 - 200000
D	100 - 1000	500 - 5000	20 - 200	200 - 2000	20000 - 200000	200000 - 2000000

(b) In order to determine the toxic categories for the constituents in his waste, a person must obtain toxicity data on the constituents either through knowledge he has about his waste, or by obtaining data from the two sources referenced in subsection (3)(a) and (b) of this section, (EPA's Spill Table and NIOSH Registry). If data obtained for a constituent is available for more than one of the toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used to assign the most acutely toxic category to the waste constituent.

(3) Establishing waste toxicity. A person shall establish the toxicity of his waste or waste constituents by applying his knowledge about his waste, or by using the following information sources or testing methods, or all of these:

(a) The National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances (Registry)*;

(b) The United States EPA's regulation 40 CFR Table 302.4 (Spill Table); and

(c) The bioassay testing methods adopted under WAC 173-303-110(3).

PROPOSED

(4) Book designation procedure.

(a) A person may use the book designation procedure described in this paragraph only if:

(i) He knows the toxic categories (as set forth in subsection (2) of this section) for the significant toxic constituents in his waste;

(ii) He knows the concentrations of the significant toxic constituents in his waste; and

(iii) He can demonstrate to the department beyond a reasonable doubt that any waste constituents about which he has limited or no knowledge do not significantly affect the toxicity of his waste.

(b) Equivalent concentration. A person who is book designating his waste shall determine the equivalent concentration (in percent) of the toxic constituents in his waste by using the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10,000}$$

where $\sum(X, A, B, C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (X Category) .01%; Diuron (B Category) 1%; Benzene (C Category) 4%; Phenol (C Category) 2%; Cyclohexane (C Category) 5%; Water (nontoxic) 87%. His equivalent concentration (E.C.) would be:

$$\text{E.C. (\%)} = .01\% + \frac{0\%}{10} + \frac{1\%}{100} + \frac{(4\% + 2\% + 5\%)}{1000} + \frac{0\%}{10,000} = .01\% + 0\% + .01\% + .011\% + 0\% = .031\%$$

So his equivalent concentration equals .031%.

(c) Toxic dangerous waste graph. To book designate his waste, a person shall use the toxic dangerous waste mixtures graph in WAC 173-303-9906, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste DW; if the plotted point is in the area marked EHW, he shall designate his waste EHW.

(5) Designation from bioassay data. If a person has established the toxicity of his waste by means of the bioassay test methods adopted under WAC 173-303-110(3), and has determined his waste's toxicity range (C category or greater toxicity, or D category toxicity), then he shall designate his waste according to the toxic dangerous waste designation table, below:

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxic range falls in the . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation is . . .
D Category	Greater than 220 lbs. (100 kg)	DW

X, A, B, or C Category	40-220 lbs. (18.2-100 kg)	DW
	Greater than 220 lbs. (100 kg)	EHW

Reserved.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-102 ((Persistent dangerous wastes.

(1) Purpose. This section describes the procedures for designating wastes which contain halogenated hydrocarbons (HH) and/or polycyclic aromatic hydrocarbons with more than three rings and less than seven rings (PAH).

(2) Concentration determination. A person shall determine the concentration of HH and/or PAH in his waste by either testing his waste as specified in (a) of this subsection, or by the calculation procedures described in (b) of this subsection.

(a) Concentration tests. A person shall test his waste to determine its concentration level as follows:

(i) For HH—By using the testing methods specified in WAC 173-303-110 (3)(a)(v); and,

(ii) For PAH—By using the testing methods specified in WAC 173-303-110 (3)(a)(vi).

(b) Concentration calculations. If a person knows the concentrations of the significant persistent constituents in his waste, and if he can demonstrate to the department beyond a reasonable doubt that any remaining persistent constituents for which he does not know the concentrations would not contribute significantly to the total persistent concentration, then he may calculate the concentration of persistent constituents in his waste as follows:

(i) A person whose waste contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of his waste's significant halogenated hydrocarbons.

Example 1. A person's waste contains: Carbon tetrachloride .009%; DDT .012%; 1,1,1-trichloroethylene .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(ii) A person whose waste contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of his waste's significant polycyclic aromatic hydrocarbons with more than three rings and less than seven rings.

Example 2. A person's waste contains: Chrysene .08%; 3,4-benzopyrene 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(3) Designation criteria and quantity. A person whose waste contains persistent (HH or PAH) constituents shall

designate his waste according to the persistent dangerous waste table, below, if his monthly or batch waste quantity exceeds 220 lbs. (100 kg):

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a concentration level of . . .	Then your waste's designation is . . .
Halogenated	0.01 to 1.0%	DW
Hydrocarbons (HH)	greater than 1.0%	EHW
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*

* No DW concentration level for PAH.) Reserved.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-103 ((Carcinogenic dangerous wastes.
~~(1) Criteria. A substance which is listed in the National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances* (Registry), or any other scientific or technical documents, as an IARC (International Agency for Research on Cancer) human or animal, sufficient or limited carcinogen, shall be a carcinogenic substance for the purposes of this section. Any IARC identified substance which is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled).~~

~~(2) Designation. Any person whose waste contains one or more IARC carcinogen(s) shall designate his waste if:~~

~~(a) The monthly or batch waste quantity exceeds 220 lbs. (100 kg); and either~~

~~(b)(i) The concentration of any one IARC sufficient (human or animal) carcinogen exceeds 1.0% of the waste quantity. Such waste shall be designated EHW, and such designation shall take precedence over any DW designation determined by (b)(ii) or (iii) of this subsection; or~~

~~(ii) The concentration of any one IARC sufficient (human or animal) carcinogen exceeds 0.01% of the waste quantity. Such waste shall be designated DW; or~~

~~(iii) The total concentration summed for all IARC sufficient and limited (human and animal) carcinogens exceeds 1.0% of the waste quantity. Such waste shall be designated DW.~~

~~(e) For designation purposes, any IARC human or animal, sufficient or limited carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC *Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans*.) Reserved.~~

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-110 Sampling and testing methods.

(1) Purpose. This section describes the testing methods which may be used in the process of designating a dangerous waste. Quality control procedures specified by the testing method or an approved equivalent method must be followed

for the analytical result to be considered valid for designation.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below ~~((;))~~ or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-65;

(v) Soil or rock-like material - ASTM Standard D420-69;

(vi) Containerized liquid wastes - "COLIWASA" described in *Test Methods for ((the Evaluation of)) Evaluating Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985); and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
 1916 Race Street
 Philadelphia, PA 19103.

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained ~~((from the department))~~ by writing to the appropriate address below:

For copies of WDOE test methods:

Attn: Test Procedures
 Hazardous Waste Section ~~((, PV-11))~~
 Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846 and 40 CFR Part 261:

Superintendent of Documents
 U.S. Government Printing Office
 Washington, D.C. ~~((20401))~~ 20402

For copies of ASTM methods:

ASTM
 1916 Race Street
 Philadelphia, PA 19103

The document titles and included test procedures are as follows:

(a) *Chemical Testing Methods for Complying with the state of Washington Dangerous Waste Regulation*, March 1982, revised July 1983, March 1984, and May 1993 describing methods for testing:

- (i) Ignitability;
- (ii) Corrosivity, including the addendum, *Test Method for Determining pH of Solutions in Contact with Solids*, March 1984;
- (iii) Reactivity;
- (iv) ((EP)) Toxicity characteristic leaching procedure;
- (v) Halogenated hydrocarbons; and
- (vi) Polycyclic aromatic hydrocarbons;
- (b) *Biological Testing Methods*, the latest revision, describing procedures for:
 - (i) Static acute fish toxicity test; and
 - (ii) Acute oral rat toxicity test;
 - (c) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846* (~~(((the most recent edition and all updates)))~~ Second Edition, 1982 as amended by Update I (April 1984), and Update II (April 1985)) is adopted by reference. This includes:
 - (i) Method 9095 (Paint Filter Liquids Test), demonstrating the absence or presence of free liquids in either a containerized or bulk waste;
 - (ii) Reserved;
 - (d) 40 CFR Part 261 Appendix X is adopted by reference for the purpose of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans;
 - (e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
 - (ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.
 - (f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which lists sampling and analysis methods contained in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*, is adopted by reference.
- (4) Substantial changes to the testing methods described above shall be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.
- (5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 92-32, filed 1/5/93, effective 2/5/93)

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

- (i) Industrial ethyl alcohol that is reclaimed;
- (ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

(iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:

- (A) Being burned for energy recovery; or
- (B) Being used in a manner constituting disposal, except when such use is by the generator on his own property;
- (iv) Scrap metal;
- (v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;
- (vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;
- (vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;
- (viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)(d) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(d); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all

applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Spent CFC or HCFC refrigerants that are recycled on-site or sent to be reclaimed off-site (see WAC 173-303-506);

(d) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(e) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC (~~(173-303-084 or 173-303-101 through 173-303-103)~~) 173-303-100; or

(iii) Is designated solely as W001, (see WAC 173-303-515);

(f) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(g) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling. For the purpose of this section, recyclable materials received from off-site shall be considered stored unless they are moved into an active recycling process within twenty-four hours after being received. An active recycling process refers to a dynamic recycling operation that occurs within a recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities. Passive storage-like activities are not eligible for the recycling exemption under this subsection.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060,

(ii) WAC 173-303-283 through 173-303-290,

(iii) WAC 173-303-310 through 173-303-395,

(iv) WAC 173-303-630 (2) through (10), and

(v) WAC 173-303-640 (2) through (10), except 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section). In lieu of the dates in WAC 173-303-640 (2) and (4), for existing tank systems regulated under this subsection, owners and operators must complete the assessment of the tank system's integrity by June 1, 1992, and must meet the secondary containment requirements of WAC 173-303-640(4) by January 12, 1993;

(vi) The owner or operator must obtain data, by screening-type analysis if necessary, confirming the designation of each waste stream, such that each dangerous waste received can be effectively recycled without jeopardizing human health or the environment. The owner or operator must verify the waste designation periodically, so that it is accurate and current, but at least once every six months or on a batch basis if shipments of a specific waste stream are less frequent. Copies of all analyses and data must be retained for at least five years and made available to the department upon request.

(d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395,

(B) ~~(WAC 173-303-420,~~

~~(C))~~ WAC 173-303-800 through 173-303-840;

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650, and

(B) WAC 173-303-660.

AMENDATORY SECTION (Amending Order DE 83-36, filed 1/5/88, effective 2/5/88)

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

(i) Reduction;

(ii) Recycling;

(iii) Physical, chemical, and biological treatment;

(iv) Incineration;

(v) Stabilization and solidification; and

(vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, shall be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a land disposal facility in Washington state and to any generator affected by ~~((the))~~ these restrictions and prohibitions ~~((in subsection (4) of this section, unless allowed pursuant to subsections (5), (6), or (7) of this section))~~. Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) shall be the restrictions set forth by the Environmental Protection Agency in 40 CFR Part 268 which are incorporated by reference into this regulation. The federal land disposal restriction shall not apply to state only wastes. Land disposal restrictions for state only waste or for waste that is both federal and state, such as toxicity characteristic waste that designates as EHW, shall be the restrictions set forth in subsections (3) through (7) of this section.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

~~(b) ("Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5)).~~

~~(e))~~ "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

~~((d))~~ ~~"Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the characteristic of EP toxicity described in WAC 173-303-110.~~

~~(e))~~ (c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

~~((f))~~ ~~"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).~~

~~(g))~~ (d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of either WAC 173-303-090 (6)(a)(ii) or (iii).

~~((h))~~ (e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person shall land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in

the state. No person shall land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for the disposal of liquid waste in landfills.

(i) Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated so that free liquids are no longer present.

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with absorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is a lab pack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods. (EPA Publication No. SW-846.)

~~(c) ((Disposal of ignitable and reactive waste. No person shall land dispose ignitable or reactive waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.~~

~~(d))~~ Disposal of solid acid waste. No person shall land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

~~((e))~~ (d) Disposal of organic/carbonaceous waste.

(i) No person shall land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated

from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

~~((f)) Disposal of leachable inorganic waste. No person shall land dispose a leachable inorganic waste, except as provided in subsections (5), (6), or (7) of this section. Leachable inorganic waste must be stabilized (solidified) as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section or the leachable inorganic waste must be lab packaged in a container that complies with WAC 173-303-161. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.~~

~~(g))~~ (e) Disposal of dioxin containing wastes. These wastes are regulated by federal regulations contained in 40 CFR Part 268 that restrict the land disposal of dioxin containing wastes.

~~((h))~~ (f) Disposal of solvent wastes. These wastes are regulated by federal regulations contained in 40 CFR Part 268 that restrict the land disposal of solvent wastes.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

(i) Liquid waste, extremely hazardous waste (EHW), solid acid waste, leachable inorganic waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste

constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be placed in surface impoundments provided that:

(A) The conditions in (a)(i) of this subsection are complied with; and

(B) The ignitable or reactive waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395(1) is complied with.

(b) Waste pile treatment.

(i) Leachable inorganic waste, liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be placed in a waste pile provided that:

(A) The conditions in (b)(i) of this subsection are complied with; and

(B) The placement of the ignitable or reactive waste onto an existing waste pile results in the waste or mixture no longer meeting the definition of ignitable or reactive under WAC 173-303-090, and complies with WAC 173-303-395(1).

(c) Land treatment.

(i) Liquid waste, extremely hazardous waste (EHW), organic/carbonaceous waste, and leachable inorganic waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be land treated provided that:

(A) The conditions in (c)(i) of this subsection are complied with; and

(B) The ignitable or reactive waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395(1).

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b), (c), or (d) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

~~(c) (Leachable inorganic waste exemption. Any person may request an exemption from the stabilization (solidification) requirement in subsection (4)(f) of this section by demonstrating to the department that:~~

~~(i) The stabilization (solidification) of a dangerous waste is less protective of human health and the environment than landfilling; or~~

~~(ii) Stabilization (solidification) capacity is unavailable. This demonstration may include technical and practical difficulties associated with providing alternative capacity. A person must provide a detailed schedule and plan for alternative capacity; or~~

~~(iii) Stabilization (solidification) techniques have been applied to the original waste and further efforts at stabilization (solidification) would not result in significantly reducing the solubility and mobility of the dangerous waste constituents.~~

(d)) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an

emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.150.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-160 Containers. (1) Waste quantity. Containers and inner liners shall not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in nonempty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, whichever quantity is least, either less than one inch of waste remains at the bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to one percent or less of the container's total capacity, or, if the container's total capacity is greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing shall be ten percent or more of the container's or inner liner's capacity. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (e.g., fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (e.g., on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department.

Any rinsate or vacuumed residue which results from the cleaning of containers or inner liners shall whenever possible be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate shall be managed or reused in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property. Otherwise, the rinsate shall be checked against the designation requirements (WAC 173-303-070 through ~~((173-303-103))~~ 173-303-100) and, if designated, managed according to the requirements of this chapter.

(c) In the case of a container, the inner liner, that prevented the container from contact with the commercial chemical product or manufacturing chemical, has been removed.

(3) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(4) A person may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).

AMENDATORY SECTION (Amending Order 88-24, filed 1/4/89)

WAC 173-303-161 Overpacked containers (labpacks). Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:

(1) Dangerous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification metal or fiber drum shipping container (~~((49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum,))~~ which meets all of the requirements of 49 CFR Parts 178 and 179. The overpack container must not exceed a capacity of 416-liter (110 gallon). The overpack container must have a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal or fiber outer container must be full after packing with inside containers and absorbent material;

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with WAC 173-303-395 (1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090 (7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive.

(6) An itemized listing of the chemicals, their concentrations and quantities per labpack must be kept by the generator and must be readily available in case of an emergency during shipment, and for the purposes of preparing annual reports under WAC 173-303-220.

AMENDATORY SECTION (Amending Order DE 83-36, filed 1/5/88, effective 2/5/88)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person shall be a dangerous waste generator if his solid waste is designated by the requirements of WAC 173-303-070 through ~~((173-303-103))~~ 173-303-100.

(a) The generator shall be responsible for designating his waste as DW or EHW.

(b) The generator may request an exemption for his dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator shall notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and shall comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) ~~((Except for the accumulation and storage of dangerous wastes for less than ninety days as allowed under WAC 173-303-200;))~~ Any generator who ((transfers;)) stores, treats, or disposes of dangerous waste on-site shall perform his operations in accordance with the TSD facility requirements ((of this chapter)) with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks and containers provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) WAC 173-303-200 or 173-303-201, and for tanks, WAC 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste in units other than accumulation tanks or containers provided:

(i) The treatment occurs within the appropriate accumulation time frame;

(ii) The unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) The generator of a special waste may, upon approval by the department, for special waste only:

(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for special waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same special waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction before implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of

exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and

(b) Pursuant to the requirements of WAC 173-303-200, accumulate special waste in containers and tanks for up to one hundred eighty days, and accumulate special waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3)(a), (b)(i), (ii)(A), (7), (8), and (9)(a).

(5) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-180 Manifest. Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator shall prepare a manifest and shall follow all applicable procedures described in this section.

(1) This subsection describes the form and contents of dangerous waste manifests. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest shall be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262, and in addition must contain the following information in the specified shaded items of the uniform manifest:

(a) Item D(~~and O if the continuation sheet 8700-22A is used~~) - The first transporter's telephone number must be provided in this space;

(b) Item F(~~and Q if the continuation sheet 8700-22A is used~~) - If a second transporter is used, then the second transporter's telephone number must be provided in this space;

(c) Item H - The designated receiving facility's telephone number must be provided in this space; (~~and~~)

(d) Item I, and R if the continuation sheet 8700-22A is used - The dangerous waste number (e.g., F001, D006, WT02, P102) must be provided in this space for each corresponding waste entered and described under Item 11, and 28 if the continuation sheet 8700-22A is used. As discussed in subsection (5) of this section, dangerous waste numbers WL01 or WL02 may be used in this space for labpacks;

(e) Item O, (on the continuation sheet 8700-22A) - If a third transporter is used, then the third transporter's telephone number must be provided in this space; and

(f) Item Q, (on the continuation sheet 8700-22A) - If a fourth transporter is used, then the fourth transporter's telephone number must be provided in this space.

(2) The manifest shall consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator shall:

- (i) Sign and date the manifest certification by hand;
- (ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and
- (iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator shall give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

- (i) The next nonrail transporter, if any; or
- (ii) The designated facility if transported solely by rail;

or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(f) For shipments of hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford shall notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator shall not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) Special instructions for shipment of labpacks. For purposes of completing the uniform dangerous waste manifest, dangerous waste numbers WL01 (for labpacks containing wastes designated as EHW) or WL02 (for labpacks containing wastes designated only as DW) may be used to complete Items I and R in lieu of the dangerous waste numbers that would otherwise be assigned to the contents of the labpack.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), ~~((and)) (9), and (10)~~, or the waste is placed in tanks and the generator complies with WAC 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) ~~((In lieu of the "sufficient freeboard" requirement of WAC 173-303-640 (5)(b)(iii) for uncovered tanks, the generator must maintain a minimum freeboard of two feet.))~~ Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5). For container accumulation (including satellite areas as described in subsection (2)~~((e))~~) of this section, the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7);

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent

legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies), and WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection).

(2) ~~((For the purposes of this section, the ninety-day accumulation period begins on the date that:~~

~~(a) The generator first generates a dangerous waste; or~~

~~(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or~~

~~(c) The quantity of dangerous waste being accumulated in containers in a satellite area exceeds fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (see WAC 173-303-040). For the purposes of this section, a satellite area shall be a location at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste.)) Satellite accumulation.~~

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates defined as satellite accumulation in WAC 173-303-040. The satellite area must be under control of the operator of the process generating the waste or secured at all times to prevent improper disposal of wastes into the satellite containers. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5)(a) and (b), (8)(a), and (9)(a) and (b); and

(ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within seventy-two hours to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period, begins on the date that:

(a) Waste is first placed into a container located in a ninety-day accumulation or storage area; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in the satellite accumulation area.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-201 Special accumulation standards.

(1) This section applies to persons who generate more than 220 pounds but less than 2200 pounds ((1000 kg)) per month and do not accumulate on-site more than 2200 pounds ((1000 kg)) of dangerous waste. The special provisions of this section do not apply to ~~((any))~~ acutely hazardous wastes ~~((as defined in WAC 173-303-040))~~ that exceed the QEL that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate per month and accumulate on-site less than 2200 pounds (1000 kg) per month of dangerous waste are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training); and

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached

waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any.

AMENDATORY SECTION (Amending Order 88-24, filed 1/4/89)

WAC 173-303-202 Special requirements for generators of between two hundred twenty and two thousand two hundred pounds per month that accumulate dangerous waste in tanks.

(1) This section applies to generators of more than two hundred twenty pounds but less than two thousand two hundred pounds of dangerous waste in a calendar month, that accumulate dangerous waste in tanks for less than one hundred eighty days (or two hundred seventy days if the generator must ship the waste greater than two hundred miles), and do not accumulate over two thousand two hundred pounds on-site at any time.

(2) Generators of between two hundred twenty and two thousand two hundred pounds per month of dangerous waste must comply with the following general operating requirements:

(a) Treatment or storage of dangerous waste in tanks must comply with WAC 173-303-395(1).

(b) Dangerous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(c) Uncovered tanks must be operated to ensure at least sixty centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty centimeters (two feet) of the tank.

(d) Where dangerous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a standby tank).

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(3) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must inspect, where present:

(a) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(c) The level of waste in the tank at least once each operating day to ensure compliance with subsection (2)(c) of this section;

(d) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(e) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes,) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

Note: As required by WAC 173-303-320(3), the owner or operator must remedy any deterioration or malfunction he finds.

(4) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must, upon closure of the facility, remove all dangerous waste from tanks, discharge control equipment, and discharge confinement structures.

Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with WAC 173-303-070 (2)(a) or (b), that any solid waste removed from his tank is not a dangerous waste, the owner or operator becomes a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter.

(5) Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for ignitable or reactive waste:

(a) Ignitable or reactive waste must not be placed in a tank, unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

(A) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7) of this chapter; and

(B) WAC 173-303-395(1) is complied with((-)); or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981).

(6) Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for incompatible wastes:

(a) Incompatible wastes, or incompatible wastes and materials, (see 40 CFR Part 265 Appendix V for examples) must not be placed in the same tank, unless WAC 173-303-395(1) is complied with.

(b) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1) is complied with.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-210 Generator recordkeeping. (1) The generator shall keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy shall be retained for at least five years from the date the waste was accepted by the initial transporter.

(2) The generator shall keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least five years from the due date of each report. The generator shall keep a copy of his most recent notification (Form 2) until he is no longer defined as a generator under this chapter.

(3) Waste designation records.

(a) The generator shall keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste for at least five years from the date that the waste was last transferred for on-site or off-site treatment, storage, or disposal.

(b) At a minimum, test results must include:

(i) The sample source, sampling date, and sampling procedure used;

(ii) The laboratory performing the test;

(iii) The testing date, and testing method used;

(iv) The analytical result, or the quantitative range of the testing method for analytes not detected.

(4) Any other records required for generators accumulating wastes on-site as described in WAC 173-303-170 (4)(b) or 173-303-200 must be retained for at least five years, including, but not limited to such items as inspection logs ~~((and operating records))~~.

(5) The periods of retention for any records described in this section shall be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director.

(6) All generator records, including plans required by this chapter, shall be made available and furnished upon request by the director.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-220 Generator reporting. The generator shall submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 shall submit an annual report to the department, on the Generator Annual Dangerous Waste Report - Form 4 according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year((-)); and

(b) A report must be submitted to include a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated and a description of the changes in volume and toxicity of waste actually

achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(c) In addition, any generator who stores, treats, or disposes of dangerous waste on-site shall comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports (including engineering reports, plans, and specifications) concerning the quantities and disposition of the generator's dangerous waste.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-230 Special conditions. (1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth in 40 CFR 262 Subpart E and 40 CFR 261.5, 261.6, 262.41, and 263.20 and specify the procedures applicable to generators of hazardous waste (as defined in WAC 173-303-040). Copies of any forms or reports submitted to the administrator of United States EPA as required by 40 CFR 262 Subpart E shall also be submitted to the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer shall comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number shall be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) Empty containers. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use shall not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars shall handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Transporters shall comply with the requirements of WAC 173-303-060, Notification and identification numbers. Transporters who are involved in interstate transport shall use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport shall use the identification number assigned to their headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport shall obtain a separate generator EPA/state ID# for such spill or terminal.

(2) Any person who transports a dangerous waste shall comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180.

Any person who transports special waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170 (4)(a), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.

(3) Any person who transports a dangerous waste shall also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(4) These requirements shall not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities.

(5) Transporters may store at a transfer facility manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten

days or less. Transporters may not accumulate or store manifested shipments of dangerous waste for more than ten days. Reference to WAC 173-303-200 in 173-303-240(3) does not constitute authority for storage in excess of ten days for transporters. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements.

AMENDATORY SECTION (Amending WSR 90-20-016, filed 9/21/90, effective 10/22/90)

WAC 173-303-281 Notice of intent. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility and the types of wastes to be managed and compliance with the siting criteria.

(2) Applicability. This section applies to owners/operators of proposed facilities. This section also applies to existing facilities for which the department receives an application for expansion. This section does not apply to owners/operators of facilities or portions of facilities who are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to owners/operators of facilities operating under an emergency permit pursuant to WAC 173-303-804 or to persons at facilities conducting on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, Sections 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act, chapter 70.105 RCW, or chapter 70.105D RCW, provided the cleanup activities are being conducted under a consent decree, agreed order, or enforcement order, or is being conducted by the department or United States Environmental Protection Agency. As used in this section:

(a) "Proposed facility" means a facility which has not qualified for interim status under WAC 173-303-805 or for which the department has not issued a final facility permit under WAC 173-303-806 prior to the effective date of this section;

(b) "Existing facility" means a facility which has qualified for interim status under WAC 173-303-805 or for which the department has issued a final facility permit under WAC 173-303-806 prior to the effective date of this section; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility.

(3) Notice of intent to file for an interim status or a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities shall consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) ~~((An environmental checklist from the State Environmental Policy Act rules, chapter 197-11 WAC;~~

~~(vi)))~~ Demonstration of compliance with the siting criteria as required under WAC 173-303-282 (6) and (7). The site conditions with regards to satisfying the criteria are to be assessed as of the date of submittal of the notice of intent to the department;

~~((vi)))~~ (vi) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, its subsidiaries or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant shall also submit responses to past violations and any written correspondence with regulatory agencies regarding the compliance status of any hazardous waste management facility owned or operated by the applicant, its subsidiaries or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

~~((viii)))~~ (vii) For informational purposes the need for the proposed facility or expansion shall be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it shall be shown how the capacity of the proposed facility or expansion will affect the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent shall be filed with the department, and copies shall be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days. In addition, the department shall send a copy of the notice of intent to the elected officials of the lead local government and all local governments within the potentially affected area as required by WAC 173-303-902 (5)(b)(i). The department will continue to coordinate with interested local governments throughout the review of the proposal.

(c) Reserved.

AMENDATORY SECTION (Amending WSR 90-20-016, filed 9/21/90, effective 10/22/90)

WAC 173-303-282 Siting criteria. (1) **Purpose.** This section establishes siting criteria which serve as an initial screen in the consideration of sites for dangerous waste management facilities. The purpose of the siting criteria is to immediately disqualify proposed dangerous waste facility sites in locations considered unsuitable or inappropriate for the management of dangerous wastes. Under RCW 70.105.200 (1)(d), siting criteria cannot prevent existing dangerous waste management facilities from operating at or below their present level of activity.

A proposed site which is not disqualified under these criteria will be further studied to determine if it qualifies under site specific rules. Compliance with the siting criteria does not imply that a given project at a given location poses an acceptable level of risk, nor does it commit the department to the issuance of a dangerous waste permit. Projects that demonstrate compliance with the siting criteria will be subjected to comprehensive environmental and technical review pursuant to applicable laws and regulations before the department makes a final decision on a dangerous waste permit.

The department may deny a permit or require protective measures such as engineering enhancements or increased setback distances from resources in order to ensure protection of human health and the environment.

(2) Applicability.

(a) Except as otherwise specifically provided, this section applies to:

- (i) Owners/operators of proposed facilities; and
- (ii) Owners or operators of existing land-based facilities at which an expansion of the land based unit is proposed;
- (iii) Owners or operators of existing incinerators at which an expansion is proposed; and

(iv) Owners or operators proposing a significant expansion of other existing dangerous waste management facilities not subject to (a)(i), (ii) and (iii) of this subsection, unless the owner/operator can demonstrate to the satisfaction of the department that the proposed expansion will provide a net increase in protection to human health and the environment beyond that which is currently provided at the facility. However, demonstrations under this subsection (iv) shall not result in treatment or storage facilities expanding into land-based or incineration facilities if siting criteria cannot be satisfied.

(b) This section does not apply to:

(i) Owners/operators of facilities or portions of facilities who are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65 or WAC 173-303-809;

(ii) Owners/operators of facilities operating under an emergency permit pursuant to WAC 173-303-804;

(iii) Persons at facilities conducting on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, Sections 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act, chapter 70.105 RCW, or chapter 70.105D RCW,

provided the cleanup activities are being conducted under a consent decree, agreed order, or enforcement order, or is being conducted by the department or United States Environmental Protection Agency;

(iv) Persons managing solid wastes who become subject to dangerous waste regulations through amendments to this chapter after the effective date of this section. This provision applies only to those activities operated in accordance with local, state, and federal requirements and which were being conducted prior to becoming subject to Dangerous waste regulations, chapter 173-303 WAC or expansions, if it can be demonstrated to the satisfaction of the department that the proposed expansion of such activities will provide a net increase in protection to human health and the environment beyond that which is currently provided at the facility; or

(v) Owners/operators of facilities which recycle hazardous waste and:

(A) Are otherwise exempt from regulation by this chapter under 120(~~(4) or 515~~);

(B) Have notified the department pursuant to WAC 173-303-060, prior to the effective date of this section;

(C) Are currently operating as a recycling facility as of the effective date of this regulation; and

(D) Seek only to obtain a tank or container storage permit to support ~~(the)~~ recycling operations under this chapter.

Further, significant expansions of such storage facilities meeting the qualifications for this exemption may be considered under subsection (2)(a)(iv) of this section.

(3) **Definitions.** Any terms used in this section that are not defined below shall have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms shall have the described meanings:

(a) "Aquifer of beneficial use" means an aquifer that contains sufficient quality and quantity of water to allow it to be withdrawn for beneficial uses which include, but are not limited to, uses for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, or recreational purposes.

(b) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(c) "Domestic water use" means any water used for human consumption, other domestic activities or livestock watering for which the department has issued a permit of water right for surface water diversions pursuant to chapter 90.03 RCW, or for a well pursuant to chapter 90.44 RCW, or for which the department has received a well water report pursuant to RCW 18.104.050, or for any other valid water right claimed in accordance with chapter 90.14 RCW. This does not apply to wells abandoned in compliance with chapter 173-160 WAC.

(d) "Existing facility" means a facility which has qualified for interim status under WAC 173-303-805 or for which the department has issued a final facility permit under WAC 173-303-806, prior to the effective date of this section.

(e) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final facility permit, the addition of a new dangerous waste management process, or an increase in overall design capacity of existing dangerous waste management processes at a facility. However, a

process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

(f) "Fault" means a fracture along which rocks or soils on one side have been displaced with respect to those on the other side.

(g) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(h) "Land-based facility" means a dangerous waste management facility which falls under the definition of land disposal as defined in Section 3004(k) of the Resource Conservation and Recovery Act. These facilities use the land as an integral part of their waste management method and include, but are not limited to, landfills, surface impoundments, waste piles, and land treatment facilities. For the purposes of this section, this would not include waste piles in which the dangerous wastes are stored inside or under a structure that provides protection from precipitation and when runoff, leachate, or other types of waste dispersal are not generated under any conditions.

(i) "Nonland based facility" means a facility which does not use the land as an integral part of its waste management method and is not subject to the requirements of WAC 173-303-806 (4)(a)(xxi). These facilities include, but are not limited to, tanks, containers, and incinerators.

(j) "Perennial surface water body" means a surface water body which is normally continuous with natural flows throughout the year or an annually recurring body of water including lakes, rivers, ponds, streams, reservoirs, inland waters, and saltwaters. This does not include roadside ditches or storm drains. However, this definition does apply to irrigation or domestic water supply channels existing, or planned and approved by a governmental agency, at the time an owner/operator submits a notice of intent.

(k) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (i) Landfill; (ii) incineration; (iii) land treatment; (iv) surface impoundment to be closed as a landfill; or (v) waste pile to be closed as a landfill.

(l) "Prime farmland" means the land which has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber or oilseed crops, and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. It is permeable to water and air. Prime farmland is not excessively erodible or saturated with water for a long period of time, and it either does not flood frequently or is protected from flooding. Prime farmland shall be determined by those general and specific criteria as defined in the National Soils Handbook, Soil Conservation Service, United States Department of Agriculture, Washington, D.C. and 7 CFR 2.62. Areas of prime farmland are identified in the most recent county soil survey maps prepared by the National Cooperative Soil Survey.

(m) "Proposed facility" means a facility which has not qualified for interim status under WAC 173-303-805 or for which the department has not issued a final facility permit under WAC 173-303-806 prior to the effective date of this section.

(n) "Public gathering places" means a place such as a public or private health care or child care facility; an educational institution; a church; a government institution not associated with dangerous waste management; or a retail shopping center.

(o) "Residence" means any dwelling including, but not limited to, private homes, rental homes, boarding houses, apartments, motels, or hotels.

(p) "Significant expansion" means an expansion of an existing facility, operating under interim status or a final status permit, that is considered a class three modification as designated by 40 CFR Parts 270.41 and 270.42. Examples include, but are not limited to, a modification or addition of container units resulting in greater than a twenty-five percent increase in the facility's container storage capacity, storage of different wastes in containers that require additional or different management practices from those authorized under interim status or by a final status permit, and a modification or addition of tank units resulting in greater than twenty-five percent increase in the facility's capacity. For the purposes of this section, a single or cumulative increase of greater than twenty-five percent of the process design capacity as described in the facility's original Part A permit application shall be considered a significant expansion.

(q) "Slope and soil instability" means areas for which there is credible evidence of, or the potential for, landslides, slumps, avalanches, earth or mud flows, or other unsuitable slope conditions.

(r) "Subsidence" means areas for which there is credible evidence of, or potential for, sinking of the land surface. Areas of subsurface mines, caves, cavernous materials, or where there has been significant removal of fluids may provide credible evidence of subsidence.

(s) "Wetland" means land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification a wetland must have one or more of the following three attributes: (i) At least periodically, the land supports predominantly hydrophytes; (ii) the substrate is predominantly undrained hydric soil; and (iii) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. The *Joint Federal Methodology for Identifying and Delineating Wetlands* shall be used for defining the upland boundary of wetlands.

(4) Implementation.

(a) Submittal of information to demonstrate compliance. Documentation that a proposed facility or expansion site meets the siting criteria shall be submitted to the department:

(i) In the notice of intent for those facilities for which a notice of intent is filed after the effective date of this section; or

(ii) Within ninety days of the effective date of this section for proposed facilities for which a notice of intent or an application for a Part B permit has been submitted to the department prior to the effective date of this section.

(b) Consultation by department. The department shall consult with the lead local government as defined in WAC 173-303-902 (4)(h) and consider those local land use, building, fire, air quality, and transportation standards to the extent they add to and do not conflict with the requirements of this section. Such consultation and consideration shall be made prior to the department's rendering of a tentative decision under subsection (4)(c) of this section.

(c) Response by department. Within sixty days of receipt of a demonstration of compliance, the department shall undertake one of the following actions:

(i) Return the demonstration of compliance as incomplete with written comments identifying the need for additional information. The owner or operator may resubmit the demonstration of compliance with complete information; or

(ii) Render a written tentative decision to approve or deny the demonstration of compliance.

(d) Public notice and hearing process. The department in making a tentative decision to approve or deny a demonstration of compliance with this section shall take the following actions:

(i) For land-based facilities and incinerators:

(A) The department shall publish a notice of its tentative decision in a daily or weekly newspaper of general circulation in the potentially affected area, and shall give notice by other reasonable methods to persons potentially affected.

(B) The department shall hold a public hearing at a location convenient to the public in the potentially affected area. Notice of the date, time, purpose, and place of the hearing shall be provided in the publication of notice.

(C) The department shall accept comments on its tentative decision for a minimum of forty-five days.

(D) After evaluating all public comments the department will make a final decision in accordance with chapter 34.05 RCW. The department will either approve or deny the owner/operator's demonstration of compliance.

(ii) For nonland-based facilities, excluding incinerators:

(A) The department shall publish a notice of its tentative decision in a daily or weekly newspaper of general circulation in the potentially affected area, and shall give notice by other reasonable methods to persons potentially affected.

(B) Upon the written request of any interested person, the department may hold a public hearing to consider public comments on the owner or operator's demonstration of compliance. A person requesting the hearing shall state the issues to be raised and explain why written comments would not suffice. In any case, if ten or more persons request a public hearing on the subject of the department's tentative decision, the department shall hold a public hearing for the purpose of receiving comments.

(C) The department shall accept comments on its tentative decision for a minimum of forty-five days.

(D) After evaluating all public comments the department will make a final decision in accordance with chapter 34.05 RCW. The department will either approve or deny the owner or operator's demonstration of compliance.

(5) **Appeal of a department decision.** Any person who is adversely affected by a decision of the department under this section may appeal the decision to the pollution control hearings board pursuant to the authority of WAC 173-303-845.

(6) **Criteria for elements of the natural environment.**

The following siting criteria establish locations from which facilities are excluded and establish minimum setback distances from identified resources. Unless otherwise stated, setback distances are measured horizontally from the dangerous waste management unit boundary to the identified resource.

These criteria shall be used as an initial screening tool in the selection of sites which may be considered by the department for the purpose of managing dangerous waste. A more comprehensive evaluation of locational factors will occur during the department's review of a permit application. The department may deny a permit or impose additional setback distances or other permit requirements if necessary to protect human health and the environment.

(a) **Earth.** The intent of this subsection is to reduce the potential for the release of dangerous waste into the environment because of structural damage to facilities subject to the hazards identified below. The owner/operator shall provide supportive geologic, geotechnical, and soils information.

(i) **Seismic risk.** All dangerous waste management facilities shall be located such that the dangerous waste management unit boundary is located at least five hundred feet from a fault which has had displacement in Holocene times.

(ii) **Subsidence.** No dangerous waste management facility shall be located such that the dangerous waste management unit is within an area of subsidence.

(iii) **Slope or soil instability.** No dangerous waste management facility shall be located such that the dangerous waste management unit is within an area of slope or soil instability, nor in the areas affected by unstable slope or soil conditions.

(b) **Air.** The intent of this subsection is to reduce the potential for further degradation of air quality in areas currently experiencing air quality impacts.

(i) Incineration facilities shall not be located in a Class I Prevention of Significant Deterioration Air Quality Zone designated under the Federal Clean Air Act.

(ii) Incineration facilities shall not be located in a nonattainment area designated by the department unless compensating emission offset can be achieved.

(iii) Proposed incineration facilities shall comply with WAC 173-303-806 (4)(a)(xxii) during the permitting process.

(c) **Water.** The intent of this subsection is to reduce the potential for contaminating waters of the state in the event of a release of dangerous wastes.

(i) **Surface water.**

(A) **Flood, seiche, and tsunami protection.**

(I) No dangerous waste management facility shall be located within the one hundred-year flood plain as indicated in the most current Federal Emergency Management Agency maps.

(II) The owner/operator of a nonland-based facility shall identify whether the facility is intended to be located within the five hundred-year flood plain, as indicated in the most current Federal Emergency Management Agency maps. Nonland-based facilities will require special design features so as to prevent flooding of the dangerous waste management unit in the event of a five hundred-year flood.

(III) Land-based facilities shall not be located within the five hundred-year flood plain as indicated in the most current Federal Emergency Management Agency maps.

(IV) Dangerous waste management facilities shall not be located in areas subject to seiches, or coastal flooding including tsunamis or storm surges as indicated in the most current maps of the National Flood Insurance Program of the Federal Emergency Management Agency.

(B) Perennial surface water bodies.

(I) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from a perennial surface water body.

(II) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from a perennial surface water body.

(C) Surface water supply.

(I) No dangerous waste management facility shall be located in a watershed identified in the report submitted to, and approved by, the department of health under the authority of WAC 248-54-225(3), Watershed control.

(II) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from the nearest surface water intake for domestic water.

(III) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from the nearest surface water intake for domestic water.

(ii) Ground water. To the extent feasible, proponents of land-based facilities should seek sites with natural site characteristics which are capable of providing protection of ground water resources. Natural features such as low permeability soils and substrata, relatively simple geologic formations, and high rates of (~~evapotranspiration~~ ~~evapo-~~ ~~transpiration~~) evapotranspiration in relation to the seasonal occurrence of precipitation are preferable for the locations of land-based facilities. Proposed land-based facilities shall comply with the contingent ground water protection program, WAC 173-303-806 (4)(a)(xxi), during the permitting process.

(A) Depth to ground water.

(I) Nonland-based facilities shall not be located in areas where there is less than ten feet vertical separation between the lowest point of the dangerous waste management unit and the seasonal high water level of the uppermost aquifer of beneficial use.

(II) Land-based facilities shall not be located in areas where there is less than fifty feet vertical separation between the lowest point of the dangerous waste management unit and the seasonal highwater level of the uppermost aquifer of beneficial use.

(B) Sole source aquifer. No land-based facilities shall be located over an area designated as a sole source aquifer under section 1424(e) of the Federal Safe Drinking Water Act (P.L. 93-523).

(C) Ground water management areas. Owners/operators of facilities shall identify whether the proposed facility location is within a ground water management area, as proposed or certified pursuant to RCW 90.44.130. In order to maintain consistency with the purpose and substantive requirements of certified ground water management area plans, the department may require additional protective measures or reject inconsistent projects.

(D) Ground water intakes.

(I) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from the nearest ground water intake for domestic water.

(II) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from the nearest ground water intake for domestic water.

(E) Special protection areas. Land-based facilities shall not be located within ground water special protection areas designated by ecology under the authority of chapter 90.48 RCW.

(d) Plants and animals: Intent. To reduce the potential for dangerous waste contaminating plant and animal habitat in the event of a release of dangerous wastes.

(i) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from the following areas:

(A) Wetlands;

(B) Designated critical habitat, for federally listed threatened or endangered species, as defined by the Endangered Species Act of 1973 (P.L. 93-205);

(C) Habitat designated by the Washington department of wildlife as habitat essential to the maintenance or recovery of any state listed threatened or endangered wildlife species;

(D) Natural areas which are acquired or voluntarily registered or dedicated by the owner under chapter 79.70 RCW, Natural area preserves; and

(E) State or federally designated wildlife refuge, preserve, or bald eagle protection area.

(ii) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from those areas specified in item (i) above.

(e) Precipitation. The intent of this subsection is to reduce the potential for contaminating waters and soils of the state in the event of a release of dangerous wastes.

Land-based facilities shall not be located in areas having a mean annual precipitation level of greater than one hundred inches. The mean annual precipitation map in the U.S. Geological Survey Water-Resources Investigations Report 84-4279 shall be used to determine whether a land-based facility is proposed to be located in such an area.

(7) Criteria for elements of the built environment. The following siting criteria establish locations from which facilities are excluded or which require separation from identified land uses. Unless otherwise stated, setback distances are measured horizontally from the dangerous waste management unit boundary to the identified land use.

These criteria shall be used as an initial screening tool in the selection of sites which may be considered by the department for the purpose of managing dangerous waste. A more comprehensive evaluation of locational factors will occur during the department's review of a permit application. The department may deny a permit or impose additional setback distances or other permit requirements if necessary to protect human health and the environment.

(a) Adjacent land use.

(i) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least two hundred feet from the nearest point of the facility property line.

(ii) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from the nearest point of the facility property line.

(b) Special land uses.

(i) Wild and scenic rivers. Dangerous waste management facilities shall not be located within the viewshed of users on wild and scenic rivers designated by the state or federal government.

(ii) Nonland-based facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from the following:

(A) State or federally designated park, recreation area, or national monument;

(B) Wilderness area as defined by the Wilderness Act of 1964 (P.L. 88-577); and

(C) Land identified as prime farmland at the time a notice of intent is submitted to the department.

(iii) Land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from those land uses specified in item (ii) above.

(c) Residences and public gathering places.

(i) Nonland-based facilities with the exception of incineration facilities shall be located such that the dangerous waste management unit boundary is at least five hundred feet from residences or public gathering places.

(ii) Incineration and land-based facilities shall be located such that the dangerous waste management unit boundary is at least one-quarter mile from residences or public gathering places.

(d) Land use compatibility. Owners/operators of nonpreempted facilities shall conform with local land use zoning designation requirements, as approved by the department under chapter 70.105 RCW.

(e) Archeological sites and historic sites. No dangerous waste management facility shall be located in an archeological site or historic site designated by the state or federal government.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-290 Required notices. (1) The facility owner or operator who is receiving dangerous waste from (~~a foreign source~~) sources outside the United States shall notify the appropriate regional office of the department annually, and in writing at least four weeks in advance of the date the first shipment of waste is expected to arrive at the facility. (~~Notice of subsequent shipments of the same waste from the same foreign source is not required.~~) The notification must be in writing, signed by the importer and operator of the receiving facility, and include the following information:

(a) Name, street address, mailing address, and telephone number of the exporter.

(b) Name, street address, mailing address, telephone number, and EPA/state ID number of the importer and receiving facility.

(c) A description of the dangerous waste and the EPA/state waste numbers, U.S. DOT proper shipping name,

hazard class and ID number (UNNA) for each hazardous waste as identified in 49 CFR Parts 171 through 177.

(d) The estimated frequency or rate at which such waste is to be imported and the period of time over which such waste is to be imported.

(e) The estimated total quantity of the dangerous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22).

(f) A description of the manner by which the dangerous waste will be treated, stored, disposed of, or recycled by the receiving facility.

Upon request by the department, the importer and/or receiving facility shall furnish to the department any additional information regarding the importation of dangerous waste.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-300 General waste analysis. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator shall obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility shall confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis shall be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator shall develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste, or nondangerous waste if applicable under WAC 173-303-610 (4)(d), will be analyzed, and the rationale for selecting these parameters;

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-395(1) and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(g) For off-site facilities, the procedures for confirming that each dangerous waste received matches the identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:

(i) The procedures for identifying each waste movement at the facility; and

(ii) The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-320 General inspection. (1) The owner or operator shall inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(a) He must keep the schedule at the facility;

(b) The schedule must identify the types of problems which are to be looked for during inspections;

(c) The schedule shall indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. At a minimum the inspection schedule shall also include the

applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-680 for final status facilities; and

(d) The owner or operator shall keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(3) The owner or operator shall remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-330 Personnel training. (1) Training program. The facility owner or operator shall provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter 173-303 WAC, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and shall include those elements set forth in the training plan required in subsection (2) of this section. In addition:

(a) The training program shall be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(b) Facility personnel must participate in an annual review of the training provided in the training program;

(c) This program must be successfully completed by the facility personnel:

(i) Within six months after these regulations become effective; or

(ii) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(d) At a minimum, the training program shall familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program shall include other parameters as set forth by the department, but at a minimum shall include, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(ii) Key parameters for automatic waste feed cut-off systems;

(iii) Communications or alarm systems;

(iv) Response to fires or explosions;

(v) Response to ground-water contamination incidents; and

(vi) Shutdown of operations.

(2) Written training plan. The owner or operator shall develop a written training plan which must be kept at the facility and which must include the following documents and records:

(a) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications, and duties for each position;

(b) A written description of the type and amount of both introductory and continuing training required for each position; and

(c) Records documenting that facility personnel have received and completed the training required by this section. For training completed after December 31, 1993, the training records must be signed and dated by the employee receiving the training.

(3) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-350 Contingency plan and emergency procedures. (1) Purpose. The purpose of this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or ground water by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency circumstances, and the plan shall be implemented immediately in such emergency circumstances.

(2) Contingency plan. Each owner or operator must have a contingency plan at his facility for use in emergencies or sudden or nonsudden releases which threaten the public health and the environment. If the owner or operator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section and WAC 173-303-360.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-360;

(b) A description of the actions which shall be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest

system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services as required in WAC 173-303-340(4);

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810 (14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator shall review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations or the facility permit are revised;

(b) The plan fails in an emergency;

(c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies ~~((are))~~ include significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid). Other significant discrepancies include: Incorrect generator, transporter, or designated facility EPA/state ID numbers; incomplete listing of EPA and state waste codes pursuant to WAC 173-303-070; failure to include a twenty-four hour emergency response number.

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following shall be acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator shall take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report - Form 6 (which may be obtained from the department) must be used for this report. The report must include at least the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/state identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number shall prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the TSD Facility Annual Dangerous Waste Report - Form 5 (which may be obtained from the department) must be used for this report. In addition, any facility

which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); ~~((and))~~

(g) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(i) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator shall also report to the department releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k) and interim status groundwater monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2).

In addition, the owner or operator shall submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility shall keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-400 Interim status facility standards.

(1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or

dispose of dangerous waste. For purposes of this section, interim status shall apply to all facilities which comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards shall also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status shall end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805~~((7))~~ (8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) ~~((Persons disposing of dangerous waste by underground injection which is permitted under the Safe Drinking Water Act))~~ Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise; ~~((and))~~

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(viii) Generators treating dangerous waste on-site in tanks or containers that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3).

(d) The owner or operator of an interim status facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those special wastes which he manages and only after the owner or operator has requested and the department has issued a notice of interim status modification.

(3) Standards.

(a) Interim status standards shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Subparts F through R which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140 and the facility requirements of WAC 173-303-280 through 173-303-440; and the corrective action requirements of WAC 173-303-646(2);

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R to the state of Washington facilities, the federal terms shall have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, shall be replaced with) the following state of Washington meanings:

(i) "Regional administrator" shall mean the "department";

(ii) "Hazardous" shall mean "dangerous"; and

(iii) "Compliance procedure" shall have the meaning set forth in WAC 173-303-040, Definitions.

(c) In addition to the changes described in (b) of this subsection, the following modifications shall be made to interim status standards of 40 CFR Part 265 Subparts F through R:

(i) The words "the effective date of these regulations" shall mean:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date shall be the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12,

1982, the effective date shall be the date on which the wastes become regulated.

(ii) "Subpart N - landfills" shall have an additional section added which reads: "An owner/operator shall not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 ~~((to 173-303-103))~~ through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" shall have an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through ~~((173-303-103))~~ 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) shall be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) shall include the requirement that: "Groundwater monitoring wells shall be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" shall have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H". In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to the maintained with the Regional Administrators of all such Regions."; and

(vii) "Subpart J - tank systems" section 265.193(a) shall be modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) shall be modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.115 shall be modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - General Facility Standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 CFR Parts 260.1(b)(4)-(6) and 260.20-22.

(B) 40 CFR Parts 264.1(d) and (f); 265.1(c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 CFR Parts 268.5 and 6; 268 subpart B; 268.42(b); and 268.44.

(D) 40 CFR Parts 270.1(c)(1)(i); 270.60(b); and 270.64.

(E) 40 CFR Parts 124.1(b)-(e); 124.4; 124.5(e); 124.9; 124.10(a)(1)(iv); 124.12(e); 124.14(d); 124.15(b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209(b)-(c); 2.212-213; and 2.301-311.

AMENDATORY SECTION (Amending Order 88-24, filed 1/4/89)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability.

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or
(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not ((presently)) subject to regulation.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of WAC 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability.

(a) This section applies to generators, marketers, transporters, and burners of dangerous waste((s)) fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. ((Such dangerous wastes burned for energy recovery are termed "dangerous waste fuel." Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel. ((These regulations do not apply((, however)) to gas recovered from dangerous waste management activities when such gas is burned for energy recovery.((?))

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC ~~((173-303-101 through 173-303-103))~~ 173-303-100; or

(C) Is a dangerous waste designated solely as W001. Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC ~~((173-303-101 through 173-303-103))~~ 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below shall have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms shall have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) ((If the fuel is burned)) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in ((only)) the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the

boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

~~((3))~~ (4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

~~(b) ((Generators who market dangerous waste fuel to a burner also are subject to subsection (5) of this section.))~~ Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notice. Obtain a one time written and signed certification from the burner that the burner has notified as described under subsection (3) of this subsection.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-400 for interim status facilities or WAC 173-303-800 through 173-303-840 for final status facilities.

(v) Recordkeeping. Keep a copy of each certification notice received or sent for at least five years from the last date the generator markets to the burner.

(c) Generators who are burners also are subject to subsection ((6)) (8) of this section.

~~((4))~~ (5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

~~((5))~~ (6) Standards applicable to ~~((marketers))~~ distributors of dangerous waste fuel.

~~((Persons who market dangerous waste fuel are termed "marketers," and are subject to the following requirements. Marketers include generators who market dangerous waste fuel directly to a burner, persons who receive dangerous waste from generators and produce, process, or blend dangerous waste fuel from these dangerous wastes, and persons who distribute but do not process or blend dangerous waste fuel.))~~

(a) Prohibitions. The prohibitions under subsection ((2)) (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. ((Even if a marketer)) A distributor who has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, ((he)) must renotify to identify ((his)) the dangerous waste fuel activities.

(c) ~~((Storage-~~

~~((i) For short term accumulation by generators who are marketers of dangerous waste fuel, the applicable provisions of WAC 173-303-200 or 173-303-201;~~

~~((ii) For all marketers who store dangerous waste fuel, the applicable storage provisions of:~~

~~(A) WAC 173-303-280 through 173-303-395;~~

~~(B) WAC 173-303-420; and~~

~~(C) WAC 173-303-800 through 173-303-840;~~

~~((iii) For marketers with interim status permits who store dangerous waste fuel, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;~~

~~((iv) For marketers with final status permits who store dangerous waste fuel, the applicable storage provisions of:~~

~~(A) WAC 173-303-600 through 173-303-650; and~~

~~(B) WAC 173-303-660.~~

~~((d))~~ Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a marketer initiates a shipment of dangerous waste fuel;

(d) Storage. Distributors who store must comply with:

(i) The applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-400 for interim status facilities or WAC 173-303-800 through 173-303-840 for final status facilities; and

(ii) The standards for generators in WAC 173-303-170 through 173-303-230 when they initiate a shipment of dangerous waste fuel;

(e) Required notices.

(i) Before a marketer initiates the first shipment of dangerous waste fuel to a ((burner or another marketer, he)) another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed notice from the ((burner or marketer)) distributor, blender, or burner certifying that:

(A) The burner ((or marketer)), distributor, or blender has notified ((the department under WAC 173-303-060 and identified his waste as fuel activities)) as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection ((2)) (3)(b) of this section.

(ii) Before ((a marketer accepts)) accepting the first shipment of dangerous waste fuel from another ((marketer, he)) distributor, generator, or blender, the distributor must provide the other ((marketer)) distributor, the generator, or the blender with a one-time written and signed certification that ((he has notified the department under WAC 173-303-060 and identified his dangerous waste fuel activities)) the distributor has complied with the notification requirements described in subsection (3) of this subsection; and

~~((f))~~ (e) Recordkeeping. ((In addition to the applicable recordkeeping requirements of WAC 173-303-210 and 173-303-380, a marketer)) A distributor must keep a copy of each certification notice ((he receives)) received or ((sends)) sent for ((three)) at least five years from the last date ((he last engages)) the distributor engaged in a dangerous waste fuel marketing transaction with the person who ((sends or receives)) sent or received the certification notice.

~~((6))~~ (7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Blenders are required to obtain a one time written and signed certification from the burner, the

distributor, or another blender that the person has notified as described in subsection (3) of this section.

(c) Storage. For tanks or containers used to hold dangerous waste prior to blending or processing, for blending or processing tanks or containers, and for tanks or containers used to hold blended or processed fuel, blenders must comply with the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-400 for interim status facilities or WAC 173-303-800 through 173-303-840.

(d) Off-site shipment. Blenders must comply with the standards for generators in WAC 173-303-170 through 173-303-230 when they initiate a shipment of dangerous waste fuel; and

(e) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date he last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection ((2)) (3)(b) of this section ((that burn dangerous fuel are "burners" and are subject to the following requirements)) must comply with:

(a) Prohibitions. The prohibitions under subsection ((2)) (3)(b) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. ((Even if a burner)) A burner who has previously notified the department of ((his)) dangerous waste management activities and obtained an EPA/state identification number, ((he)) must notify to identify ((his)) the dangerous waste fuel activities(-);

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) ((WAC 173-303-420; and

(C) WAC 173-303-800 through 173-303-840;

(iii) For burners under interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For burners with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660)) WAC 173-303-400 including Subparts F through L of 40 CFR Part 265 for interim status facilities or WAC 173-303-800 through 173-303-840 for final status facilities.

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a ((marketer, he)) distributor, or a blender, or a generator the burner must provide the ((marketer)) distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) ((He)) The burner has notified ((the department under WAC 173-303-060 and identified his waste as fuel activities)) as described under subsection (3) of this section; and

(ii) ((He will burn the fuel only in a boiler or furnace)) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection ((2)) (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice ((that he sends to a marketer for three)) sent for at least five years from the date ((he)) the burner last receives dangerous waste fuel from ((that marketer)) the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-515 Special requirements for used oil burned for energy recovery. (1) Applicability.

(a) This section applies to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits any characteristic of a dangerous waste identified in WAC 173-303-090; or

(ii) Is designated as DW solely through WAC ((473-303-084 or 173-303-101 through 173-303-103)) 173-303-100; or

(iii) Is designated solely as W001.

(b)(i) This section does not apply to used oil burned for energy recovery that is mixed with a listed waste (except as provided in (a)(iii) of this subsection) or that is designated as EHW through WAC ((173-303-084 or 173-303-101 through 173-303-103)) 173-303-100. Such used oil is subject to the requirements of WAC 173-303-510.

(ii) Used oil containing more than 1000 ppm of total halogens is presumed to be a dangerous waste because it has been mixed with halogenated dangerous waste listed in WAC 173-303-9903 or 173-303-9904. Such dangerous wastes are subject to the requirements of WAC 173-303-510. Persons may rebut this presumption by demonstrating that the used oil does not contain dangerous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated dangerous constituents listed in WAC 173-303-9905).

(iii) This section does not apply to used oil that is designated for any reason other than being listed as W001 if such used oil is burned for energy recovery by the generator of the used oil in his own marine or diesel engines.

(c) If a used oil subject to this section does not exceed any of the specifications of Table 1, it is subject only to the analysis and recordkeeping requirements under subsection (4)(b)(i) and (vi) of this section; otherwise, it is subject to all applicable provisions of this section.

(d) For the purposes of this chapter:

(i) "Used oil" means any oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities;

- (ii) Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatments;
- (iii) Used oil fuel that exceeds any specification level (described in Table 1) is termed "off-specification used oil fuel."

TABLE 1
USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS SUBJECT TO THIS SECTION WHEN BURNED FOR ENERGY RECOVERY

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100° F minimum
Total halogens	4,000 ppm maximum*
Polychlorinated Biphenyls	2 ppm maximum

* Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under (b)(ii) of this subsection. Such used oil is subject to WAC 173-303-510 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(2) Prohibitions.

(a) A person may market off-specification used oil for energy recovery only:

(i) To burners or other marketers who have notified the department of their used oil management activities stating the location and general description of such activities, and who have an EPA/state identification number; and

(ii) To burners who burn the used oil in an industrial furnace or boiler identified in (b) of this subsection.

(b) Off-specification used oil may be burned for energy recovery in only the following devices:

(i) Industrial furnaces identified in WAC 173-303-040; or

(ii) Boilers, as defined in WAC 173-303-040 that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

(C) Used oil-fired space heaters provided that:

(I) The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(II) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(III) The combustion gases from the heater are vented to the ambient air.

(3) Standards applicable to generators of used oil burned for energy recovery.

(a) Except as provided in (b) and (c) of this subsection generators of used oil are not subject to this section.

(b) Generators who market used oil directly to a burner are subject to subsection (4) of this section.

(c) Generators who burn used oil are subject to subsection (5) of this section.

(4) Standards applicable to marketers of used oil burned for energy recovery.

(a) Persons who market used oil fuel are termed "marketers." Except as provided below, marketers include generators who market used oil fuel directly to a burner, persons who receive used oil from generators and produce, process, or blend used oil fuel from these used oils. However, the following persons are not marketers subject to this section:

(i) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to this section;

(ii) Persons who market only used oil fuel that meets the specification under Table 1 of subsection (1) of this section and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel).

(b) Marketers are subject to the following requirements:

(i) Analysis of used oil fuel. Used oil fuel is subject to regulation under this section unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Prohibitions. The prohibitions under subsection (2)(a) of this section;

(iii) Notification. Notification to the department stating the location and general description of used oil management activities. Even if a marketer has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an EPA/state identification number, he must renotify to identify his used oil management activities.

(iv) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:

(A) An invoice number;

(B) His own EPA/state identification number and the EPA/state identification number of the receiving facility;

(C) The names and addresses of the shipping and receiving facilities;

(D) The quantity of off-specification used oil to be delivered;

(E) The date(s) of shipment or delivery; and

(F) The following statement: "This used oil subject to Washington state department of ecology regulation under WAC 173-303-515;

Note: Used oil that meets the definition of combustible liquid (flash point below 200°F but at or greater than 100°F) or flammable liquid (flash point below 100°F) is subject to Department of Transportation Hazardous Materials Regulations at 49 CFR Parts 100-177.

(v) Required notices.

(A) Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(I) The burner or marketer has notified the department stating the location and general description of his used oil management activities; and

(II) If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(B) Before a marketer accepts the first shipment of off-specification used oil from another marketer subject to the requirements of this subsection, he must provide the marketer with a one-time written and signed notice certifying that he has notified the department of his used oil management activities; and

(vi) Recordkeeping.

(A) Used oil fuel that meets the specification. A marketer who first claims under (b)(i) of this subsection that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three years. Such marketers must also record in an operating log and keep for three years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with dangerous waste or unless it is mixed with used oil so that it no longer meets the specification.

(I) The name and address of the facility receiving the shipment;

(II) The quantity of used oil fuel delivered;

(III) The date of shipment or delivery; and

(IV) A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under (b)(vi)(A) of this subsection.

(B) Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.

(5) Standards applicable to burners of used oil burned for energy recovery.

Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:

(a) Prohibition. The prohibition under subsection (2)(b) of this section;

(b) Notification. Burners of off-specification used oil fuel and burners of used oil fuel who are the first to claim that the oil meets the specification provided under 173-303-515 (1)(c), and WAC 173-303-515 (1)(d)(ii) through (iii), except burners who burn specification oil that they generate must notify the department stating the location and general description of used oil management activities((, except that))

Burners of used oil fuel that meets the specification who receive such oil from a marketer that previously notified EPA are not required to notify. Owners and operators of

used oil-fired space heaters that burn used oil fuel under the provisions of subsection (2)(b)(ii) of this section are exempt from these notification requirements. Even if a burner has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an identification number, he must renotify to identify his used oil management activities.

(c) Required notices. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department stating the location and general description of his used oil management activities; and

(ii) He will burn the used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(d) Used oil fuel analysis.

(i) Used oil fuel burned by the generator is subject to regulation under this section unless the burner obtains analysis (or other information) documenting that the used oil meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Table 1 of subsection (1) of this section must obtain analyses (or other information) documenting that the used oil meets the specification.

(e) Recordkeeping. A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received. Burners must also keep for three years copies of analyses of used oil fuel as may be required by (d) of this subsection. In addition, he must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives off-specification used oil from that marketer.

(f) Local requirements. Any person who burns used oil for energy recovery, except for burning in used oil-fired space heaters that meet the provisions of subsection (2)(b)(ii) of this section, must comply with the air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries").

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are subject only to the requirements of WAC 173-303-050, 173-303-145 and 173-303-960 if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

- (i) WAC 173-303-280 (2) and (3);
 (ii) WAC 173-303-282;
 (iii) WAC 173-303-283;
~~((iii))~~ (iv) WAC 173-303-290;
~~((iv))~~ (v) WAC 173-303-310 through 173-303-360;
~~((v))~~ (vi) WAC 173-303-380;
~~((vi))~~ (vii) WAC 173-303-390 (2) and (3);
~~((vii))~~ (viii) WAC 173-303-395;
~~((viii) WAC 173-303-420;))~~ and
 (ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

- (i) WAC 173-303-600 through 173-303-650; and
 (ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-680, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-680, the final facility standards include WAC 173-303-280 through 173-303-395 ~~((and 173-303-420))~~.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying

out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5); ~~((and))~~

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b); and

(m) Generators treating dangerous waste on-site in tanks or containers that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3).

(4) The owner or operator of a final status TSD facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-610 Closure and postclosure. (1) Applicability.

(a) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) through (11) of this section, (which concern postclosure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040) at which dangerous waste will remain after closure, to tank

systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments, waste piles, and miscellaneous units as specified in WAC 173-303-650(6), 173-303-660(9), and 173-303-680(4), respectively and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and postclosure requirements, any portion of a facility which closes is subject to the applicable closure and postclosure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, postclosure escape of dangerous waste, dangerous constituents, leachate, contaminated run-off, or dangerous waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-670(8), or 173-303-680 (2) through (4) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) ~~(Background environmental levels, for any dangerous waste, managed at the facility, which either is listed under WAC 173-303-081 or 173-303-082 or is designated by the characteristics of WAC 173-303-090))~~ For soils, ground water, surface water, and air, the cleanup levels set forth in the February 1991, Model Toxics Control Act, WAC 173-340-700 through 173-340-760 (excluding WAC 173-340-745) methods A and B only; and

(ii) ~~((At least the designation limits of WAC 173-303-084, or 173-303-101 through 173-303-103 for any dangerous waste, managed at the facility, which is not listed under WAC 173-303-081 or 173-303-082 and is not designated by the characteristics of WAC 173-303-090. In addition to these limits, the department may specify in the closure plan for a facility any lower limits for removal or decontamination which the department deems appropriate.))~~ For all structures, equipment, bases, liners, etc., clean closure standards shall be set by the department in accordance with the closure performance standards of WAC 173-303-610 (2)(a)(i) in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are

required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(8), 173-303-645, 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680(2). A copy of the approved plan and all revisions to the plan must be furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.) Additionally, for facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or

(6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(b) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the

date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(ii)~~((A))~~ The date when he "expects to begin closure" must be either:

(A) No later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit~~((:))~~; or

(B) For units meeting the requirements of subsection (4)(d) of this section, no later than thirty days after the date on which the dangerous waste management unit receives the known final volume of nondangerous wastes, or if there is a reasonable possibility that the dangerous waste management unit will receive additional nondangerous wastes, no later than one year after the date on which the unit received the most recent volume of nondangerous wastes. If the owner or operator can demonstrate to the department that the dangerous waste management unit has the capacity to receive additional nondangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection shall preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at a dangerous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environ-

ment, including compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is a reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at the dangerous waste management unit or facility. The department may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a) and (b) of this subsection must be made as follows: The demonstrations in (a) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period unless the owner or operator is otherwise subject to the deadlines in (d) of this subsection.

(d) The department may allow an owner or operator to receive only nondangerous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of dangerous wastes at that unit if:

(i) The owner or operator requests a permit modification in compliance with all applicable requirements in WAC 173-303-830 and 40 CFR Part 124 and in the permit modification request demonstrates that:

(A) The unit has the existing design capacity as indicated on the part A application to receive nondangerous wastes; and

(B) There is a reasonable likelihood that the owner or operator or another person will receive nondangerous wastes in the unit within one year after the final receipt of dangerous wastes; and

(C) The nondangerous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(D) Closure of the dangerous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(ii) The request to modify the permit includes an amended wastes analysis plan, ground water monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and postclosure plan, and updated cost estimates and demonstrations of financial assurance for closure and postclosure care as necessary and appropriate, to reflect any changes due to the presence of dangerous constituents in the nondangerous wastes, and changes in closure activities, including the expected year of closure if applicable under subsection (3)(a)(vii) of this section, as a result of the receipt of nondangerous wastes following the final receipt of dangerous wastes; and

(iii) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of nondangerous wastes following receipt of the final volume of dangerous wastes; and

(iv) The request to modify the permit and the demonstration referred to in (d)(i) and (ii) of this subsection are submitted to the department no later than one hundred twenty days prior to the date on which the owner or operator of the facility receives the known final volume of dangerous wastes at the unit, or no later than ninety days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in (d) of this subsection, an owner or operator of a dangerous wastes surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004(o)(1) and 3005(j)(1) or 42 U.S.C. 3004 (o) (2) or (3) or 3005 (j) (2), (3), (4) or (13) must:

(i) Submit with the request to modify the permit:

(A) A contingent corrective measures plan, unless a corrective action plan has already been submitted under WAC 173-303-645(10); and

(B) A plan for removing dangerous wastes in compliance with (e)(ii) of this subsection; and

(ii) Remove all dangerous wastes from the unit by removing all dangerous liquids, and removing all dangerous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(iii) Removal of dangerous wastes must be completed no later than ninety days after the final receipt of dangerous wastes. The department may approve an extension to this deadline if the owner or operator demonstrates that the removal of dangerous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(iv) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters of constituents specified in the permit or that exceeds the facility's ground water protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in ((~~subpart F of this part~~) WAC 173-303-645, the owner or operator of the unit:

(A) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by (e)(i) of this subsection no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) May continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) May be required by the department to implement corrective measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(v) During the period of corrective action, the owner or operator shall provide semiannual reports to the department that describe the progress of the corrective action program, compile all ground water monitoring data, and evaluate the effect of the continued receipt of nondangerous wastes on the effectiveness of the corrective action.

(vi) The department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in (e)(iv) of this subsection, or fails to make substantial progress in implementing corrective action and achieving the facility's ground water protection standard or background levels if the facility has not yet established a ground water protection standard.

(vii) If the owner or operator fails to implement corrective measures as required in (e)(iv) of this subsection or if the department determines that substantial progress has not been made pursuant to (e)(vi) of this subsection the department shall:

(A) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadline in (a) and (b) of this subsection and provide a detailed statement of reasons for this determination; and

(B) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than twenty days after the date of the notice.

(C) If the department receives no written comments, the decision will become final five days after the close of the comment period. The department will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within fifteen days of the final notice and that closure must begin in accordance with the deadlines in (a) and (b) of this subsection.

(D) If the department receives written comments on the decision, it shall make a final decision within thirty days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision.

If the department determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in (a) and (b) of this subsection.

(E) The final determinations made by the department under (e)(vii)(C) and (D) of this subsection are not subject to administrative appeal.

(5) Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), or under the authority of WAC 173-303-680 (2) and (4). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. Within sixty days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas), and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Postclosure care and use of property.

(a) Postclosure care for each dangerous waste management unit subject to postclosure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:

- (i) Ground water monitoring and reporting as applicable; and
- (ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the postclosure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the postclosure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring

results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Postclosure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written postclosure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent postclosure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the postclosure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the postclosure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) The integrity of the cap and final cover or other containment structures where applicable; and

(B) The function of the facility monitoring equipment;

(iii) And the name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period.

(c) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved postclosure plan during the remainder of the postclosure period.

(d) Amendment of plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended postclosure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the postclosure plan at any time during the active life of the facility or during the postclosure care period.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan whenever:

(A) Changes in operating plans or facility design affect the approved postclosure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan.

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent postclosure plan under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved postclosure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimen-

sions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used to manage dangerous wastes;

(B) Its use is restricted under this section; and

(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the postclosure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the

criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of postclosure care. No later than sixty days after completion of the established postclosure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail, a certification that the postclosure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under WAC 173-303-620(6).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise

compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch separation is required between aisles of containers holding dangerous waste(s). A row of drums must be no more than two drums wide.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator shall keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in

WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: *Provided, That:*

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) EHW in containers must be protected from the elements by means of a building or other protective covering that otherwise allows adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1979 edition or the version adopted by the local fire district.

(b) The owner or operator shall design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, "Flammable and Combustible Liquids Code," shall be used. The owner/operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes shall be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order 88-24, filed 1/4/89)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b) and (c) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To

demonstrate the absence or presence of free liquids in the stored/treated waste, the test method described in WAC 173-303-110 (3)(c)(i) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;

(ii) Dangerous characteristics of the waste(s) that have been and will be handled;

(iii) Existing corrosion protection measures;

(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting other than a leak test.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on

the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

(i) Design standard(s) according to which tank system(s) are constructed;

(ii) Dangerous characteristics of the waste(s) to be handled;

(iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(A) Factors affecting the potential for corrosion, including but not limited to:

(I) Soil moisture content;

(II) Soil pH;

(III) Soil sulfides level;

(IV) Soil resistivity;

(V) Structure to soil potential;

(VI) Influence of nearby underground metal structures (e.g., piping);

(VII) Existence of stray electric current;

(VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

(III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:

(A) Tank foundations will maintain the load of a full tank;

(B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located (~~within a seismic fault zone subject to the standards of WAC 173-303-420(3))~~ less than five hundred feet from a fault which has had displacement in Holocene times; and

(C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

- (i) Weld breaks;
- (ii) Punctures;
- (iii) Scrapes of protective coatings;
- (iv) Cracks;
- (v) Corrosion;
- (vi) Other structural damage or inadequate construction/ installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping

System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new tank systems or components, prior to their being put into service;

(ii) For all existing tank systems used to store or treat Dangerous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1989;

(iii) For those existing tank systems of known and documented age, within two years after January 12, 1989, or when the tank system has reached fifteen years of age, whichever comes later;

(iv) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1989; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches fifteen years of age, or within two years of January 12, 1989, whichever comes later; and

(v) For tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, within the time intervals required in (a)(i) through (iv) of this subsection, except that the date that a material becomes a dangerous waste must be used in place of January 12, 1989.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and

external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must

be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor.

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the ground water, or surface water at least as effectively as secondary

containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the department will consider:

- (A) The nature and quantity of the wastes;
- (B) The proposed alternate design and operation;
- (C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to ground water or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on ground water, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

(B) The potential adverse effects of a release on ground-water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The proximity and withdrawal rates of ground-water users;

(III) The current and future uses of ground water in the area; and

(IV) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(A) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(B) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(A) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(C) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.

(D) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (h)(iv)(A) through (C) of this subsection.

(E) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (h)(iv)(A) through (C) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste shall be marked with labels or signs to identify the waste contained in the tank. The label or sign shall be legible at a distance of at least fifty feet, and shall bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)

(e) All tank systems holding EHW which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overflow controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring any leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction he finds. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator shall keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten

signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes.

The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment, except as provided in (d)(ii) of this subsection, must be reported to the department within twenty-four hours of its detection. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 CFR Part 302.

(ii) A leak or spill of dangerous waste is exempted from the requirements of (d) of this subsection if it is:

(A) Less than or equal to a quantity of one pound, or the "Reportable Quantity" (RQ) established in 40 CFR Part 302, whichever is less; and

(B) Immediately contained and cleaned-up.

(iii) Within thirty days of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsi-

bility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in ~~((covered))~~ tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the NFPA-30 *Flammable and Combustible Liquids Code* - 1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

~~((11) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.~~

~~In addition to the other requirements of this section and until the requirements of subsections (2), (3) and (4) of this section are fully effective, the following requirements apply to tanks storing or treating dangerous wastes F020, F021, F022, F023, F026, or F027.~~

~~(a) Tanks must have systems designed and operated to detect and adequately contain spills or leaks. The design and operation of any containment system must reflect consideration of all relevant factors, including:~~

~~(i) Capacity of the tank;~~

~~(ii) Volumes and characteristics of wastes stored or treated in the tank;~~

~~(iii) Method of collection of spills or leaks;~~

~~(iv) The design and construction materials of the tank and containment system; and~~

~~(v) The need to prevent precipitation and run-on from entering into the system.~~

~~(b) As part of the contingency plan required by WAC 173-303-350, the owner or operator must specify such procedures for responding to a spill or leak from the tank into the containment system as may be necessary to protect human health and the environment. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.)~~

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-645 Releases from ~~((solid waste management))~~ regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in ~~((subsection (12) of this section))~~ WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through ~~((14))~~ (12) of this section, in lieu of ~~((subsection (12) of this section))~~ WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of ~~((subsection (12) of this section))~~ WAC 173-303-646(2) apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the postclosure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the postclosure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)~~((g))~~ (f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the groundwater protection standard in the facility permit when dangerous constituents have been detected in the groundwater from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Danger-

ous constituents are constituents identified in 40 CFR Part 264 Appendix IX (this list is available from the department upon request), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents
for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

¹ Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b) (i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of groundwater quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background shall be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size shall be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which shall be specified in the unit permit upon approval by the department. This sampling procedure shall be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which,

upon approval by the department, will be specified in the unit permit. The statistical test chosen shall be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit shall comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data shall be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experimentwise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values shall be proposed by the owner or operator and approved by the department if it is protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the

population that the interval must contain, shall be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this section. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of

contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination;

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of Part 264 are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify and [an] alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8) (g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit

includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary ~~(--The permit will specify the measures to be taken--)~~; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action

program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

~~(12) ((Corrective action for solid waste management units-~~

~~(a) The owner or operator of a facility seeking a permit for the treatment, storage, or disposal of dangerous waste must institute corrective action as necessary to protect human health and the environment for all releases of dangerous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.~~

~~(b) Corrective action will be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.~~

~~(c) The owner or operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off site access is denied. On site measures to address such releases will be determined on a case by case basis. Assurances of financial responsibility for such corrective action must be provided.)) Use of the Model Toxics Control Act.~~

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act shall be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation shall in no way affect the timing or scope of review of the Model Toxics Control Act action.

NEW SECTION

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

(a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(c) For the purposes of this section, dangerous constituent shall mean any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 appendix IX, any constituent which caused a waste to be listed or designated as dangerous under the provisions of chapter 173-303 WAC, and any constituent defined as a hazardous substance at RCW 70.105D.020(5).

(2) Requirements.

(a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(3) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act shall be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation shall in no way affect the timing or scope of review of the Model Toxics Control Act action.

(4) Corrective action management unit (CAMU).

(a) For the purpose of implementing corrective actions required by subsection (2) of this section, the director may

designate an area at a facility as a corrective action management unit. Designation of a CAMU shall be in accordance with the provisions of this subsection and subsections (5) and (6) of this section. The director may designate one or more CAMUs at a facility. The director may designate no CAMUs at a facility.

(b) Placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute land disposal of dangerous waste, however, when necessary to protect human health and the environment, the department may require remediation waste meet land disposal standards before placement in a CAMU.

(c) Consolidation or placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute creation of a unit subject to the minimum technology requirements of WAC 173-303-140(2), however, when necessary to protect human health and the environment, the department may require a CAMU meet all or part of the minimum technology requirements.

(d) Designation of a CAMU shall not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

(e) Designation of a CAMU shall not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit.

(a) When designating a CAMU, the director shall do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU shall facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU shall not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU shall include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, shall be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU shall expedite the timing of remedial activity implementation;

(vi) The CAMU shall enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) The director shall specify requirements for CAMUs including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that shall minimize the need for further maintenance of the CAMU and shall include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director shall consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director shall, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements shall include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities shall be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility shall provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director shall document the rationale for designating CAMUs and shall make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into an existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or

according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs)

(a) For temporary tanks and container storage areas used for treatment or storage of remediation wastes during implementation of the corrective action requirements of subsection (2) of this section, the director may determine that a design, operating, or closure standard applicable to such units may be replaced by alternative requirements which are protective of human health and the environment.

(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection shall be:

(i) Located within the facility boundary; and

(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.

(c) In establishing standards to be applied to a temporary unit, the director shall consider the following factors:

(i) Length of time unit will be in operation;

(ii) Type of unit;

(iii) Volumes of wastes to be managed;

(iv) Physical and chemical characteristics of the wastes to be managed in the unit;

(v) Potential for releases from the unit;

(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(d) The director shall specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director shall also specify design, operating, and closure requirements for the temporary unit.

(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(i) Continued operation of the unit will not pose a threat to human health and the environment; and

(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit shall be:

(i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(g) The director shall document the rationale for designating a temporary unit and for granting time extensions for temporary units and shall make such documentation available to the public.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-650 Surface impoundments. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report shall be certified by ((a-licensed)) an independent, qualified registered professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;
 (ii) The proposed alternate design and operation;
 (iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to

detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

- (i) Unexpected changes of liquid levels occur; or
- (ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system

components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the post-closure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-655 Land treatment. (1) Applicability. The regulations in this subpart apply to owners and operators of facilities that treat or dispose of dangerous waste in land treatment units, except as WAC 173-303-600 provides otherwise.

(2) Treatment program.

(a) An owner or operator subject to this section must establish a land treatment program that is designed to ensure that dangerous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The department will specify in the facility permit the elements of the treatment program, including:

(i) The wastes that are capable of being treated at the unit based on a demonstration under subsection (3) of this section;

(ii) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with subsection (4)(a) of this section; and

(iii) Unsaturated zone monitoring provisions meeting the requirements of subsection (6) of this section.

(b) The department will specify in the facility permit the dangerous constituents that must be degraded, transformed, or immobilized under this section. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents which, although not listed in WAC 173-303-9905, cause a waste to be regulated under this chapter, that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The department will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below, and including, the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of dangerous constituents. The maximum depth of the treatment zone must be:

(i) No more than 1.5 meters (5 feet) below the initial soil surface; and

(ii) More than 3 meters (10 feet) above the seasonal high water table; except that the owner or operator may demonstrate to the satisfaction of the department that a distance of less than 3 meters will be adequate. In no case shall the distance be less than 1 meter.

(3) Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that dangerous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under (a) of this subsection, he must obtain a land treatment demonstration permit under WAC 173-303-808. The department will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in (c) of this subsection.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under (a) of this subsection must:

(i) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(A) The characteristics of the waste and of dangerous constituents present;

(B) The climate in the area;

(C) The topography of the surrounding area;

(D) The characteristics and depth of the soil in the treatment zone; and

(E) The operating practices to be used at the unit;

(ii) Be likely to show that dangerous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(iii) Be conducted in a manner that protects human health and the environment considering:

(A) The characteristics of the waste to be tested;

(B) The operating and monitoring measures taken during the course of the test;

(C) The duration of the test;

(D) The volume of waste used in the test; and

(E) In the case of field tests, the potential for migration of dangerous constituents to ground water or surface water.

(4) Design and operating requirements. The department will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this subsection.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of dangerous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accordance with all design and operating conditions that were used in the treatment demonstration under subsection (3) of this section. At a minimum, the department will specify in the facility permit:

(i) The rate and method of waste application to the treatment zone;

(ii) Measures to control soil pH;

(iii) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and

(iv) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of dangerous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(ii) Improper functioning of wind dispersal control measures.

(5) Food chain crops. The department may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this subsection. The department will specify in the facility permit the specific food chain crops which may be grown.

(a)(i) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that dangerous constituents other than cadmium:

(A) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(B) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(ii) The owner or operator must make the demonstration required under (a)(i) of this subsection prior to the planting of crops at the facility for all dangerous constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(iii) In making such a demonstration, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(A) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(B) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(iv) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone;

(i)(A) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(B) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(C) The cumulative application of cadmium from waste must not exceed 5kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(D) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(ii)(A) Animal feed must be the only food chain crop produced;

(B) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(C) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(D) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with (b)(ii) of this subsection.

(6) Unsaturated zone monitoring: An owner or operator subject to this section must establish an unsaturated zone monitoring program to discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether dangerous constituents migrate out of the treatment zone.

(i) The department will specify the dangerous constituents to be monitored in the facility permit. The dangerous constituents to be monitored are those specified under subsection (2)(b) of this section.

(ii) The department may require monitoring for principal dangerous constituents (PDCs) in lieu of the constituents specified under subsection (2)(b) of this section. PDCs are dangerous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The department will establish PDCs if it finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PDCs will assure treatment at ((#)) least equivalent levels for the other dangerous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using

soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(i) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(ii) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each dangerous constituent to be monitored under (a) of this subsection. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(i) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(ii) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(iii) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(iv) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with (b)(i) of this subsection.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The department will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

- (i) Sample collection;
- (ii) Sample preservation and shipment;
- (iii) Analytical procedures; and
- (iv) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any dangerous constituent to be monitored under (a) of this subsection, below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under (d) of this subsection, to the background value for that constituent according to the statistical procedure specified in the facility permit under this subsection.

(ii) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after comple-

tion of sampling. The department will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(iii) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he must:

(i) Notify the department of his finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

(ii) Within forty-five days, submit to the department an application for a permit modification to amend the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone; and

(iii) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(h) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection, he is not relieved of the requirement to submit concurrently a permit modification application within the forty-five-day period, unless the demonstration made under this subsection successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(iv) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(7) Recordkeeping. The owner or operator must include dangerous waste application dates and rates in the operating record required under WAC 173-303-380.

(8) Closure and postclosure care.

(a) During the closure period the owner or operator must:

(i) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of dangerous constituents within the treatment zone as required under subsection (4)(a) of this section, except to the extent such measures are inconsistent with (a)(viii) of this subsection;

(ii) Continue all operations in the treatment zone to minimize run-off of dangerous constituents as required under subsection (4)(b) of this section;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section;

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated ninety days after the last application of waste to the treatment zone; and

(viii) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of dangerous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with WAC 173-303-610(6) when closure is completed, the owner or operator may submit to the department a certification by an independent qualified soil scientist, in lieu of ~~((a-licensed))~~ an independent, qualified registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the postclosure care period the owner or operator must:

(i) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of dangerous constituents in the treatment zone to the extent that such measures are consistent with other postclosure care activities;

(ii) Maintain a vegetative cover over closed portions of the facility;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste, if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section; and

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated one hundred eighty days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under (a)(viii) and (c) of this subsection, if the department finds that the level of dangerous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in (d)(iii) of this subsection. The owner or operator may submit such a demonstration to the department at any time during the closure or postclosure care periods. For the purposes of this subsection:

(i) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all dangerous constituents specified in the facility permit under subsection (2)(b) of this section;

(A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone;

(B) The owner or operator must express background values and values for dangerous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under (d)(iii) of this subsection;

(ii) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively;

(iii) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying dangerous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under WAC 173-303-645 if the department finds that the owner or operator satisfies (d) of this subsection, and if unsaturated zone monitoring under subsection (6) of this section, indicates that dangerous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

(9) Special requirements for ignitable or reactive waste. The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(a) The waste is immediately incorporated into the soil so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) and (7); and

(ii) WAC 173-303-395 is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(10) Special requirements for incompatible wastes. The owner or operator must not place incompatible wastes, or incompatible wastes and materials, in or on the same treatment zone, unless WAC 173-303-395 (1)(b) is complied with.

(11) Special requirements for extremely hazardous waste. Under no circumstances will EHW be allowed to remain in a closed land treatment unit after concluding the postclosure care period. If EHW remains at the end of the scheduled postclosure care period specified in the permit, then the department will either extend the postclosure care period, or require that all EHW be disposed of off-site or that it be treated. In deciding whether to extend postclosure care or require disposal or treatment, the department will take into account the likelihood that the waste will or will not continue to degrade in the land treatment unit to the extent that it is no longer EHW. For the purposes of this subsection, EHW will be considered to remain in a land treatment unit if representative samples of the treatment zone are designated as EHW. Procedures for representative sampling and testing will be specified in the permit.

(12) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, or F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary for land treatment facilities managing dangerous wastes F020, F021, F022, F023, F026, or F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-660 Waste piles. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.

(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:

(i) Liquids or materials containing free liquids are not placed in the pile;

(ii) The pile is protected from surface water run-on by the structure or in some other manner;

(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and

(iv) The pile will not generate leachate through decomposition or other reactions.

(d) All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).

(2) Design and operating requirements.

(a) A waste pile (except for an existing portion of a waste pile) must have:

(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.

(c) For EHW management, the owner or operator shall submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement shall be certified by ~~(a licensed)~~ an independent, qualified registered professional engineer.

(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.

(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) The pile must have a leachate collection and removal system above the top liner that is designed, con-

structed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;

(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;

(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection; and

(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(i) Notify the department of the condition in writing within seven days after detecting the condition; and

(ii)(A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

(i) Immediately stop adding wastes to the pile;

(ii) Immediately contain any leakage which has occurred or is occurring;

(iii) Immediately cause the leak to be stopped; and

(iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of (c) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of

actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by ~~((a licensed))~~ an independent, qualified registered professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

(i) The containment system has been repaired; and

(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a pile, unless:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395 (1)(b); or

(b)(i) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(ii) The generator complies with WAC 173-303-395 (1)(d).

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395 (1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by the same containment system.

(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395 (1)(b).

(9) Closure and postclosure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must

close the facility and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills, WAC 173-303-665(6).

(c)(i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and postclosure care of a pile must include the cost of complying with the contingent closure plan and the contingent postclosure plan but are not required to include the cost of expected closure under (a) of this subsection.

(10) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in subsection (1)(c) of this section) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, to surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-670 Incinerators. (1) Applicability.

(a) Except as WAC 173-303-600 provides otherwise, the regulations in this section apply to owners and operators of facilities that incinerate dangerous waste and to owners and operators who burn dangerous waste in boilers or industrial furnaces in order to destroy them, or who burn dangerous waste in boilers or in industrial furnaces for any recycling purpose and elect to be regulated under this section.

(b) The department may, in establishing permit conditions, exempt the facility from all requirements of this section except subsection (2) of this section, waste analysis,

and subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i)(A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

(ii) Contains none of the dangerous constituents listed in WAC 173-303-9905 above significant concentration limits; and

(iii) Is not designated by the dangerous waste criteria of WAC ((~~173-303-101, Toxic dangerous wastes, nor of WAC 173-303-102, Persistent dangerous wastes, nor of WAC 173-303-103, Carcinogenic dangerous wastes~~) 173-303-100.

(c) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC 173-303-807, or with Part B of his permit application, the owner or operator must have included an analysis of his waste feed sufficient to provide all information required by WAC 173-303-807 or 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (under subsection (6)(b) of this section).

(3) Designation of principal organic dangerous constituents and dangerous combustion byproducts. Principal organic dangerous constituents (PODCs) and dangerous combustion byproducts must be treated to the extent required by the performance standards specified in subsection (4) of this section. For each waste feed to be burned, one or more PODCs and dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC ((~~173-303-084 or 173-303-101 through 173-303-103~~) 173-303-100. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as PODCs and dangerous combustion byproducts. Constituents are more likely to be designated as PODCs or dangerous combustion byproducts if they are present in large quantities or concentrations. Trial PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC 173-303-807 for obtaining trial

burn permits. Trial dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under subsection (6) of this section, it will meet the following performance standards:

(a)(i) Except as provided in (a)(ii) of this subsection, an incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each PODC designated (under subsection (3) of this section) in its permit for each waste feed. DRE is determined for each PODC from the following equation:

$$DRE = \frac{(W_{in} - W_{out}) \times 100\%}{W_{in}}$$

Where:

W_{in} = Mass feed rate of one PODC in the waste stream feeding the incinerator, and

W_{out} = Mass emission rate of the same PODC present in exhaust emissions prior to release to the atmosphere.

(ii) An incinerator burning dangerous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic dangerous constituent (PODCs) designated (under subsection (3) of this section) in its permit. This performance must be demonstrated on PODCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each PODCs from the equation in subsection (4)(a)(i) of this section. In addition, the owner or operator of the incinerator must notify the department of his intent to incinerate dangerous wastes F020, F021, F022, F023, F026, or F027.

(b) Incinerators burning dangerous waste must destroy dangerous combustion byproducts designated under subsection (3) of this section so that the total mass emission rate of these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of PODCs fed into the incinerator.

(c)(i) An incinerator burning dangerous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$Pc = \frac{Pm \times 14}{21-Y}$$

Where Pc is the corrected concentration of particulate matter, Pm is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the

stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) The emission standards specified in (c) of this subsection shall be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous wastes shall comply with the applicable air pollution control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subsection (6) of this section), will be regarded as compliance with subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of subsection (4) of this section, may be evidence justifying modification, revocation, or reissuance of a permit under WAC 173-303-830.

(5) Trial burns and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under subsection (6) of this section, except:

- (i) In approved trial burns under WAC 173-303-807; or
- (ii) Under exemptions created by WAC 173-303-670(1).

(b) New dangerous wastes may be burned only after operating conditions have been specified in a trial burn permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806 (4)(f)(iii)(G), as sufficient to ensure compliance with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement of subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

- (i) Carbon monoxide (CO) level in the stack exhaust gas;
- (ii) Waste feed rate;
- (iii) Combustion temperature;
- (iv) An appropriate indicator of combustion gas velocity;
- (v) Allowable variations in incinerator system design or operating procedures; and
- (vi) Such other operating requirements as are necessary to ensure that the performance standards of subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except waste exempted in accordance with subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

- (i) Keeping the combustion zone totally sealed against fugitive emissions;
- (ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or
- (iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under (a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

(i) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;

(ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and

(iii) As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be tested at least weekly to verify proper operation, unless the owner or operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contaminated with dangerous waste or waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-680 Miscellaneous units. (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions shall include those requirements in WAC 173-303-630 through 173-303-670, 173-303-806, and 40 CFR Part 146 that are appropriate for the miscellaneous units being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(ii) The hydrologic and geologic characteristics of the unit and the surrounding area;

(iii) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water;

(iv) The quantity and direction of ground water flow;

(v) The proximity to and withdrawal rates of current and potential ground water users;

(vi) The patterns of land use in the region;

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(viii) The potential for health risks caused by human exposure to waste constituents; and

(ix) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(b) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(i) The volume and physical and chemical characteristics of the waste in the unit;

(ii) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(iv) The patterns of precipitation in the region;

(v) The quantity, quality, and direction of ground water flow;

(vi) The proximity of the unit to surface waters;

(vii) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(ix) The patterns of land use in the region;

(x) The potential for health risks caused by human exposure to waste constituents; and

(xi) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of dangerous constituents to the air;

(iii) The operating characteristics of the unit;

(iv) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(vi) The potential for health risks caused by human exposure to waste constituents; and

(vii) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(3) Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with subsection (2) of this section, WAC 173-303-320, 173-303-340(1), 173-303-380(3), 173-303-390 (1) and (3), and ~~((173-303-645(12)))~~ 173-303-646(2) as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

(4) Postclosure care. A miscellaneous unit that is a disposal unit must be maintained in a manner that complied with subsection (2) of this section during the postclosure care period. In addition, if a treatment or storage unit has contaminated soils or ground water that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of subsection (2) of this section during postclosure care. The postclosure plan under WAC 173-303-610(8) must specify the procedures that will be used to satisfy this requirement.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit in accordance with WAC 173-303-800 through 173-303-840 covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040)(~~and~~) or for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period ((~~in accordance with WAC 173-303-800 through 173-303-840~~)), unless they demonstrate closure by removal or decontamination as provided under WAC 173-303-800 (9) and (10). The denial of a permit for the active life of a dangerous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC ~~((173-303-420))~~ 173-303-282 and 173-303-283 are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR 270.2.

(7) Exemptions.

(a) A permit for an on-site cleanup action may be exempted as provided in a consent decree or order signed by the department and issued pursuant to chapter 70.105D RCW.

(b) A permit is not required for an on-site cleanup action performed by the department pursuant to chapter 70.105D RCW.

(8) Each permit issued under this chapter shall contain terms and conditions as the department determines necessary to protect human health and the environment.

(9) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 40 CFR Part 265 standards as referenced by WAC 173-303-400 must obtain a post-closure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in WAC 173-303-650(6), 173-303-655(8), or 173-303-660(9), as appropriate, and such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed standards for closure at 40 CFR Part 264.111, as appropriate. The demonstration may be made in the following ways:

(a) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that 40 CFR Part 264.111 standards for closure by removal were met. If the department believes that 40 CFR Part 264.111 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subsection (10) of this section.

(b) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the department for a determination that a post-closure permit is not required because the closure met the applicable 40 CFR Part 264.111 closure standards.

(i) The petition must include data demonstrating that standards for closure by removal or decontamination were met, or it must demonstrate that the unit closed under chapter 173-303 WAC requirements that met or exceeded the applicable 40 CFR Part 264.111 closure-by-removal standard.

(ii) The department shall approve or deny the petition according to the procedures outline in subsection (10) of this section.

(10) Procedures for closure equivalency determination.

(a) If a facility owner/operator seeks an equivalency demonstration under subsection (9) of this section, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within thirty days from the date of the notice. The department will also, in response to a request or at the discretion of the depart-

ment, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 40 CFR Part 265 closure, as referenced by WAC 173-303-400, to a 40 CFR Part 264.111 closure. The department will give public notice of the hearing at least thirty days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(b) The department will determine whether the 40 CFR Part 265 closure met 40 CFR Part 264.111 closure by removal or decontamination requirements within ninety days of its receipt. If the department finds that the closure did not meet the applicable 40 CFR Part 264.111 standards, the department will provide the owner/operator with a written statement of the reasons why the closure failed to meet 40 CFR Part 264.111 standards. The owner/operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.

(c) If the department determines that the facility did not close in accordance with 40 CFR Part 264.111 standards for closure by removal, the facility is subject to post-closure permitting requirements.

(11) The department may require a permittee or an applicant to submit information in order to establish permit conditions under subsection (8) of this section and WAC 173-303-806 (11)(d).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-802 Permits by rule. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. For UIC permits issued after November 8, 1984, the owner or operator must comply with WAC 173-303-646(2), corrective action for solid waste management units; and where the UIC well is the only unit at a facility which requires a RCRA permit, complies with WAC 173-303-806 (4)(a)(xxiii). All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-283, performance standards;

(iv) WAC 173-303-370, manifest system;

(v) WAC 173-303-380 (1)(a), operating record;

(vi) WAC 173-303-390(2), annual report; ~~(and)~~

(vii) WAC 173-303-390(1), unmanifested waste reports; and

(viii) For NPDES permits issued after November 8, 1984, WAC 173-303-646(2), corrective action for solid waste management units;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit that treats dangerous wastes shall have a permit by rule, except as provided in (b) of this subsection, if he:

(i) Has a NPDES permit, state waste discharge permit, pretreatment permit (or written discharge authorization from the local sewerage authority) ~~((and the permit or authorization provides effluent limits for the hazardous constituents, and provides for the use of all known, available, and reasonable methods of prevention, control, and treatment of pollution pursuant to chapter 90.48 RCW, prior to discharge)); and~~

(ii) Complies with the conditions of that permit;

(iii) Complies with the following regulations:

(A) WAC 173-303-060, notification and identification numbers;

(B) WAC 173-303-070, designation of dangerous waste;

- (C) WAC 173-303-283, performance standards;
- (D) WAC 173-303-300, general waste analysis;
- (E) WAC 173-303-310, security;
- ~~((E))~~ (F) WAC 173-303-350, contingency plan and emergency procedures;
- ~~((F))~~ (G) WAC 173-303-360, emergencies;
- ~~((G))~~ (H) WAC 173-303-370, manifest system;
- ~~((H))~~ (I) WAC 173-303-380 (1)(d), operating record;
- ~~((I))~~ (J) WAC 173-303-390, facility reporting.

(b) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to ~~((either))~~ (a) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

- (i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;
- (ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;
- (iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under this chapter are necessary to provide such protection; or
- (iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-805 Interim status permits. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC 173-303-281 must be met.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under this chapter provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous

wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection shall not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Except as provided in (b) of this subsection, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new dangerous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the dangerous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal (along with a justification detailing the

equipment and process or processes that the owner or operator will use to treat, store, or dispose of the new dangerous wastes) and if the department does not explicitly deny the changes within sixty days of receipt of the revised application;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change), the requirements of WAC 173-303-281 are met, and the department approves the changes because:

(A) There is a lack of available treatment, storage, or disposal capacity at other dangerous waste management facilities; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of dangerous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explaining the need for the change) and the department approves the change because:

(A) The change is necessary to prevent a threat to human health and the environment because of an emergency situation; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265, Subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, including an order or consent decree issued pursuant to WAC 173-303-646 (2) or (3), by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial action brought by EPA or by the department. Changes under this subsection (7)(a)(v) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(b) Except as specifically allowed under this subsection (7)(b), changes listed under (a) of this subsection may not be made if they amount to reconstruction of the dangerous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty

percent of the capital cost of a comparable entirely new dangerous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of WAC 173-303-640(4) for tanks and ancillary equipment.

(ii) If necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 3004(o) of RCRA.

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified dangerous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other federal authority, by an authorized state under comparable state authority, or by a court in a judicial proceeding brought by EPA or an authorized state, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks or containers, hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with 40 CFR Part 268 or RCRA section 3004.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards; or

(e) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283.

(9) Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management

facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities;
- (b) Special waste management facilities; and
- (c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (i) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compli-

ance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.
 (ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300(5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640((8)) (7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; and

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate)); describe access

road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility shall identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator shall demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640((5)) (8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5

meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste ~~((surface impoundments, waste piles, land treatment units, and landfills))~~ facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are

those listed in ((WAC 173-303-9905)) Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1,

or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator shall develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor shall be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program shall at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program shall be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization shall be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porus media

or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models shall include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, shall be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the postclosure care period. The scenarios shall incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions shall be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems shall also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) shall be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and shall continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator shall be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility

operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program shall, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator shall establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator shall, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator shall submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator shall use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used

to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks; and

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed,

constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-

600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and,

where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate

compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous

constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

- (I) Incinerator ash residues, if any; and
 - (II) Residues from the air pollution control devices.
- (iv) The department shall approve a permit application without a trial burn if the department finds that:

- (A) The wastes are sufficiently similar; and
- (B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

- (A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;
- (B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

- (I) The type of test (e.g., column leaching, degradation);
- (II) Materials and methods, including analytical procedures;
- (III) Expected time for completion; and
- (IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

- (A) The wastes to be land treated;
- (B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

- (I) Waste application method and rate;
- (II) Measures to control soil pH;
- (III) Enhancement of microbial or chemical reactions;

and (IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

- (I) Sampling equipment, procedures, and frequency;
- (II) Procedures for selecting sampling locations;
- (III) Analytical procedures;
- (IV) Chain of custody control;
- (V) Procedures for establishing background values;
- (VI) Statistical methods for interpreting results; and
- (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constitu-

ents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated,

maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the postclosure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application,

except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility may be reviewed by the department five years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in WAC 173-303-830.

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination.

(13) Grounds for denial. A permit application shall be denied if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final special waste and recycling facility permits. In lieu of issuing a final special waste or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling

facilities or WAC 173-303-550 through 173-303-560 for special waste facilities.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits. (1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns shall not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The permit may be modified to reflect the extension according to WAC 173-303-830(4). The procedures for requesting and approving trial burns are described in:

(a) Subsection (10) of this section for existing incinerators with interim status permits; and

(b) Subsection (11) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110, or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110; and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

- (iv) Description of the auxiliary fuel system (type/feed);
 - (v) Capacity of the prime air mover;
 - (vi) Description of automatic waste feed cutoff system(s);
 - (vii) Stack gas monitoring and pollution control equipment;
 - (viii) Nozzle and burner design;
 - (ix) Construction materials; and
 - (x) Location and description of temperature, pressure, and flow indicating and control devices;
- (c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, shall evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department shall approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O₂, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl [HCl] per hour (4 pounds per hour), a computation of HCl [HCl] removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(7) Certification. The applicant shall submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (6) of this section. This submission shall be made within thirty days of the completion of the trial burn, or later if approved by the department.

(8) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(9) Signatures required. All submissions required under this section shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(10) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator shall prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (9) of this section.

(b) If the department approves the trial burn, it shall issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification shall be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator shall complete the trial burn and submit the information described in subsection (6) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results. Trial burn results must be submitted prior to the issuance of the permit.

(11) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request shall include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department shall proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit shall include the trial burn plan, and shall establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results shall also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit shall be modified in accordance with WAC 173-303-830(4) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval shall be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

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

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee shall take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit. Compliance with a final facility permit during its term constitutes compliance for the purpose of enforcement with chapter 173-303 WAC except for permit modifications and those requirements not included in the permit which become effective by statute, or which are promulgated under 40 CFR Part 268 restricting the placement of dangerous waste in or on the land. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of

other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(c) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee shall maintain all records of ground water quality and ground water surface elevations for the active life of the facility, and for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department shall be signed in accordance with this subsection and shall be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator shall be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications shall be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department shall be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervi-

sion in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports shall be provided:

(a) Planned changes. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit;

(Note: In certifying construction or modification, the independent qualified registered professional engineer is responsible only for certifying those portions of the facility which are identified in chapter 173-303 WAC as specifically requiring certification by an independent registered professional engineer.) and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of dangerous waste; and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the modified portion of the facility except as provided in WAC 173-303-830(4).

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance

of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) shall be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule shall be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment. Information shall be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately shall include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he shall promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if the owner/operator indicates to the department the degree of harm if the information is made to the public.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department shall place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the department in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the department. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the financial requirements, the department shall notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under this subsection, the department shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the department shall approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance and which would have justified the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause (~~only when~~) as follows:

(A) The department may modify the permit when the standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.

(B) Permittee may request modification when:

(I) The permit condition requested to be modified was based on an effective regulation; and

~~((H))~~ (II) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and either

~~((H))~~ a. The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

~~((H))~~ b. A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or

other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or postclosure. When modification of a closure or postclosure plan is required under WAC 173-303-610 (3) or (8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year postclosure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the postclosure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-806 (12) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the department concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-806(~~((4))~~), 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the department in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior department approval, the notification must be made within ninety calendar days after the department approves the request.

(C) Any person may request the department to review, and the department may for cause reject, any Class 1 modification. The department must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the department.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the department of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the department that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-806(~~((4))~~), 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(~~(E))~~) (D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the department evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and

address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public shall be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the department must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the department notifies the permittee of a thirty-day extension for a decision, the department must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

(C) If the department fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the department approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the department has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the department acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the department does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the department must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the department may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The department may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC (~~(173-303-283)~~) 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the department establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the department that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-806(~~((4))~~), 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(~~((E))~~) (D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the department evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The

meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public shall be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the department must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the department must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the department that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The department shall make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the department shall consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the department may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the department may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and

provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the department and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)((~~E~~)) (D). This notification must be made within seven days of submission of the authorization request.

(iii) The department shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the department must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks or containers of restricted wastes in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the department's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The department determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The department shall notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The department shall also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The department's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly listed or identified wastes.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070 if he or she:

(A) Was in existence as a dangerous waste facility with respect to the newly listed or identified waste on the effective date of the final rule listing or identifying the waste;

(B) Submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;

(C) Is in compliance with the standards of 40 CFR Part 265 (as referenced in WAC 173-303-400);

(D) In the case of Classes 2 and 3 modifications, also submits a complete permit modification request within one hundred eighty days after the effective date of the rule listing or identifying the waste; and

(E) In the case of land disposal units, certifies that such unit is in compliance with all applicable Part 265 ground water monitoring and financial responsibility requirements (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous. If the owner or operator fails to clarify compliance with these requirements, he or she shall lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Permit modification list. The department must maintain a list of all approved permit modifications and must publish a notice once a year in a state-wide newspaper that an updated list is available for review.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functional-equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	11

- b. Extension of final compliance date 3
- 6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director 11
- 7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed 11

- B. General Facility Standards
 - 1. Changes to waste sampling or analysis methods:
 - a. To conform with agency guidance or regulations 1
 - b. Other changes 2
 - 2. Changes to analytical quality assurance/control plan:
 - a. To conform with agency guidance or regulations 1
 - b. Other changes 2
 - 3. Changes in procedures for maintaining the operating record 1
 - 4. Changes in frequency or content of inspection schedules 2
 - 5. Changes in the training plan:
 - a. That affect the type or decrease the amount of training given to employees 2
 - b. Other changes 1
 - 6. Contingency plan:
 - a. Changes in emergency procedures (i.e., spill or release response procedures) 2
 - b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed 1
 - c. Removal of equipment from emergency equipment list 2
 - d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan 1

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.

- C. Ground Water Protection
 - 1. Changes to wells:
 - a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system 2
 - b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well 1
 - 2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the Director 11
 - 3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the Director 11
 - 4. Changes in point of compliance 12
 - 5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):
 - a. As specified in the ground water protection standard 3
 - b. As specified in the detection monitoring program 2

- 6. Changes to a detection monitoring program as required by WAC 173-303-645 (9)(j), unless otherwise specified in this appendix 2
- 7. Compliance monitoring program:
 - a. Addition of compliance monitoring program as required by WAC 173-303-645 (9)(h)(iv) and (10) 3
 - b. Changes to a compliance monitoring program as required by WAC 173-303-645 (10)(k), unless otherwise specified in this appendix 2
- 8. Corrective action program:
 - a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11) 3
 - b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix 2
- D. Closure
 - 1. Changes to the closure plan:
 - a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director 11
 - b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director 11
 - c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director 11
 - d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director 11
 - e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix 2
 - f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nondangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e) 2
 - 2. Creation of a new landfill unit as part of closure 3
 - 3. Addition of the following new units to be used temporarily for closure activities:
 - a. Surface impoundments 3
 - b. Incinerators 3
 - c. Waste piles that do not comply with WAC 173-303-660 (1)(c) 3
 - d. Waste piles that comply with WAC 173-303-660 (1)(c) 2
 - e. Tanks or containers (other than specified below) 2
 - f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director 11
- E. Post-Closure
 - 1. Changes in name, address, or phone number of contact in post-closure plan 1
 - 2. Extension of post-closure care period 2
 - 3. Reduction in the post-closure care period 3
 - 4. Changes to the expected year of final closure, where other permit conditions are not changed 1

5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2

F. Containers

1. Modification or addition of container units:

a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below 3

b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below 2

c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), with prior approval of the department. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

2:

a. Modification of a container unit without increasing the capacity of the unit 2

b. Addition of a roof to a container unit without alteration of the containment system 1

3. Storage of different wastes in containers:

a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage of treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

G. Tanks

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation 2

d. After prior approval of the department, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation 11

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), with prior approval of the department. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1

-The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased,

and

-The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice 2

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G(5)(c) below 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G(5)(d) 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11

(d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

- 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3
- 2. Replacement of a surface impoundment unit 3
- 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2
- 4. Modification of a surface impoundment management practice 2
- 5. Treatment, storage, or disposal of different wastes in surface impoundments:
 - a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 3
 - b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

- 1. Modification or addition of waste pile units:
 - a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3
 - b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2
- 2. Modification of waste pile unit without increasing the capacity of the unit 2
- 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1
- 4. Modification of a waste pile management practice 2
- 5. Storage or treatment of different wastes in waste piles:
 - a. That require additional or different management practices or different design of the unit 3
 - b. That do not require additional or different management practices or different design of the unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

- 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity 3
- 2. Replacement of a landfill 3
- 3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3
- 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2
- 5. Modification of a landfill management practice 2
- 6. Landfill different wastes:
 - a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3
 - b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

- 1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3
- 2. Modification of run-on control system 2
- 3. Modify run-off control system 3
- 4. Other modifications of land treatment unit component specifications or standards required in permit 2
- 5. Management of different wastes in land treatment units:
 - a. That require a change in permit operating conditions or unit design specifications 3
 - b. That do not require a change in permit operating conditions or unit design specifications 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

- 6. Modification of a land treatment unit management practice to:
 - a. Increase rate or change method of waste application 3
 - b. Decrease rate of waste application 2

7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3

9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3

10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements 3

11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2

12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2

13. Changes in sampling, analysis, or statistical procedure 2

14. Changes in land treatment demonstration program prior to or during the demonstration 2

15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received 2

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director 2

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

18. Changes in vegetative cover requirements for closure 2

L. Incinerators

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed rate limit, or an organic chlorine feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed limit, or an organic chlorine feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards

unless this demonstration can be made through other means 2

3. Modification of an incinerator unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl or particulate from the combustion gases, or by changing other features of the incinerator that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

4. Modification of an incinerator unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum combustion gas temperature, minimum combustion gas residence time, or oxygen concentration in the secondary combustion chamber. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Incineration of different wastes:

a. If the waste contains a POHC that is more difficult to incinerate than authorized by the permit or if incineration of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to incinerate than authorized by the permit and if incineration of the waste does not require compliance with different regulatory performance standards than specified in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste incineration during the shakedown period for determining operational readiness after construction, with the prior approval of the Director 11

- c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director 11
- d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director 11
- 8. Substitution of an alternate type of fuel that is not specified in the permit 1

¹ Class 1 modifications requiring prior Agency approval.

(5) Permit termination. The department shall follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows;

(i) The time between interim dates shall not exceed one year; or

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements.

M. Corrective Action

1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) . . class 1.

2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7) class 2.

AMENDATORY SECTION (Amending Order DE 84-22, filed 6/27/84)

WAC 173-303-840 Procedures for decision making.

(1) Application and completeness.

(a) The department will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit. Permit applications must comply with the signature and certification requirements of WAC 173-303-810 (12) and (13).

(b) The department shall review for completeness each application for a permit under this chapter. Each application for a permit should be reviewed for completeness within sixty days of its receipt. Upon completing the review, the department shall notify the applicant in writing whether or not the application is complete. If the application is incomplete, the department shall list the information necessary to make the application complete, and shall specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(c) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under chapter 70.105 RCW.

(d) If the department decides that a site visit is necessary for any reason in conjunction with the processing of an application, then the department shall notify the applicant and a date shall be scheduled.

(e) The effective date of an application is the date on which the department notifies the applicant that the application is complete as provided in (b) of this subsection.

(2) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is ~~((completed))~~ complete, the department shall tentatively decide whether to prepare a draft permit, or to deny the application.

(c) If the department tentatively decides to deny the permit application, then the department shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this subsection. If the department's final decision is that the tentative decision to deny was incorrect, then the department shall withdraw the notice of intent to deny and proceed to prepare a draft permit under this subsection.

(d) If the department decides to prepare a draft permit, it shall contain the following information:

(i) All conditions applicable to permits under WAC 173-303-810;

(ii) Applicable conditions under WAC 173-303-830; and

(iii) All applicable standards for storage, treatment and disposal, and other permit conditions.

(e) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(f) Fact sheet; statement of basis.

(i) A fact sheet shall be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(ii) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other person.

(iii) The fact sheet shall include, when applicable:

(A) A brief description of the type of facility or activity which is the subject of the draft permit;

(B) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(C) A brief summary of the basis for the draft permit conditions including supporting references;

(D) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and

(E) A description of the procedures for reaching a final decision on the draft permit including:

(I) The beginning and ending dates of the comment period and the address where comments will be received;

(II) Procedures for requesting a hearing and the nature of that hearing;

(III) Any other procedures by which the public may participate in the final decision; and

(IV) Name and telephone number of a person to contact for additional information.

(iv) The department shall prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(3) Public notice and involvement.

(a) The department shall give public notice that the following actions have occurred:

(i) A draft permit has been prepared or an application is tentatively being denied;

(ii) A hearing on a permit has been scheduled; or

(iii) An appeal on a permit has been filed with the pollution control hearings board.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial shall be given to the person who requested the permit change and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application shall allow at least forty-five days for public comment. Public notice of a public hearing shall be given at least thirty days before the hearing.

(e) Public notice of activities described in this subsection shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice

under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, and other appropriate government authorities, including any affected states;

(D) Persons on the mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each state agency having any authority under state law with respect to construction or operation of such facility;

(ii) For major permits, by publication of a notice in a daily or weekly newspaper within the area affected by the facility;

(iii) For all permits, by publication of notice in a daily or weekly major local newspaper of general circulation, and local radio broadcast of the public notice; and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet or statement of basis, and the application;

(v) A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) And any additional information considered necessary or proper.

(b) In addition to the general public notice described in (a) of this subsection, public notice of a hearing under subsection (5) of this section shall contain the following information:

(i) Date, time, and place of the hearing;

(ii) Reference to the date of the previous public notice relating to the permit; and

(iii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(c) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) shall be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(d) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department shall hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in WAC 173-303-840(3). Whenever possible, the department shall schedule a public hearing under this subsection at a location convenient to the nearest population center to the proposed facility.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) shall automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing shall be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the department. A comment period longer than thirty days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required under subsection (6) of this section, appear to raise substantial new questions concerning a permit, the department may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department shall issue a final permit decision (or a decision to deny a permit for the active life of a RCRA dangerous waste facility or unit under WAC 173-303-840). The department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision shall become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(9) Response to comments. At the time that any final permit is issued, the department shall issue a response to comments. This response shall specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing. The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830 (3) and (4), or terminated for the reasons specified in WAC 173-303-805 or 173-303-806. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830(3), it shall prepare the draft permit under WAC 173-303-840(2), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department shall require the submission of a new application.

(c) In a permit modification under this section, only those conditions to be modified shall be reopened when a

new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Minor modifications" as defined in WAC 173-303-830(4) are not subject to the requirements of this section.

(e) If the department tentatively decides to terminate an interim status permit under WAC 173-303-805 or a final permit under WAC 173-303-806, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(2).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-900 Public involvement and participation. (1) Intent. Public involvement and participation plays a significant role in the decision making process. The department intends to foster public awareness, information and consultation, and to respond actively to public concerns. The department will inform the public of major issues, proposed projects, and regulatory changes, and will consult interested and affected segments of the public before making important decisions. The overall goal of the department is to provide knowledge to the public about dangerous waste issues that vitally affect the state, to encourage broader understanding of the public role in dangerous wastes and their proper management, and to promote an open dialogue between the public, industry, and government.

(2) Applicable requirements. In fulfilling the intent of public involvement and participation in the decision making process, the department will refer to and, where applicable, follow the requirements and guidance set forth in the following:

- (a) Chapter 34.04 RCW, Administrative Procedure Act;
- (b) Chapter 34.08 RCW, Washington State Register Act of 1977;
- (c) Chapter 42.17 RCW, Public Records Act;
- (d) Chapter ~~((497-10))~~ 197-11 WAC, Guidelines Interpreting and Implementing the State Environmental Policy Act;
- (e) 40 CFR Part 25, Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act; and
- (f) The Washington state solid waste management plan, December 1980.

AMENDATORY SECTION (Amending Order DE 83-36, filed 1/5/88, effective 2/5/88)

WAC 173-303-910 Petitions. (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

- (i) The petitioner's name and address;
- (ii) A statement of the petitioner's interest in the proposed action;
- (iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and
- (iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice shall be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period shall be a minimum of forty-five days.

(d) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(e) After evaluating all public comments the department will make a final decision in accordance with RCW ~~((34.04.060))~~ 34.05.330 or ~~((34.04.080))~~ 34.05.240. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW ~~((34.04.025))~~ 34.05.330.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

- (i) A full description of the proposed method, including all procedural steps and equipment used in the method;
- (ii) A description of the types of wastes or waste matrices for which the proposed method may be used;
- (iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;
- (iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- (v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through ~~((173-303-103))~~ 173-303-100.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4) and (5).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) The name and address of the laboratory facility performing the sampling or tests of the waste;

(ii) The names and qualifications of the persons sampling and testing the waste;

(iii) The dates of sampling and testing;

(iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4) and (5);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but shall not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 CFR Part 261 Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC ~~((173-303-084 or 173-303-101))~~ 173-303-100 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

(6) Petitions to allow land disposal of a waste restricted under WAC 173-303-140.

(a) Any person seeking a land disposal restriction exemption allowed under WAC 173-303-140(6) must submit a petition to the department. The petition must include the following general information:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action;

(iv) A statement of the need and justification for the proposed action;

(v) An identification of the specific waste and the specific land disposal unit for which the exemption is desired;

(vi) A waste analysis to describe fully the chemical and physical characteristics of the subject waste. All waste and environmental sampling, test, and analysis data must be accurate and reproducible to ~~((t))~~ the extent that state-of-the-art techniques allow; and

(vii) A quality assurance and quality control plan that addresses all sampling and testing aspects of the information provided in the petition.

(b) In addition to the general information requirements in subsection (a) of this section, the following specific information must be provided in the petition for individual case-by-case exemptions.

(i) Petition for land disposal exemption for treatment residuals. Petitions for exemption of treatment residuals, as allowed under WAC 173-303-140 (6)(a), must:

(A) Provide the type of waste management or treatment method applied to the waste and the rationale for selecting this method as the best achievable management method; and

(B) Document that the land disposal of the treatment residual would not pose a greater risk to public health and the environment than land disposal of the original wastes, including an analysis of the treatment residuals to fully describe their chemical and physical characteristics; and

(C) Provide the management alternatives for the treatment residuals and the factors which, if an exemption is not granted, would prevent the utilization of the best achievable management method for the original dangerous waste.

(ii) Petition for economic hardship exemption. Petitions for exemption on the basis of economic hardship, as allowed under WAC 173-303-140 (6)(b), must:

(A) Supply the current management costs and the projected management costs to comply with the requirements of WAC 173-303-140; and

(B) Provide the source of information utilized in determining the economic estimates; and

(C) Provide a discussion of how the projected compliance costs would impose an unreasonable economic burden.

(iii) Petition for leachable inorganic waste exemption. Petitions for exemption of leachable inorganic wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that the stabilization of the dangerous waste is less protective of public health and the environment than landfilling; or

(B) Provide a list of stabilization facilities that could accept the dangerous waste and information demonstrating that they do not have available capacity to stabilize the waste; or

(C) Provide information describing the types of stabilization utilized which did not reduce the solubility and mobility of the dangerous waste constituents and describe any other stabilization methods that have been considered but not utilized.

(iv) Petition for organic/carbonaceous waste exemption. Petitions for exemption of organic/carbonaceous wastes, as allowed under WAC 173-303-140 (6)(d), must:

(A) Provide information demonstrating that recycling, treatment and incineration facilities are unavailable for the

waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; or

(B) Provide information demonstrating that the alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization and landfilling; or

(C) Provide information demonstrating that:

(I) Recycling and treatment facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; and

(II) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or a moisture content greater than sixty-five percent.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) Each petition must be submitted to:

Department of Ecology
Hazardous Waste Land
Disposal Exemption
Mailstop PV-11
Olympia, WA 98504-8711

(e) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition and accompanying demonstration, such as a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality. Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements.

(f)(i) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice shall be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period shall be a minimum of forty-five days.

(ii) Upon the written request of any interested person, the department may, at its discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on its own motion to hold a conference.

(iii) After evaluating all public comments the department will make a final decision in accordance with RCW

34.04.060 or 34.04.080. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition.

(g) Prior to the department's decision, the applicant is required to comply with all restrictions on land disposal under WAC 173-303-140. The department should respond to a petition within ninety days.

(h) If an exemption is granted, the department may include specific conditions as deemed necessary by the department to protect public health and the environment.

(i) If granted, the exemption will apply to land disposal of the specific restricted waste at the individual disposal unit described in the petition and accompanying demonstration. The exemption will not apply to any other restricted waste at that disposal unit, nor will it apply to that specific restricted waste at any other disposal unit.

(j) If an exemption is granted, the department may withdraw the exemption on the following bases:

(i) If there is a threat to public health and the environment; or

(ii) If there is migration of dangerous waste constituents from the land disposal unit or site for as long as the waste remains dangerous; or

(iii) If the department finds reason to believe that the information submitted in a petition is inaccurate or has been falsified such that the petition should have been denied.

(k) The term of an exemption granted under this subsection will be established by the department at the time

of issuance.

(l) Any exemption granted by the department does not relieve the petitioner of his responsibilities in the management of dangerous waste under chapter 173-303 WAC.

(m) The department may (but shall not be required to) grant a temporary exemption before making a final decision, whenever it finds that there is a substantial likelihood that an exemption will be finally granted. Temporary exemptions shall not be subject to the procedures of (f) of this subsection. Temporary exemptions shall not be a cause of delaying final decision making on the petition request.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-9903 Discarded chemical products list.

DISCARDED CHEMICAL PRODUCTS LIST

Dangerous Waste No.	CAS No.	Substance	WDOE Hazard Designation	Reason for Designation*
ACUTELY DANGEROUS CHEMICAL PRODUCTS				
P023	<u>107-20-0</u>	Acetaldehyde, chloro-	EHW	B H
U001	<u>75-07-0</u>	Acetaldehyde	EHW	C
U034	<u>75-87-6</u>	Acetaldehyde, trichloro-	EHW	H
P002	<u>591-08-2</u>	Acetamide, N-(aminothioxomethyl)-	EHW	B
P057	<u>640-19-7</u>	Acetamide, 2-fluoro-	EHW	B H
U240	<u>94-75-7</u>	<u>Acetic acid, (2,4-dichlorophenoxy)O-, salts & esters</u>	<u>EHW</u>	<u>CH</u>
P058	<u>67-74-8</u>	Acetic acid, fluoro-, sodium salt	EHW	A H
U144	<u>301-04-2</u>	Acetic acid, lead (2+) salt	EHW	D ((EP)) TC
P066	<u>16752-77-5</u>	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester	EHW	B
U003	<u>75-05-8</u>	Acetonitrile	EHW	C I
P001	<u>81-81-2</u>	3-(alpha-Acetonyl-benzyl)-4-hydroxycoumarin and salts	EHW	A
P002	<u>591-08-2</u>	1-Acetyl-2-thiourea	EHW	B
U006	<u>75-36-5</u>	Acetyl chloride	EHW	C H O R
P003	<u>107-02-8</u>	Acrolein	EHW	X I
U007	<u>79-06-1</u>	Acrylamide	EHW	C
U008	<u>79-10-7</u>	Acrylic acid	EHW	C O I
U009	<u>107-13-1</u>	Acrylonitrile	EHW	C ((+)) I
P070	<u>116-06-3</u>	Aldicarb	EHW	B
P004	<u>309-00-2</u>	Aldrin	EHW	X H
P005	<u>107-18-6</u>	Allyl alcohol	EHW	B I
P006	<u>20859-73-8</u>	Aluminum phosphide (R,T)	EHW	B R
P007	<u>2763-96-4</u>	5-(Aminomethyl)-3-isoxazolol	EHW	B
P008	<u>504-24-5</u>	4-alpha-((Aminopyridine)) <u>Aninopyridine</u>	EHW	B

P009	<u>131-74-8</u>	Ammonium picrate	EHW	R
P119	<u>7803-55-6</u>	Ammonium vanadate	EHW	B
U012	<u>62-53-3</u>	Aniline	EHW	C I
P099	<u>506-61-6</u>	<u>Argentate(1-), bis(cyano-C)-, potassium</u>	<u>EHW</u>	<u>BR</u>
P010	<u>7778-39-4</u>	Arsenic acid	EHW	B
P012	<u>1327-53-3</u>	Arsenic (III) oxide	EHW	B ((+))
P011	<u>1303-28-2</u>	Arsenic (V) oxide	EHW	B
P011	<u>1303-28-2</u>	Arsenic pentoxide	EHW	B
P012	<u>1327-53-3</u>	Arsenic trioxide	EHW	B ((+))
P038	<u>692-42-2</u>	Arsine, diethyl-	EHW	B
P036	<u>696-28-6</u>	<u>Arsonous dichloride, phenyl-</u>	<u>EHW</u>	<u>?</u>
U015	<u>115-02-6</u>	Azaserine	EHW	C ((+))
P054	<u>151-56-4</u>	Aziridine	EHW	B ((+))
P067	<u>75-55-8</u>	<u>Aziridine, 2-methyl-</u>	<u>EHW</u>	<u>I</u>
U010	<u>50-07-7</u>	Azirino(2',3':3,4)pyrrolo(1,2a)indole-4,7-dione, 6-amino-8-[[aminocarbonyl]oxy methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- <u>[1aS-(1alpha, 8beta, 8alpha)]-</u>	EHW	B ((+))
P013	<u>542-62-1</u>	Barium cyanide	EHW	A
U157	<u>56-49-5</u>	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	EHW	H P
U017	<u>98-87-3</u>	Benzal chloride	EHW	D H
U018	<u>56-55-3</u>	Benz[a]anthracene	EHW	P ((+))
U018	<u>56-55-3</u>	1,2-Benzanthracene	EHW	P ((+))
U094	<u>57-97-6</u>	1,2-Benzanthracene, 7,12-dimethyl-	EHW	C P
U012	<u>62-53-3</u>	Benzenamine	EHW	C I
P024	<u>106-47-8</u>	Benzenamine, 4-chloro-	EHW	C H
U049	<u>3165-93-3</u>	Benzenamine, 4-chloro-2-methyl- ₂ hydrochloride	EHW	H
U093	<u>60-11-7</u>	Benzenamine, N, N-dimethyl-4-(phenylazo)-	EHW	C ((+))
U158	<u>101-14-4</u>	Benzenamine, 4,4-methylenebis(2-chloro-	EHW	H ((+))
P077	<u>100-01-6</u>	Benzenamine, 4-nitro-	EHW	D ?
P028	<u>100-44-7</u>	Benzene, (chloromethyl)-	EHW	B H ((+))
U019	<u>71-43-2</u>	Benzene	EHW	C ((+)) I
U038	<u>510-15-6</u>	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethylester	EHW	H
U030	<u>101-55-3</u>	Benzene, 1-bromo-4-phenoxy-	EHW	H
U035	<u>305-03-3</u>	<u>Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-</u>	<u>EHW</u>	<u>H</u>
U037	<u>108-90-7</u>	Benzene, chloro-	EHW	B H I
U190	<u>85-44-9</u>	1,2-Benzenedicarboxylic acid anhydride	EHW	C
U070	<u>95-50-1</u>	Benzene, 1,2-dichloro-	EHW	B H
U071	<u>541-73-1</u>	Benzene, 1,3-dichloro-	EHW	B H
U072	<u>106-46-7</u>	Benzene, 1,4-dichloro-	EHW	B H
U017	<u>98-87-3</u>	Benzene, (dichloromethyl)-	EHW	D H
U223	<u>26471-45-8</u>	Benzene, 1,3-diisocyanatomethyl-	EHW	B R
U239	<u>1330-20-7</u>	Benzene, dimethyl-	EHW	C I
U201	<u>108-46-3</u>	1,3-Benzenediol	EHW	C
P046	<u>122-09-8</u>	<u>Benzeneethanamine, alpha, alpha-dimethyl-</u>	<u>EHW</u>	<u>?</u>
U127	<u>118-74-1</u>	Benzene, hexachloro-	EHW	H
U056	<u>110-82-7</u>	Benzene, hexahydro-	EHW	C I
U188	<u>108-95-2</u>	Benzene, hydroxy-	EHW	C
U220	<u>108-88-3</u>	Benzene, methyl-	EHW	C I
U105	<u>121-14-2</u>	Benzene, 1-methyl-2,4-dinitro	EHW	C
U106	<u>606-20-2</u>	Benzene, ((1-methyl-2,6-dinitro-2 Methyl-1,3 dinitro-	EHW	C
U055	<u>98-82-8</u>	Benzene, (1,methylethyl)-	EHW	C I
U169	<u>98-95-3</u>	Benzene, nitro-	EHW	C I
U183	<u>608-93-5</u>	Benzene, pentachloro	EHW	H
U185	<u>82-68-8</u>	Benzene, pentachloronitro-	EHW	D H ((+))
U020	<u>98-09-9</u>	Benzenesulfonic acid chloride	EHW	D H O R
U020	<u>98-09-9</u>	Benzenesulfonyl chloride	EHW	D H O R
U207	<u>95-94-3</u>	Benzene, 1,2,4,5-tetrachloro-	EHW	D H
U247	<u>72-43-5</u>	<u>Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-methoxy-H</u>	<u>EHW</u>	<u>DH</u>
U023	<u>98-07-7</u>	Benzene, (trichloromethyl)-	EHW	H O R
P042	<u>51-43-4</u>	1,2-Benzenediol, 4-[1-hydroxy-2-(methyl-amino)ethyl]-	EHW	B
P014	<u>108-98-5</u>	Benzenethiol	EHW	A
U021	<u>97-87-5</u>	Benzidine	EHW	B ((+))
U064	<u>189-55-9</u>	<u>Benzo[rs]t]pentaphene</u>	<u>EHW</u>	<u>P</u>
P001	<u>81-81-2</u>	<u>2H- 1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1</u>	<u>EHW</u>	<u>B</u>

		<u>-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%</u>	
U022	<u>50-32-8</u>	Benzo[a]pyrene	EHW P ((+))
U022	<u>50-32-8</u>	3,4-Benzopyrene	EHW P ((+))
U197	- -	p-Benzoquinone	EHW C
U023	<u>98-07-7</u>	Benzotrichloride	EHW H O R
U050	<u>218-01-9</u>	1,2-Benzphenanthrene	EHW P ((+))
P028	<u>100-44-7</u>	Benzyl chloride	EHW B H ((+))
P015	<u>7440-41-7</u>	Beryllium ((dust))	EHW C ((+))
U085	<u>1464-53-5</u>	2,2'-Bioxirane	EHW B I
U021	<u>97-87-5</u>	((-))(1,1"-Biphenyl)-4,4'-diamine	EHW B ((+))
U073	<u>91-94-1</u>	(1,1'-Biphenyl-4,4'-diamine, 3,3'-dichloro-	EHW H ((+))
U095	<u>119-93-7</u>	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-	EHW C ((+))
U024	<u>111-91-1</u>	Bis(2-chloroethoxy) methane	EHW C H
U027	<u>108-60-1</u>	Bis(2-chloroisopropyl) ether	EHW C H O
P016	<u>542-88-1</u>	Bis(chloromethyl) ether	EHW B H ((+))
U246	<u>506-68-3</u>	Bromine cyanide	EHW C H
P017	<u>598-31-2</u>	Bromoacetone	EHW C H
U225	<u>75-25-2</u>	Bromoform	EHW H
U030	<u>101-55-3</u>	4-Bromophenyl phenyl ether	EHW H
P018	<u>357-57-3</u>	Brucine	EHW A
U128	<u>87-68-3</u>	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	EHW C H
U035	<u>305-03-3</u>	Butanoic acid, 4-[bis(2-chloroethyl)amino] benzene-	EHW H ((+))
P045	<u>39196-18-4</u>	2-Butanone, 3,3-dimethyl-1-(methylthio)- O-[methylamino]carbonyl oxime	EHW B
U160	<u>1338-23-4</u>	2-Butanone peroxide	EHW B R
U053	<u>4170-30-3</u>	2-Butenal	EHW B I
U074	<u>764-41-0</u>	2-Butene, 1,4-dichloro-	EHW C H I
U143	<u>303-34-4</u>	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3 methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro- 1H-pyrrolizin-1yl ester, [1S-[1alspha(Z), 7(2S*,3R*),7aalpha)]-	EHW C
U032	<u>13765-19-0</u>	Calcium chromate	EHW C ((+EP)) TC
P021	<u>592-01-8</u>	Calcium cyanide	EHW B
P021	<u>592-01-8</u>	Calcium cyanide Ca(CN)2	EHW R
P123	<u>8001-35-2</u>	Camphene, octachloro-	EHW X H
U178	<u>615-53-2</u>	Carbamic acid, methylnitroso-, ethylester	EHW C ((+))
U176	<u>759-73-9</u>	Carbamide, N-ethyl-N-nitroso-	EHW C ((+))
U177	<u>684-93-5</u>	Carbamide, N-methyl-N-nitroso-	EHW C ((+))
U219	<u>62-56-6</u>	Carbamide, thio-	EHW C ((+))
P103	<u>630-10-4</u>	Carbamimidoseleonic acid	EHW B
U062	<u>2303-16-4</u>	Carbamothioic acid, bis (1-methylethyl)-, S-(2,3-dichloro-2propenyl)ester	EHW C H
U097	<u>79-44-7</u>	Carbamoyl chloride, dimethyl-	EHW D H ((+))
P022	<u>75-15-0</u>	Carbon bisulfide	EHW D I ?
P022	<u>75-15-0</u>	Carbon disulfide	EHW D I ?
U156	<u>79-22-1</u>	Carbonochloridic acid, methyl ester	EHW B H I
U033	<u>353-50-4</u>	Carbon oxyfluoride	EHW B H R
U211	<u>56-23-5</u>	Carbon tetrachloride	EHW C H ((+))
P095	<u>75-44-5</u>	((Carbonyl chloride)) Carbonic dichloride	EHW B H
U033	<u>353-50-4</u>	Carbonic difluoride	EHW BH
U033	<u>353-50-4</u>	Carbonyl fluoride	EHW B H R
U035	<u>305-03-3</u>	Chlorambucil	EHW H ((+))
U036	<u>57-74-9</u>	Chlordane, ((technical)) alpha and gamma isomers	EHW X H
P033	<u>506-77-4</u>	Chlorine cyanide	EHW A H
U026	<u>494-03-1</u>	Chlormaphazine	EHW H ((+))
P023	<u>107-20-0</u>	Chloroacetaldehyde	EHW B H
P024	<u>106-47-8</u>	p-Chloroaniline	EHW C H
U037	<u>108-90-7</u>	Chlorobenzene	EHW B H I
U038	<u>510-15-6</u>	Chlorobenzilate	EHW DH
U039	<u>59-50-7</u>	((4))P-Chloro-m-cresol	EHW H
U041	<u>106-89-8</u>	1-Chloro-2,3-epoxypropane	EHW C H ((+)) I
U042	<u>110-75-8</u>	2-Chloroethyl vinyl ether	EHW C H
U044	<u>67-66-3</u>	Chloroform	EHW C H ((+))
U046	<u>107-30-2</u>	Chloromethyl methyl ether	EHW D H ((+)) I
U047	<u>91-58-7</u>	beta-Chloronaphthalene	EHW D H
U048	<u>95-57-8</u>	o-Chlorophenol	EHW D H
P026	<u>5344-82-1</u>	1-(o-Chlorophenyl)thiourea	EHW A H
P027	<u>542-76-7</u>	3-Chloropropionitrile	EHW B H
U049	<u>3165-93-3</u>	4-Chloro-o-toluidine, hydrochloride	EHW H
U032	<u>13765-19-0</u>	Chromic acid, calcium salt	EHW C ((+EP)) TC

U050	<u>218-01-9</u>	Chrysene	EHW	P ((+))
P029	<u>544-92-3</u>	<u>Copper cyanide Cu(CN)</u>	EHW	R
P029	<u>544-92-3</u>	Copper cyanides	EHW	B
U052	<u>1319-77-3</u>	Cresols	EHW	B
U052	<u>1319-77-3</u>	Cresylic acid	EHW	B
U053	<u>4170-30-3</u>	Crotonaldehyde	EHW	B I
U055	<u>98-82-8</u>	Cummene	EHW	C I
P030	<u>xx-xx-x</u>	Cyanides (soluble cyanide salts), not elsewhere specified	EHW	A
P031	<u>460-19-5</u>	Cyanogen	EHW	B I
U246	<u>506-68-3</u>	Cyanogen bromide	EHW	C H
P033	<u>506-77-4</u>	Cyanogen chloride	EHW	A H
U197	<u>106-51-4</u>	<u>((1,4-Cyclohexadienedione))</u> <u>2,5-Cyclohexadiene-1,4-dione</u>	EHW	C
U056	<u>110-82-7</u>	Cyclohexane	EHW	C I
U129	<u>58-89-9</u>	<u>Cyclohexane, 1,2,3,4,5,6-hexachloro-</u> <u>(1alpha,2alpha,3beta,4alpha,5alpha,6beta)-</u>	<u>EHW</u>	<u>C H</u>
U057	<u>108-94-1</u>	Cyclohexanone	EHW	C I
P034	<u>131-89-5</u>	<u>2-Cyclohexyl-4,6-dinitrophenol</u>	<u>EHW</u>	<u>C</u>
U130	<u>77-47-4</u>	<u>1,3-Cyclopentadiene, 1,2,3,4,5,5-</u> <u>hexa-chloro-</u>	<u>EHW</u>	<u>X H</u>
U058	<u>50-18-0</u>	Cyclophosphamide	EHW	C H ((+)) 1
U240	<u>94-75-7</u>	2,4-D, salts and esters	EHW	B H
U060	<u>72-54-8</u>	DDD	EHW	C H ((+))
U061	<u>50-29-3</u>	DDT	EHW	X H ((+))
U142	<u>143-50-0</u>	Decachlorooctahydro-1,3,4-metheno- 2H-cyclobuta[c,d]-pentalen-2-one	EHW	X H
U062	<u>2303-16-4</u>	Diallate	EHW	C H ((+))
U133	<u>302-01-2</u>	Diamine	EHW	B ((+)) R
U063	<u>55-70-3</u>	Dibenz[a,h]anthracene	EHW	A P ((+))
U063	<u>55-70-3</u>	1,2:5,6-Dibenzanthracene	EHW	P ((+)) A
U064	<u>189-55-9</u>	1,2:7,8-Dibenzopyrene	EHW	P ((+))
U064	<u>189-55-9</u>	Dibenz[a,i]pyrene	EHW	P ((+))
U066	<u>96-12-8</u>	1,2-Dibromo-3-chloropropane	EHW	C H ((+))
U062	<u>2303-16-4</u>	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	EHW	C H ((+))
U070	<u>95-50-1</u>	o-Dichlorobenzene	EHW	B H
U071	<u>541-73-1</u>	m-Dichlorobenzene	EHW	B H
U072	<u>106-46-7</u>	p-Dichlorobenzene	EHW	B H
U073	<u>91-94-1</u>	3,3'-Dichlorobenzidine	EHW	H ((+))
U074	<u>764-41-0</u>	1,4-Dichloro-2-butene	EHW	C H I
U075	<u>75-71-8</u>	Dichlorodifluoromethane	EHW	H
U060	<u>72-54-8</u>	Dichloro diphenyl dichloroethane	EWH	C H ((+))
U061	<u>50-29-3</u>	Dichloro diphenyl trichloroethane	EWH	X H ((+))
U078	<u>75-35-4</u>	1,1-Dichloroethylene	EHW	C H ((+))
U079	<u>156-60-5</u>	1,2-Dichloroethylene	EHW	D H
U025	<u>111-44-4</u>	Dichloroethyl ether	EHW	C H
U027	<u>108-60-1</u>	<u>Dichloroisopropyl ether</u>	<u>EHW</u>	<u>CHR</u>
P016	<u>542-88-1</u>	<u>Dichloromethyl ether</u>	<u>EHW</u>	<u>HI</u>
U081	<u>120-83-2</u>	2,4-Dichlorophenol	EHW	D H
U082	<u>87-65-0</u>	2,6-Dichlorophenol	EHW	D H
U240	<u>94-75-7</u>	2,4-Dichlorophenoxyacetic acid, salts and esters	EHW	B H
P036	<u>696-28-6</u>	Dichlorophenylarsine	EHW	B H
U083	<u>78-87-5</u>	1,2-Dichloropropane	EHW	C H I
U084	<u>542-75-6</u>	1,3- Dichloropropene	EHW	C H
P037	<u>60-57-1</u>	Dieldrin	EHW	X H ((+))
U085	<u>1464-53-5</u>	1,2:3,4-Diepoxybutane	EHW	B I
P038	<u>692-42-2</u>	Diethylarsine	EHW	B
P039	<u>298-04-4</u>	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	EHW	A
U087	<u>3288-58-2</u>	O,O-Diethyl-S-methyl-dithiophosphate	EHW	B
P041	<u>311-45-5</u>	Diethyl-p-nitrophenyl phosphate	EHW	A
P040	<u>297-97-2</u>	O,O-Diethyl O-((pyrazenyl)) <u>pyrazinyl</u> phosphorothioate	EHW	A
P043	<u>55-91-4</u>	Diisopropyl fluorophosphate	EHW	B H
P004	<u>309-00-2</u>	<u>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,</u> <u>10-hexachloro-1,4,4a,5,8,8a, -hexahydro-, (1alpha, 4alpha,</u> <u>4abeta, 5alpha, 8alpha, 8abeta)-</u>	<u>EHW</u>	<u>B H</u>
P060	<u>465-73-6</u>	<u>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-</u> <u>hexachloro - 1,4,4a,5,8,8a-hexahydro-, (1alpha, 4alpha,</u> <u>4abeta, 5beta, 8beta, 8abeta)</u>	<u>EHW</u>	<u>B H</u>
P037	<u>60-57-1</u>	<u>2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,</u> <u>9, 9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha,</u> <u>2beta, 2aalpha, 3beta, 6beta, 6alpha, 7beta, 7aalpha)-</u>	<u>EHW</u>	<u>B H</u>
P051	<u>72-20-8</u>	<u>2,7,:3,6-Dimethanonaphth [2,3-b]oxirene,</u>	<u>EHW</u>	<u>B H</u>

3,4,5,6,9, 9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta, 7beta, 7aalpha)- & metabolites

P044	<u>60-51-5</u>	Dimethoate	EHW	A
U092	<u>124-40-3</u>	Dimethylamine	EHW	C I
U093	<u>60-11-7</u>	P-Dimethylaminoazobenzene	EHW	C ((+))
U094	<u>57-97-6</u>	7,12-Dimethylbenz[a]anthracene	EWH	C P
U095	<u>119-93-7</u>	3,3'-Dimethylbenzidine	EHW	C ((+))
U096	<u>80-15-9</u>	alpha, alpha-Dimethylbenzylhydro peroxide	EHW	C R
U097	<u>79-44-7</u>	Dimethylcarbamoyl chloride	EHW	D H ((+))
U099	<u>540-73-8</u>	1,2-Dimethylhydrazine	EHW	C ((+)) I
P045	<u>39196-18-4</u>	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl] oxime	EHW	B
P071	<u>298-00-0</u>	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	EHW	A
P082	<u>62-75-9</u>	Dimethylnitrosamine	EHW	B ((+))
P046	<u>122-09-8</u>	alpha, alpha-Dimethylphenethylamine	EHW	C
U103	<u>77-78-1</u>	Dimethyl sulfate	EHW	C O ((+))
P047	<u>534-52-1</u>	4,6-Dinitro-o-cresol and salts	EHW	B
P034	<u>131-89-5</u>	4,6-Dinitro-o-cyclohexylphenol	EHW	C
P048	<u>51-28-5</u>	2,4-Dinitrophenol	EHW	B
U105	<u>121-14-2</u>	2,4-Dinitrotoluene	EHW	C
U106	<u>606-20-2</u>	2,6-Dinitrotoluene	EHW	C
P020	<u>88-85-7</u>	Dinoseb	EHW	B
U109	<u>122-66-7</u>	1,2-Diphenylhydrazine	EHW	C
(P035)				
P085	<u>152-16-9</u>	Diphosphoramidate, octamethyl	EHW	?
P111	<u>107-49-3</u>	Diphosphoric acid, tetraethyl ester	EHW	A
U110	<u>142-84-7</u>	Dipropylamine	EHW	C I
U111	<u>621-64-7</u>	Di-n-propylnitrosamine	EHW	C ((+))
P039	<u>298-04-4</u>	Disulfoton	EHW	A
P049	<u>541-53-7</u>	((2,4-))Dithiobiuret	EHW	A
P109	<u>3689-24-5</u>	Dithiopyrophosphoric acid, tetraethyl ester	EHW	A
P050	<u>115-29-7</u>	Endosulfan	EHW	X H
P088	<u>145-73-3</u>	Endothall	EHW	B
P051	<u>72-20-8</u>	Endrin	EHW	X H
P051	<u>72-20-8</u>	Endrin, & metabolites	EHW	B H
U041	<u>106-89-8</u>	Epichlorhydrin	EHW	B I R
P042	<u>51-43-4</u>	Epinephrine	EHW	B
U001	<u>75-07-0</u>	Ethanal	EHW	C
U174	<u>55-18-4</u>	Ethanamine, N-ethyl-N-nitroso-	EHW	C ((+))
P046	<u>122-09-8</u>	Ethanamine, 1,1-dimethyl-2-phenyl-	EHW	C
U067	<u>106-93-4</u>	Ethane, 1,2-dibromo-	EHW	C H ((+))
U076	<u>75-34-3</u>	Ethane, 1,1-dichloro-	EHW	D H
U077	<u>107-06-2</u>	Ethane, 1,2-dichloro-	EHW	D H
P031	<u>460-19-5</u>	Ethanedinitrite	EHW	R
U114	<u>111-54-6</u>	1,2-Ethanediylobis(2-mercapto)acetic acid	EHW	B
U131	<u>67-72-1</u>	Ethane, ((1,1,1,2,2,2-))hexachloro-	EHW	H
U024	<u>111-91-1</u>	Ethane, 1,1'-[methylenebis(oxy)] bis[2-chloro-	EHW	C H
U247	<u>72-43-5</u>	Ethane, 1,1,1-trichloro-2,2-bis(p-methoxy phenyl)	EHW	D H
U003	<u>75-05-8</u>	Ethanenitrile	EHW	C
U025	<u>111-44-4</u>	Ethane, 1,1'-oxybis[2-chloro-	EHW	C H
U184	<u>76-01-7</u>	Ethane, pentachloro-	EHW	A H
U208	<u>630-20-6</u>	Ethane, 1,1,1,2-tetrachloro-	EHW	H
U209	<u>79-34-5</u>	Ethane, 1,1,2,2-Tetrachloro-	EHW	H
U227	<u>79-00-5</u>	Ethane, 1,1,2-trichloro-	EHW	C H
P066	<u>16752-77-5</u>	Ethanimidothioic acid, N-[[[(methylamino) carbonyl]oxy]-, methyl ester	EHW	B
P084	<u>4549-40-0</u>	Ethenamine, N-methyl-N-nitroso	EHW	B ((+))
U043	<u>75-01-4</u>	Ethene, chloro-	EHW	D H ((+))
U042	<u>110-75-8</u>	Ethane, 2-chloroethoxy-	EHW	C H
U078	<u>75-35-4</u>	Ethene, 1,1-dichloro-	EHW	C H ((+))
U079	<u>156-60-5</u>	Ethene, ((trans-1,2-dichloro-)) 1,2-cichloro-, (E)-	EHW	D H
U210	<u>127-18-4</u>	Ethene, ((1,1,2,2-))tetrachloro-	EHW	C H
U006	<u>75-36-5</u>	Ethanoyl chloride	EHW	C H O R
P101	<u>107-12-0</u>	Ethyl cyanide	EHW	B
U038	<u>510-15-6</u>	Ethyl 4,4'-dichlorobenzilate	EHW	D H
U114	<u>111-54-6</u>	Ethylenebis(dithiocarbamic acid), salts and esters	EHW	B

U067	<u>106-93-4</u>	Ethylene dibromide	EHW	C H
U077	<u>75-34-3</u>	Ethylene dichloride	EHW	D H
U115	<u>75-21-8</u>	Ethylene oxide	EHW	C I
P054	<u>151-56-4</u>	Ethylenimine	EHW	B ((+))
U076	<u>75-34-3</u>	Ethylidene dichloride	EHW	D H
P097		Famphur	EHW	A
P056	<u>7782-41-4</u>	Fluorine	EHW	B
P057	<u>640-19-7</u>	Fluoroacetamide	EHW	B H
P058	<u>62-74-8</u>	Fluoroacetic acid, sodium salt	EHW	A H
U122	<u>50-00-0</u>	Formaldehyde	EHW	C
P065	<u>628-86-4</u>	Fulminic acid, mercury (II) salt	EHW	R ?
U125	<u>98-01-1</u>	2-Furancarboxaldehyde	EHW	C I
U147	<u>108-31-6</u>	2,5-Furandione	EHW	C
U125	<u>98-01-1</u>	Furfural	EHW	C I
U126	<u>765-34-4</u>	Glycidylaldehyde	EHW	C ((+))
U163	<u>70-25-7</u>	Guanidine, ((N-nitroso-N-methyl-N'-nitro-)) N-methyl-N'-nitro-N-nitroso-	EHW	C ((+))
P059	<u>76-44-8</u>	Heptachlor	EHW	X H ((+))
U127	<u>118-74-1</u>	Hexachlorobenzene	EHW	H
U128	<u>87-68-3</u>	Hexachlorobutadiene		EHWC H
U129	<u>58-89-9</u>	Hexachlorocyclohexane (gamma isomer)	EHW	H ((+))
U130	<u>77-47-4</u>	Hexachlorocyclopentadiene	EHW	X H
P051	<u>72-20-8</u>	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, endo-1,4,5,8-dimethanophthalene	EHW	X H
P037	<u>60-57-1</u>	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4,5,8-dimethanonaphthalene	EHW	X H ((+))
U131	<u>67-72-1</u>	Hexachloroethane	EHW	H
P060	<u>465-73-6</u>	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, endo-dimethanonaphthalene	EHW	B H
P004	<u>309-00-2</u>	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, exodimethanonaphthalene	EHW	B H
P060	<u>465-73-6</u>	Hexachlorohexahydro-endo, endo-dimethanonaphthalene	EHW	B H
U132	<u>70-30-4</u>	Hexachlorophene	EHW	C H
U243	<u>1888-71-7</u>	Hexachloropropene	EHW	H
P062	<u>757-58-4</u>	Hexaethyl tetraphosphate	EHW	B
U133	<u>302-01-2</u>	Hydrazine	EHW	B ((+)) R
P116	<u>79-19-6</u>	Hydrazinecarbothioamide	EHW	B
U099	<u>540-73-8</u>	Hydrazine, 1,2-dimethyl-	EHW	C ((+)) I
U109	<u>122-66-7</u>	Hydrazine, 1,2-diphenyl-	EHW	C
P068	<u>60-34-4</u>	Hydrazine, methyl-	EHW	A I
P063	<u>74-90-8</u>	Hydrocyanic acid	EHW	A
P063	<u>74-90-8</u>	Hydrogen cyanide	EHW	A
P096	<u>7803-51-2</u>	Hydrogen phosphide	EHW	B I
U135	<u>7783-06-4</u>	Hydrogen sulfide	EHW	B I
U096	<u>80-15-9</u>	Hydroperoxide, 1-methyl-1-phenylethyl-	EHW	C R
U245	<u>53-86-1</u>	Indomethacin	EHW	B H
P064	<u>624-83-9</u>	Isocyanic acid, methyl ester	EHW	I ?
P060	<u>465-73-6</u>	Isodrin	EHW	B H
P007	<u>2763-96-4</u>	3(2H)-Isoxazolone, 5-(aminomethyl)-	EHW	B
U142	<u>143-50-0</u>	Kepone	EHW	X H
U143	<u>303-34-4</u>	Lasiocarpine	EHW	C ((+))
U144	<u>301-04-2</u>	Lead acetate	EHW	D ((EP)) TC
U129	<u>58-89-9</u>	Lindane	EHW	H ((+))
U163	<u>70-25-7</u>	MNNG	EHW	C
U147	<u>108-31-6</u>	Maleic anhydride	EHW	C
U149	<u>109-77-3</u>	Malononitrile	EHW	C
U151	<u>7439-97-6</u>	Mercury	EHW	((EP)) TC
P092	<u>62-38-4</u>	Mercury, (acetato-O)phenyl-	EHW	B
P065	<u>628-86-4</u>	Mercury fulminate	EHW	R ?
U152	<u>126-98-7</u>	Methacrylonitrile	EHW	B I
U092	<u>124-40-3</u>	Methanamine, N-methyl-	EHW	C I
P082	<u>62-75-9</u>	Methanamine, N-methyl-N-nitroso-	EHW	?
P016	<u>542-88-1</u>	Methane, oxybis(chloro)-	EHW	B H ((+))
P112	<u>509-14-8</u>	Methane, tetranitro-	EHW	A R
U029	<u>74-83-9</u>	Methane, bromo-	EHW	H
U045	<u>74-87-3</u>	Methane, chloro-	EHW	H I
U046	<u>107-30-2</u>	Methane, chloromethoxy-	EHW	D H ((+)) I
U068	<u>74-95-3</u>	Methane, dibromo-	EHW	C H ((+))
U080	<u>75-09-2</u>	Methane, dichloro-	EHW	C H
U075	<u>75-71-8</u>	Methane, dichlorodifluoro-	EHW	H

U138	<u>74-88-4</u>	Methane, iodo-	EHW	H ((+))
P064	<u>624-83-9</u>	Methane isocyanato-	EHW	C I R
U211	<u>56-23-5</u>	Methane, tetrachloro-	EHW	C H ((+))
P118	<u>75-70-7</u>	Methanethiol, trichloro-	EHW	H
U153	<u>74-93-1</u>	Methanethiol	EHW	B I
U225	<u>75-25-2</u>	Methane, tribromo	EHW	H
U121	<u>75-69-4</u>	Methane, trichlorofluoro-	EHW	H
U044	<u>67-66-3</u>	Methane, trichloro-	EHW	C H ((+))
P050	<u>115-29-7</u>	<u>6,9-Methano-2,4,3-benzodioxathiepin,</u> <u>6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide</u>	EHW	B H
P059	<u>76-44-8</u>	4,7-Methano-1H-indene, 1,4,5,6,7, 8,8-heptachloro-3a,4,7,7a-tetrahydro- (4,7-Methanoindan, 1,2,4,5,6,7,8,8- octa-chloro-3a,4,7,7a-tetrahydro-) 4,7,Methano-1H-indene,	EHW	X H ((+))
U036	<u>57-74-9</u>	1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro- <u>1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one,</u> <u>1,1a3,3a,4,5,5a,5b,6-decachlorooctahydro-</u>	EHW	X H
U142	<u>143-50-0</u>	<u>1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one,</u> <u>1,1a3,3a,4,5,5a,5b,6-decachlorooctahydro-</u>	EHW	C H
P066	<u>16752-77-5</u>	Methomyl	EHW	B
U247	<u>72-43-5</u>	Methoxychlor	EHW	D H
P067	<u>75-55-8</u>	2-Methylaziridine	EHW	B ((+)) I
P068	<u>60-34-4</u>	Methyl hydrazine	EHW	A I
P064	<u>624-83-9</u>	Methyl isocyanate	EHW	I ?
P069	<u>75-86-5</u>	2-Methylactonitrite	EHW	A
P071	<u>298-00-0</u>	Methyl parathion	EHW	A
U029	<u>74-83-9</u>	Methyl bromide	EHW	H
U045	<u>74-87-3</u>	Methyl chloride	EHW	H I
U156	<u>79-22-1</u>	Methyl chlorocarbonate	EHW	B H I
U226	<u>71-55-6</u>	Methylchloroform	EHW	C H
U157	<u>56-49-5</u>	3-Methylcholanthrene	EHW	H P
U158	<u>101-14-4</u>	4,4'-Methylenebis(2-chloroaniline)	EHW	H ((+))
U132	<u>70-30-4</u>	2,2'-Methylenebis(3,4,6- trichlorophenol)	EHW	C H
U068	<u>74-95-3</u>	Methylene bromide	EHW	C H ((+))
U080	<u>75-09-2</u>	Methylene chloride	EHW	C H
U122	<u>50-00-0</u>	Methylene oxide	EHW	C
U160	<u>1338-23-4</u>	Methyl ethyl ketone peroxide	EHW	B R
U138	<u>74-88-4</u>	Methyl iodide	EHW	H ((+))
U163	<u>70-25-7</u>	N-Methyl-N'-nitro-N-nitrosoguanidine	EHW	C ((+)) R
U010	<u>50-07-7</u>	Mitomycin C	EHW	B ((+))
U165	<u>91-20-3</u>	Naphthalene	EHW	B
U047	<u>91-58-7</u>	Naphthalene, 2-chloro-	EHW	D H
U166	<u>130-15-4</u>	1,4-Naphthalenedione	EHW	C
U236	<u>72-57-1</u>	2,7-Naphthalenedisulfonic acid, 3, 3'-[(3,3'-dimethyl-(1,1'-biphenyl)- -4,4'diyl)]-bis(azo)bis(5-amino-4- hydroxy)-,tetrasodium salt	EHW	H ((+))
U166	<u>130-15-4</u>	1,4, Naphthoquinone	EHW	C
U167	<u>134-32-7</u>	1-((Naphthylamine))Naphthalenamine	EHW	B((+))
U168	<u>91-59-8</u>	2-((Naphthylamine))Naphthalenamine	EHW	B ((+))
U167	<u>134-32-7</u>	alpha-((Naphthylamine))Naphthalenamine	EHW	B ((+))
U168	<u>91-59-8</u>	beta-((Naphthylamine))Naphthalenamine	EHW	B ((+))
U026	<u>494-03-1</u>	2-((Naphthylamine))Naphthalenamine, N,N-bis(2-chloro- ethyl)-	EHW	H ((+))
P072	<u>86-88-4</u>	alpha-Naphthylthiourea	EHW	B
P073	<u>13463-39-3</u>	Nickel carbonyl	EHW	B
P073	<u>13463-39-3</u>	Nickel carbonyl Ni(CO) ₄ , (T-4)-	EHW	I
P074	<u>557-19-7</u>	Nickel cyanide	EHW	D R ?
P074	<u>557-19-7</u>	Nickel (II) cyanide	EHW	D R ?
P073	<u>13463-39-3</u>	Nickel tetracarbonyl	EHW	B
P075	<u>54-11-5</u>	Nicotine and salts	EHW	B
U217	<u>10102-45-1</u>	Nitric acid, thallium(1+)salt	EHW	?
P076	<u>10102-43-9</u>	Nitric oxide	EHW	B
P077	<u>100-01-6</u>	p-Nitroaniline	EHW	D ?
U169	<u>98-95-3</u>	Nitrobenzene	EHW	C I
P078	<u>10102-44-0</u>	Nitrogen dioxide	EHW	A
P076	<u>10102-43-9</u>	Nitrogen (II) oxide	EHW	B
P078	<u>10102-44-0</u>	Nitrogen (IV) oxide	EHW	A
P081	<u>55-63-0</u>	Nitroglycerine	EHW	R ?
U170	<u>100-02-7</u>	p-Nitrophenol	EHW	C
U171	<u>79-46-9</u>	2-Nitropropane	EHW	C I
U174	<u>55-18-4</u>	N-Nitrosodiethylamine	EHW	C ((+))
P082	<u>62-75-9</u>	N-Nitrosodimethylamine	EHW	B ((+))
U176	<u>759-73-9</u>	N-Nitroso-N-ethylurea	EHW	C ((+))
U177	<u>684-93-5</u>	N-Nitroso-N-methylurea	EHW	C ((+))
U178	<u>615-53-2</u>	N-Nitroso-N-methylurethane	EHW	C ((+))
P084	<u>4549-40-0</u>	N-Nitrosomethylvinylamine	EHW	B ((+))

U179	<u>100-75-4</u>	N-Nitrosopiperidine	EHW	C ((+))
U111	<u>621-64-7</u>	N-Nitroso-n-propylamine	EWH	C ((+))
P050	<u>115-29-7</u>	5-Norbornene-2,3,-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite	EHW	X H
P085	<u>152-16-9</u>	Octamethylpyrophosphoramidate	EHW	A
P087	<u>20816-12-0</u>	Osmium oxide	EHW	B
P087	<u>20816-12-0</u>	Osmium tetroxide	EHW	B
P088	<u>145-73-3</u>	7-Oxabicyclo[2.2.1]heptane-2,3- dicarboxylic acid	EHW	B
U058	<u>62-74-8</u>	2H-1,3,2-Oxazaphosphorine(<u>(-2-bis (2-chloroethyl)amino)tetrahydro-, -2-oxide</u>))-2-amine, N,N-bis(2-chloroethyl)tetrahydro-,2-oxide	EHW	C H I ((+))
U115	<u>75-21-8</u>	Oxirane	EWH	C I
U041	<u>106-89-8</u>	Oxirane, ((2-))(chloromethyl)-	EHW	C H ((+)) I
P089	<u>56-38-2</u>	Parathion	EHW	X
U183	<u>608-93-5</u>	Pentachlorobenzene	EHW	H
U184	<u>76-01-7</u>	Pentachloroethane	EHW	A H
U185	<u>82-68-8</u>	Pentachloronitrobenzene (PCNB)	EHW	D H ((+))
See	<u>F027</u>	Pentachlorophenol	EHW	A H
U188	<u>108-95-2</u>	Phenol	EHW	C
P034	<u>131-89-5</u>	Phenol, 2-cyclohexyl-4,6-dinitro-	EHW	C
P048	<u>51-28-5</u>	Phenol, 2,4-dinitro-	EHW	B
P047	<u>534-52-1</u>	Phenol, 2-methyl-4,6 dinitro-, and salts	EHW	B
P020	<u>88-85-7</u>	Phenol, 2,4-dinitro-6- (1-methylpropyl)-	EHW	B
P020	<u>88-85-7</u>	<u>Phenol, 2-(1-methylpropyl)-4,6-dinitro</u>	<u>EHW</u>	<u>B I</u>
P009	<u>131-74-8</u>	Phenol, 2,4,6-trinitro-, ammonium salt	<u>EHW</u>	<u>R</u>
U048	<u>95-57-8</u>	Phenol, 2-chloro-	EHW	D H
U039	<u>59-50-7</u>	Phenol, 4-chloro-3-methyl-	EHW	H
U081	<u>120-83-2</u>	Phenol, 2,4-dichloro-	EHW	D H
U082	<u>87-65-0</u>	Phenol, 2,6-dichloro-	EHW	D H
U132	<u>70-30-4</u>	Phenol, 2,2'-methylenebis[3,4,6-trichloro-	<u>EHW</u>	<u>C H I</u>
U170	<u>100-02-7</u>	Phenol, 4-nitro-	<u>EHW</u>	<u>C</u>
See	<u>F027</u>	Phenol, pentachloro-	EHW	A H
See	<u>F027</u>	Phenol, 2,3,4,6-tetrachloro-	EHW	C H
See	<u>F027</u>	Phenol, 2,4,5-trichloro-	EHW	A H
See	<u>F027</u>	Phenol, 2,4,6-trichloro-	EHW	A H
U150	<u>148-82-3</u>	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]	<u>EHW</u>	<u>B H</u>
P036	<u>696-28-6</u>	Phenyl dichloroarsine	<u>EHW</u>	<u>B H</u>
P092	<u>62-38-4</u>	((Phenylmercurie)) Phenylmercury acetate	EHW	B
P093	<u>103-85-5</u>	((N-Phenylthiourea)) Phenylthiourea	EHW	A
P094	<u>298-02-2</u>	Phorate	EHW	X
P095	<u>75-44-5</u>	Phosgene	EHW	B H
P096	<u>7803-51-2</u>	Phosphine	EHW	B I
P041	<u>311-45-5</u>	Phosphoric acid, diethyl p-nitrophenyl ester	EHW	A
P039	<u>298-04-4</u>	<u>Phosphorodithioic acid, O,O-diethyl S-[2- (ethylthio)ethyl] ester</u>	<u>EHW</u>	<u>A</u>
P044	<u>60-51-5</u>	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	EHW	A
P043	<u>55-91-4</u>	Phosphorofluoridic acid, bis(1-methyl-ethyl)ester	EHW	B H
P094	<u>298-02-2</u>	Phosphorothiac acid, O,O-diethyl S-(ethylthio)methyl ester	EHW	X
P097	<u>52-85-7</u>	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl) phenyl]ester	EHW	A
P071	<u>298-00-0</u>	<u>Phosphorothioic acid, O,O -dimethyl O- (4-nitrophenyl) ester</u>	<u>EHW</u>	<u>B I</u>
P089	<u>56-38-2</u>	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester	EHW	X
P040	<u>297-97-2</u>	Phosphorothioic acid, O,O-diethyl O-pyra-zinyl ester	EHW	A
U189	<u>1314-80-3</u>	Phosphorus sulfide	EHW	B I R
U190	<u>85-44-9</u>	Phthalic anhydride	EHW	C
U191	<u>109-06-8</u>	2-Picoline	EHW	C
U179	<u>100-75-4</u>	Piperidine, 1-nitroso-	<u>EHW</u>	<u>C</u>

P110	<u>78-00-2</u>	Plumbane, tetraethyl-	EHW	A
P098	<u>150-50-8</u>	Potassium cyanide	EHW	A
P098	<u>151-50-8</u>	Potassium cyanide K(CN)	EHW	B R
P099	<u>506-61-6</u>	Potassium silver cyanide	EHW	A
P070	<u>116-06-3</u>	Propanal, 2-methyl-2(methylthio)- O-[(methylamino)carbonyl]oxime	EHW	B
U194	<u>107-10-8</u>	1-Propanamine	EHW	C I
U111	<u>621-64-7</u>	1-Propanamine, N-nitroso-N-propyl	EHW	C
U110	<u>142-84-7</u>	1-Propanamine, N-propyl-	EHW	C I
U066	<u>96-12-8</u>	Propane, 1,2-dibromo-3-chloro-	EHW	C H ((+))
U149	<u>109-77-3</u>	Propanedinitrile	EHW	C
P101	<u>107-12-0</u>	Propanenitrile	EHW	B
P027	<u>542-76-7</u>	Propanenitrile, 3-chloro-	EHW	B H
(P079)				
P069	- -	Propanenitrile, 2-hydroxy-2-methyl-	EHW	A
U083	<u>78-87-5</u>	Propane, 1,2-dichloro-	EHW	D H I
U171	<u>79-46-9</u>	Propane, 2-nitro-	EHW	C I
U027	<u>108-60-1</u>	Propane, 2,2'oxybis[2-chloro-	EHW	C H O
P081	<u>55-63-0</u>	1,2,3-Propanetriol, trinitrate-	EHW	R ?
U235	<u>126-72-7</u>	1-Propanol, 2,3-dibromo-, phosphate (3:1)	EHW	D H
U126	<u>765-34-4</u>	1-Propanol, 2,3-epoxy-	EHW	C ((+))
P017	<u>598-31-2</u>	2-Propanone, 1-bromo-	EHW	C H
P102	<u>107-19-7</u>	Propargyl alcohol	EHW	X
P003	<u>107-02-8</u>	2-Propenal	EHW	X
U007	<u>79-06-1</u>	2-Propenamide	EHW	C
U084	<u>542-75-6</u>	Propene, 1,3-dichloro-	EHW	C H
U243	<u>1888-71-7</u>	1-Propene, 1,1,2,3,3,3-hexachloro-	EHW	H
U009	<u>107-13-1</u>	2-Propenenitrile	EHW	C ((+)) I
U152	<u>126-98-7</u>	2-Propenenitrile, 2-methyl-	EHW	B I
U008	<u>79-10-7</u>	2-Propenoic acid	EHW	C O I
P005	<u>107-18-6</u>	2-Propen-1-ol	EHW	B I
((See	<u>F027</u>	Propionic acid, 2-(2,4,5- trichlorophenoxy)-))	EHW	B H
U194	<u>107-10-8</u>	n-Propylamine	EHW	C I
U083	<u>78-87-5</u>	Propylene dichloride	EHW	C H I
P067	<u>75-55-8</u>	1,2-Propylenimine	EHW	B ((+)) I
P102	<u>107-19-7</u>	2-Propyn-1-ol	EHW	X
P008	<u>504-24-5</u>	4-Pyridinamine	EHW	B
P075	<u>54-11-5</u>	Pyridine, (S)-3-(1-methyl-2- pyrrolidinyl)-, and salts	EHW	B
U196	<u>110-86-1</u>	Pyridine	EHW	C I
U179	<u>100-75-4</u>	Pyridine, hexahydro-N-nitroso-	EHW	C ((+))
U191	<u>109-06-8</u>	Pyridine,2-methyl-	EHW	C
U237	<u>66-75-1</u>	2,4-(1H,3H)-Pyrimidinedione, 5-[(bis(2-chloroethyl)amino)-	EHW	B H
P111	<u>107-49-3</u>	Pyrophosphoric acid, tetraethyl ester	EHW	A
U201	<u>108-46-3</u>	Resorcinol	EHW	C
P114	<u>12039-52-0</u>	Selenious acid, dithallium (1+) salt	EHW	?
U205	<u>7488-56-4</u>	Selenium sulfide SeS ₂	EHW	C
P103	<u>630-10-4</u>	Selenourea	EHW	B
U015	<u>115-02-6</u>	L-Serine, diazoacetate (ester)	EHW	C ((+))
See	<u>F027</u>	Silvex		
P104	<u>506-64-9</u>	Silver cyanide	EHW	C
P104	<u>506-64-9</u>	Silver cyanide AG(CN)	EHW	C R
((See	<u>F027</u>	Silvex	EHW	B H))
P105	<u>26628-22-8</u>	Sodium azide	EHW	A
P106	<u>143-33-9</u>	Sodium cyanide	EHW	A
P106	<u>143-33-9</u>	Sodium cyanide NA(CN)	EHW	B R
P107	<u>1314-96-1</u>	Strontium sulfide	EHW	R
P108	<u>57-24-9</u>	Strychnidin-10-one, and salts	EHW	B
P018	<u>357-57-3</u>	Strychnidin-10-one, 2,3-dimethoxy-	EHW	A
P108	<u>57-24-9</u>	Strychnine and salts	EHW	B
U135	<u>7783-06-4</u>	Sulfur hydride	EHW	B I
U103	<u>77-78-1</u>	Sulfuric acid, dimethyl ester	EHW	C O ((+))
P115	<u>7446-18-6</u>	Sulfuric acid, thallium (I) salt	EHW	B
U189	<u>1314-80-3</u>	Sulfur phosphide	EHW	B I R
See				
F027	<u>93-76-5</u>	2,4,5-T	EHW	B H ((+))
((See	<u>F027</u>			
U207	<u>95-94-3</u>	1,2,4,5-Tetrachlorobenzene	EHW	D H
U208	<u>630-20-8</u>	1,1,1,2-Tetrachloroethane	EHW	H
U209	<u>79-34-5</u>	1,1,2,2-Tetrachloroethane	EHW	H
U210	<u>127-18-4</u>	Tetrachloroethylene	EHW	C H ((+))
U212	<u>58-90-2</u>	2,3,4,6-Tetrachlorophenol	EHW	C H

P109	<u>3689-24-5</u>	Tetraethyldithiopyrophosphate	EHW	A
P110	<u>78-00-2</u>	Tetraethyl lead	EHW	A
P111	<u>107-49-3</u>	Tetraethylpyrophosphate	EHW	A
P112	<u>509-14-8</u>	Tetranitromethane	EHW	A R
P062	<u>757-58-4</u>	Tetraphosphoric acid, hexaethyl ester	EHW	B
P113	<u>1314-32-5</u>	Thallic oxide	EHW	B
P113	<u>1314-32-5</u>	Thallium (III) oxide	EHW	B
P114	<u>12039-52-0</u>	Thallium (I) selenide	EHW	C
P115	<u>7446-18-6</u>	Thallium (I) sulfate	EHW	B
P109	<u>3689-24-5</u>	Thiodiphosphoric acid, tetraethyl ester	EHW	B
P045	<u>39196-18-6</u>	Thiofanox	EHW	B
P049	<u>541-53-7</u>	Thioimidodicarbonic diamide	EHW	A
U153	<u>74-93-1</u>	Thiomethanol	EHW	B 1
P014	<u>108-98-5</u>	Thiophenol	EHW	A
P116	<u>79-19-6</u>	Thiosemicarbazide	EHW	B H ((+))
U219	<u>62-56-6</u>	Thiourea	EHW	C((+))
P026	<u>5344-82-1</u>	Thiourea, (2-chlorophenyl)-	EHW	A H
P072	<u>86-88-4</u>	Thiourea, 1-naphthalenyl-	EHW	B
P093	<u>103-85-5</u>	Thiourea, phenyl-	EHW	A
U220	<u>108-88-3</u>	Toluene	EHW	C 1
U223	<u>26471-62-5</u>	Toluene diisocyanate	EHW	B R
P123	<u>8001-35-2</u>	Toxaphene	EHW	X H
U226	<u>71-55-6</u>	1,1,1-Trichloroethane	EHW	C H
U227	<u>79-00-5</u>	1,1,2-Trichloroethane	EHW	C H
U228	<u>79-01-6</u>	Trichloroethene	EHW	C H ((+))
U228	<u>79-01-6</u>	Trichloroethylene	EHW	C H ((+))
P118	<u>75-70-7</u>	Trichloromethanethiol	EHW	H
U121	<u>75-69-4</u>	Trichloromonofluoromethane	EHW	H
See				
F027	<u>95-95-4</u>	2,4,5-Trichlorophenol	EHW	A H
See				
F027	<u>88-06-2</u>	2,4,6-Trichlorophenol	EHW	A H
U232	<u>93-76-4</u>	2,4,5-Trichlorophenoxy-acetic acid, salts and esters	EHW	B H((+))
U233	<u>93-72-1</u>	2,4,5-Trichlorophenoxy-propionic acid, salts and esters	EHW	B H((+))
U234	<u>99-35-4</u>	1,3,5-Trinitrobenzene	EHW	C
U235	<u>126-72-7</u>	Tris(2,3-dibromopropyl) phosphate	EHW	D H
U236	<u>72-57-1</u>	Trypan blue	EHW	H ((+))
U237	<u>66-75-1</u>	Uracil, 5[bis(2-chloroethyl)amino]-	EHW	B H ((+))
U237	<u>66-75-1</u>	Uracil mustard	EHW	B H ((+))
U176	<u>759-73-9</u>	Urea, N-ethyl-N-nitroso-	EHW	C
U176	<u>684-93-5</u>	Urea, N-methyl-N-nitroso-	EHW	C
P119	<u>7803-55-6</u>	Vanadic acid, ammonium salt	EHW	B
P120	<u>1314-62-1</u>	Vanadium pentoxide	EHW	B
P120	<u>1314-62-1</u>	Vanadium (V) oxide	EHW	B
P084	<u>4549-40-0</u>	Vinylamine, N-methyl-N-nitroso-	EHW	B
U043	<u>75-01-4</u>	Vinyl chloride	EHW	D H ((+))
P001	<u>81-81-2</u>	Warfarin	EHW	A
U239	<u>1330-20-7</u>	Xylene	EHW	C 1
P121	<u>557-21-1</u>	Zinc cyanide	EHW	C
P122	<u>1314-84-7</u>	Zinc phosphide when present at concentrations greater than 10%	EHW	B R

MODERATELY DANGEROUS CHEMICAL PRODUCTS

U187	<u>62-44-2</u>	Acetamide, N-(4-ethoxyphenyl)-	DW	D ((+))
U005	<u>53-96-3</u>	Acetamide, N-9H-fluoren-2-yl-	DW	?
U112	<u>141-78-6</u>	Acetic acid, ethyl ester	DW	D 1
U214	<u>563-68-8</u>	Acetic acid, thallium(I) salt	DW	?
U002	<u>67-64-1</u>	Acetone	DW	D 1
U004	<u>98-86-2</u>	Acetophenone	DW	D
U005	<u>53-96-3</u>	2-Acetylaminofluorene	DW	?
U150	<u>148-82-3</u>	Alanine, 3-[p-bis(2-chloroethyl)amino] phenyl-, L-	DW	((+))
U328	<u>95-53-4</u>	2-Amino-1-methylbenzene	DW	D ((+))
U353	<u>106-49-0</u>	4-Amino-1-methylbenzene	DW	D
U011	<u>61-82-5</u>	Amitrole	DW	D ((+))
U136	<u>75-60-5</u>	Arsinic acid, dimethyl-	DW	D
U014	<u>492-80-8</u>	Auramine	DW	((+))
U016	<u>225-51-4</u>	Benz[c]acridine	DW	((+))
U016	<u>225-51-4</u>	3,4-Benzacridine	DW	((+))
U192	<u>23950-58-5</u>	Benamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	DW	?

U014	<u>492-80-8</u>	Benzenamine, 4,4-carbonimidoylbis (N,N-dimethyl-	DW	((+))
<u>U328</u>	<u>95-53-4</u>	<u>Benzenamine, 2-methyl-</u>	<u>DW</u>	<u>D</u>
<u>U353</u>	<u>106-49-0</u>	<u>Benzenamine, 4-methyl-</u>	<u>DW</u>	<u>D</u>
<u>U222</u>	<u>636-21-5</u>	Benzenamine, 2-methyl-, hydrochloride	DW	D ((+))
U181	<u>99-55-8</u>	Benzenamine, 2-methyl-5-nitro	DW	D
<u>U221</u>	<u>25376-45-8</u>	<u>Benzenediamine, ar-methyl-</u>	<u>DW</u>	<u>?</u>
<u>U028</u>	<u>117-81-7</u>	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester	DW	?
U069	<u>84-74-2</u>	1,2-Benzenedicarboxylic acid, dibutyl ester	DW	D
U088	<u>84-66-2</u>	1,2-Benzenedicarboxylic acid, diethyl ester	DW	?
U102	<u>131-11-3</u>	1,2-Benzenedicarboxylic acid, dimethyl ester	DW	?
U107	<u>117-84-0</u>	1,2-Benzenedicarboxylic acid, di-n- octyl ester	DW	?
U203	<u>94-59-7</u>	Benzene, 1,2-methylenedioxy-4-allyl-	DW	D ((+))
<u>U141</u>	<u>120-58-1</u>	<u>Benzene, 1,2-methylenedioxy-4-</u> <u>propenyl-</u>	<u>DW</u>	<u>D ((+))</u>
U090	<u>94-58-6</u>	Benzene, 1,2-methylenedioxy-4- propyl-	DW	D ((+))
U234	<u>99-35-4</u>	Benzene, 1,3,5-trinitro-	DW	D R
<u>U202</u>	<u>81-07-2</u>	<u>1,2-Benzisothiazilin-3-one, 1,</u> <u>1-dioxide, and salts</u>	<u>DW</u>	<u>((+))</u>
<u>U203</u>	<u>94-59-7</u>	<u>1,3-Benzodioxole, 5-(2-propenyl)-</u>	<u>DW</u>	<u>D</u>
<u>U141</u>	<u>120-58-1</u>	<u>1,3-Benzodioxole, 5-(1-propenyl)-</u>	<u>DW</u>	<u>D</u>
<u>U090</u>	<u>94-58-6</u>	<u>1,3-Benzodioxole, 5-propyl-</u>	<u>DW</u>	<u>D</u>
<u>U120</u>	<u>206-44-0</u>	<u>Benzo[j,k]fluorene</u>	<u>DW</u>	<u>D</u>
<u>U248</u>	<u>81-81-2</u>	<u>2H-1-Benzopyran-2-one, 4-hydroxy-3-</u> <u>(3-oxo-1-phenyl-butyl)-, & salts, when present a</u> <u>concentrations of 0.3% or less</u>	<u>DW</u>	<u>?</u>
U091	<u>119-90-4</u>	(1,1'-Biphenyl)-4'-diamine, 3,3'- dimeth-oxy-	DW	D ((+))
U244		Bis(dimethylthiocarbonyl) disulfide	DW	D
<u>U028</u>	<u>117-81-7</u>	<u>Bis(2-ethoxy) phthalate</u>	<u>DW</u>	<u>?</u>
<u>U172</u>	<u>924-16-3</u>	<u>1-Butanamine, N-butyl-N-nitroso-</u>	<u>DW</u>	<u>D ((+))</u>
<u>U031</u>	<u>71-36-3</u>	<u>1-Butanol</u>	<u>DW</u>	<u>D I</u>
<u>U159</u>	<u>78-93-3</u>	<u>2-Butanone</u>	<u>DW</u>	<u>D I</u>
<u>U031</u>	<u>71-36-3</u>	<u>n-Butyl alcohol</u>	<u>DW</u>	<u>D I</u>
<u>U136</u>	<u>75-60-5</u>	<u>Cacodylic acid</u>	<u>DW</u>	<u>D</u>
<u>U238</u>	<u>51-79-6</u>	<u>Carbamic acid, ethyl ester</u>	<u>DW</u>	<u>((+))</u>
<u>U114</u>	<u>111-54-6</u>	<u>Carbamodithioic acid, 1,2-ethanediybis-,</u> <u>salts & esters</u>	<u>DW</u>	<u>?</u>
U215	<u>6533-73-9</u>	Carbonic acid, dithallium(I) salt	DW	?
<u>U034</u>	<u>75-87-6</u>	<u>Chloral</u>	<u>DW</u>	<u>?</u>
<u>U051</u>	- -	<u>Creosote</u>	<u>DW</u>	<u>D</u>
<u>U059</u>	<u>20830-81-3</u>	<u>Daunomycin</u>	<u>DW</u>	<u>((+))</u>
<u>U221</u>	<u>25376-45-8</u>	<u>Diaminotoluene</u>	<u>DW</u>	<u>?</u>
<u>U069</u>	<u>84-74-2</u>	<u>Dibutyl phthalate</u>	<u>DW</u>	<u>D</u>
<u>U192</u>	<u>23950-58-5</u>	<u>3,5-Dichloro-N-(1,1-dimethyl-2-</u> <u>propynyl) benzamide</u>	<u>DW</u>	<u>?</u>
<u>U024</u>	<u>111-19-1</u>	<u>Dichloromethoxy ethane</u>	<u>DW</u>	<u>?</u>
<u>U108</u>	<u>123-91-1</u>	<u>1,4-Diethylene dioxide</u>	<u>DW</u>	<u>D ((+))</u>
<u>U028</u>	<u>117-81-7</u>	<u>Diethylhexyl phthalate</u>	<u>DW</u>	<u>?</u>
<u>U086</u>	<u>1615-80-1</u>	<u>N,N-Diethylhydrazine</u>	<u>DW</u>	<u>((+))</u>
<u>U088</u>	<u>84-66-2</u>	<u>Diethyl phthalate</u>	<u>DW</u>	<u>?</u>
<u>U089</u>	<u>56-53-1</u>	<u>Diethylstilbestrol</u>	<u>DW</u>	<u>((+))</u>
<u>U148</u>	<u>123-33-1</u>	<u>1,2-Dihydro-3-,6-pyridizinedione</u>	<u>DW</u>	<u>D</u>
<u>U090</u>	<u>94-58-6</u>	<u>Dihydrosafrole</u>	<u>DW</u>	<u>D ((+))</u>
<u>U091</u>	<u>119-90-4</u>	<u>3,3'-Dimethoxybenzidine</u>	<u>DW</u>	<u>D ((+))</u>
<u>U098</u>	<u>57-14-7</u>	<u>1,1-Dimethylhydrazine</u>	<u>DW</u>	<u>((+)) I</u>
<u>U101</u>	<u>105-67-9</u>	<u>2,4-Dimethylphenol</u>	<u>DW</u>	<u>D</u>
<u>U102</u>	<u>131-11-3</u>	<u>Dimethyl phthalate</u>	<u>DW</u>	<u>?</u>
<u>U107</u>	<u>117-84-0</u>	<u>Di-n-octyl phthalate</u>	<u>DW</u>	<u>?</u>
<u>U108</u>	<u>123-91-1</u>	<u>1,4-Dioxane</u>	<u>DW</u>	<u>D ((+))</u>
<u>U155</u>	<u>91-80-5</u>	<u>1,2-Eethanediamine,</u> <u>N,N-dimethyl-N'2pyridinyl-N'-(2-thienylmethyl)-</u>	<u>DW</u>	<u>?</u>
<u>U117</u>	<u>60-29-7</u>	<u>Ethane, 1,1'-oxybis-</u>	<u>DW</u>	<u>D I</u>
<u>U218</u>	<u>65-55-5</u>	<u>Ethanethioamide</u>	<u>DW</u>	<u>((+))</u>
<u>U226</u>	<u>71-55-6</u>	<u>Ethane, 1,1,1-trichloro-</u>	<u>DW</u>	<u>D</u>
<u>U173</u>	<u>1116-54-7</u>	<u>Ethanol, 2,2-(nitrosoimino)bis-</u>	<u>DW</u>	<u>((+))</u>
<u>U359</u>	<u>110-80-5</u>	<u>Ethanol, 2-ethoxy-</u>	<u>DW</u>	<u>D I</u>
<u>U004</u>	<u>98-86-2</u>	<u>Ethanone, 1-phenyl-</u>	<u>DW</u>	<u>D</u>
<u>U228</u>	<u>79-01-6</u>	<u>Ethene, trichloro-</u>	<u>DW</u>	<u>I</u>

U112	<u>141-78-6</u>	Ethyl acetate	DW	D I
U113	<u>140-88-5</u>	Ethyl acrylate	DW	D I
U238	<u>51-79-6</u>	Ethyl carbamate (urethan)	DW	((+))
U359	<u>110-80-5</u>	<u>Ethylene glycol monoethyl ether</u>	<u>DW</u>	<u>D I</u>
U116	<u>96-45-7</u>	Ethylene thiourea	DW	D ((+))
U117	<u>60-29-7</u>	Ethyl ether	DW	D I
U118	<u>97-63-2</u>	Ethyl methacrylate	DW	I
U119	<u>62-50-0</u>	Ethyl methanesulfonate	DW	((+))
(U139)	cancel	Ferric dextran	DW	+))
U120	<u>206-44-0</u>	Fluoranthene	DW	D
U123	<u>64-18-6</u>	Formic Acid	DW	D O
U124	<u>110-00-9</u>	Furan	DW	I
U213	<u>109-99-9</u>	Furan, tetrahydro-	DW	I
U124	<u>110-00-9</u>	Furfuran	DW	I
U206	<u>18883-66-4</u>	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-	DW	((+))
U206		<u>D-Glucose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-</u>	<u>DW</u>	
U086	<u>1615-80-1</u>	Hydraxine, 1,2-diethyl-	DW	((+))
U098	<u>57-14-7</u>	Hydrazine, 1,1-dimethyl-	DW	((+) I
U134	<u>7664-39-3</u>	Hydrofluoric acid	DW	D O
U134	<u>7664-39-3</u>	Hydrogen fluoride	DW	D O
U135	<u>7783-06-4</u>	<u>Hydrogen sulfide H2S</u>	<u>DW</u>	<u>?</u>
U136	<u>75-60-5</u>	Hydroxydimethylarsine oxide	DW	D
U190	<u>85-44-9</u>	<u>1,3-Ibenzofurandione</u>	<u>DW</u>	<u>D</u>
U116	<u>96-45-7</u>	2-Imidazolidinethione	DW	D ((+))
U137	<u>193-39-5</u>	Indeno[1,2,3-cd]pyrene	DW	((+))
U139	cancel	Iron dextran	DW	((+))
U140	<u>78-83-1</u>	Isobutyl alcohol	DW	D I
U141	<u>120-58-1</u>	Isosafrole	DW	D ((+))
U146	<u>1335-32-6</u>	<u>Lead, bis(acetato-O)tetrahydroxytri-</u>	<u>DW</u>	<u>?</u>
U145	<u>7446-27-7</u>	Lead phosphate	DW	((+))
U146	<u>1335-32-6</u>	Lead subacetate	DW	((+))
U148	<u>123-33-1</u>	Maleic hydrazide	DW	D
U150	<u>148-82-3</u>	Melphalan	DW	((+))
U119	<u>62-50-0</u>	Methanesulfonic acid, ethyl ester	DW	((+))
U123	<u>64-18-6</u>	Methanoic acid	DW	D O
U154	<u>67-56-1</u>	Methanol	DW	D I
U155	<u>91-80-5</u>	Methapyrilene	DW	D
U154	<u>67-56-1</u>	Methyl alcohol	DW	D I
U186	<u>504-60-9</u>	1-Methylbutadiene	DW	D I
U159	<u>78-93-3</u>	Methyl ethyl ketone (MEK)	DW	D I
U161	<u>108-10-1</u>	Methyl isobutyl ketone	DW	D I
U162	<u>80-62-6</u>	Methyl methacrylate	DW	D I
U161	<u>108-10-1</u>	4-Methyl-2-pentanone	DW	((+))
U164	<u>56-04-2</u>	Methylthiouracil	DW	((+))
U059	<u>20830-81-3</u>	5,12-Naphthacenedione, (((8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)) 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-	DW	((+) ?
U172	<u>924-16-3</u>	N-Nitrosodi-n-butylamine	DW	D ((+))
U173	<u>1116-54-7</u>	N-Nitrosodiethanolamine	DW	((+))
U180	<u>930-55-2</u>	N-Nitrosopyrrolidine	DW	D ((+))
U181	<u>99-55-8</u>	5-Nitro-o-toluidine	DW	D
U193	<u>1120-71-4</u>	1,2-Oxathiolane, 2,2-dioxide	DW	((+))
U126	<u>765-34-4</u>	<u>Oxiranecarboxyaldehyde</u>	<u>DW</u>	<u>D I</u>
U182	<u>123-63-7</u>	Paraldehyde	DW	D I
U186	<u>504-60-9</u>	1,3-Pentadiene	DW	D I
U161	<u>108-10-1</u>	<u>Pentanol, 4-methyl-</u>	<u>DW</u>	<u>D I</u>
U187	<u>62-44-2</u>	Phenacetin	DW	D ((+))
U101	<u>105-67-9</u>	Phenol, 2,4-dimethyl-	DW	D
U052	<u>1319-77-3</u>	<u>Phenol, methyl-</u>	<u>DW</u>	<u>D</u>
U137	<u>193-39-5</u>	1,10-(1,2-Phenylene)pyrene	DW	((+))
U145	<u>7446-27-7</u>	Phosphoric acid, lead (2+) salt (2:3)	DW	((+))
U087	<u>3288-58-2</u>	Phosphorodithioic acid, O,O-diethyl-,S-methyl ester	DW	?
U192	<u>23950-58-5</u>	Pronamide	DW	?
U193	<u>1120-71-4</u>	1,3-Propane sultone	DW	((+))
See				
F027	<u>Prioponic acid, 2-(2,4,5 trichlorophenoxy)</u>			
U140	<u>78-83-1</u>	1-Propanol, 2-methyl-	DW	D I
U002	<u>67-64-1</u>	2-Propanone	DW	D I

U113	<u>140-88-5</u>	2-Propenoic acid, ethyl ester	DW	D I
U118	<u>97-63-2</u>	2-Propenoic acid, 2-methyl-, ethyl ester	DW	I
U162	<u>80-62-6</u>	2-Propenoic acid, 2-methyl-, methyl ester	DW	D I
U148	<u>123-33-1</u>	3,6-Pyridazinedione, 1,-dihydro-	<u>DW</u>	<u>D</u>
U155	<u>91-80-5</u>	Pyridine, 2-[(2dimethylamino)ethyl]- 2-phenylamino		
U164	<u>56-04-2</u>	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	DW	((+))
U180	<u>930-55-2</u>	((Pyrrole, tetrahydro-N nitroso-) Pyrrolidine, 1-nitroso)	DW	D ((+))
U200	<u>50-55-5</u>	Reserpine	DW	?
U202	<u>81-07-2</u>	Saccharin and salts	DW	((+))
U203	<u>94-59-7</u>	Safrole	DW	D ((+))
U204	<u>7783-00-8</u>	Seleniousacid	DW	O
U204	<u>7783-00-8</u>	Selenium dioxide	DW	O
U205	<u>7488-56-4</u>	Selenium ((disulfide)) sulfide	DW	R
U089	<u>56-53-1</u>	4,4'-Stilbenediol, alpha,alpha'-diethyl-	DW	((+))
U206	<u>18883-66-4</u>	Streptozotocin	DW	((+))
U205	<u>7488-56-4</u>	Sulfur selenide	DW	R
U213	<u>109-99-9</u>	Tetrahydrofuran	DW	I
U214	<u>563-68-8</u>	Thallium(1) acetate	DW	?
U215	<u>6533-73-9</u>	Thallium(1) carbonate	DW	?
U216	<u>7791-12-0</u>	Thallium(1) chloride	DW	?
U216	<u>7791-12-0</u>	Thallium chloride TlCl	DW	?
U217	<u>10102-45-1</u>	Thallium(1) nitrate	DW	?
U218	<u>62-55-5</u>	Thioacetamide	DW	((+))
U244	<u>137-26-8</u>	Thioperoxydicarbonic diamide [(H2N)C(S)]2S2, tetramethyl:	<u>DW</u>	<u>D</u>
U244	<u>137-26-8</u>	Thiram	DW	D
U244	<u>137-26-8</u>	Thiran	DW	D
U221	<u>25376-45-8</u>	Toluenediamine	DW	?
U328	<u>95-53-4</u>	o-Toluidine	DW	D ((+))
U353	<u>106-49-0</u>	p-Toluidine	DW	D
U222	<u>636-21-5</u>	o-Toluidine hydrochloride	DW	D ((+))
U011	<u>61-82-5</u>	1H-1,2,4-Triazol-3-amine	DW	D ((+))
U234	<u>99-35-4</u>	sym-Trinitrobenzene	DW	D R
U182	<u>123-63-7</u>	1,3,5-Trioxane, 2,4,6-trimethyl-	DW	D I
U248		<u>Warfarin, & salts, when present at concentrations of 0.3% or less</u>		
U200	<u>50-55-5</u>	Yohimban-16-carboxylic acid, 11, 17-di-methoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester (3beta, 16 beta, 17alpha, 18 beta, 20alpha)-	DW	?
U249		<u>Zinc phosphide Zn3P2, when present at concentrations of 10% or less</u>		

- * EHW = Extremely Hazardous Waste
- DW = Dangerous Waste
- X = Toxic, Category X
- A = Toxic, Category A
- B = Toxic, Category B
- C = Toxic, Category C
- D = Toxic, Category D
- ? = Toxic, Category not determined
- H = Persistent, Halogenated Hydrocarbon
- O = Corrosive
- P = Persistent, Polycyclic Aromatic Hydrocarbon
- ((+ ~~= IARC Animal or Human, Sufficient or Limited Carcinogen~~))
- I = Ignitable
- R = Reactive
- ((EB)) TC = Toxicity Characteristic

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

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-9904 Dangerous waste sources list.

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
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Nonspecific Sources

Generic:

F001 The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)

F002 The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-

- trichloro- 1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2 trichloroethane; and the still bottoms from the recovery of these solvents. (See footnote 1, below.)
- F003 The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.
- F004 The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; and the still bottoms from the recovery of these solvents.
- F005 The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, 2-nitropropane; and the still bottoms from the recovery of these solvents.
- F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
- ~~(F019 Wastewater treatment sludges from the chemical conversion coating of aluminum.)~~
- F007 Spent cyanide plating bath solutions from electroplating operations.
- F008 Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
- F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
- F010 Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.
- F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
- F012 Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process.
- F019 Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.
- F020 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 2, below.)
- F021 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 2, below.)
- F022 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 2, below.)
- F023 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 2, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.)
- F024 Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of certain chlorinated aliphatic hydrocarbons by radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (See footnote 1, below). (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed under specific sources, below.)
- F025 Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.
- F026 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 2, below.)
- F027 Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 2, below.) (This listing does not include formulations contain-

ing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)

F028 Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027.

~~((F024 Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (See footnote 1, below.) (This listing does not include light ends, spent filters and filter aids, spent desiccants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed under specific sources, below.)))~~

Specific Sources

Wood Preservation:

K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (See footnote 1, below.)

Inorganic Pigments:

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.

K003 Wastewater treatment sludge from the production of molybdate orange pigments.

K004 Wastewater treatment sludge from the production of zinc yellow pigments.

K005 Wastewater treatment sludge from the production of chrome green pigments.

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).

K007 Wastewater treatment sludge from the production of iron blue pigments.

K008 Oven residue from the production of chrome oxide green pigments.

Organic Chemicals:

K009 Distillation bottoms from the production of acetaldehyde from ethylene.

K010 Distillation side cuts from the production of acetaldehyde from ethylene.

K011 Bottom stream from the wastewater stripper in the production of acrylonitrile.

K013 Bottom stream from the acetonitrile column in the production of acrylonitrile.

K014 Bottoms from the acetonitrile purification column in the production of acrylonitrile.

K015 Still bottoms from the distillation of benzyl chloride. (See footnote 1, below.)

K016 Heavy ends or distillation residues from the production of carbon tetrachloride. (See footnote 1, below.)

K017 Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (See footnote 1, below.)

K018 Heavy ends from the fractionation column in ethyl chloride production. (See footnote 1, below.)

K019 Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (See footnote 1, below.)

K020 Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (See footnote 1, below.)

K021 Aqueous spent antimony catalyst waste from fluoromethanes production. (See footnote 1, below.)

K022 Distillation bottom tars from the production of phenol/acetone from cumene.

K023 Distillation light ends from the production of phthalic anhydride from naphthalene.

K024 Distillation bottoms from the production of phthalic anhydride from naphthalene.

K093 Distillation light ends from the production of phthalic anhydride from ortho-xylene.

K094 Distillation bottoms from the production of phthalic anhydride from ortho-xylene.

K025 Distillation bottoms from the production of nitrobenzene by the nitration of benzene.

K026 Stripping still tails from the production of methyl ethyl pyridines.

K027 Centrifuge and distillation residues from toluene diisocyanate production.

K028 Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (See footnote 1, below.)

K029 Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (See footnote 1, below.)

K095 Distillation bottoms from the production of 1,1,1-trichloroethane. (See footnote 1, below.)

K096 Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (See footnote 1, below.)

K030 Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (See footnote 1, below.)

K083 Distillation bottoms from aniline production.

K103 Process residues from aniline extraction from the production of aniline.

K104 Combined wastewater streams generated from nitrobenzene/aniline production.

- K085 Distillation of fractionation column bottoms from the production of chlorobenzenes. (See footnote 1, below.)
- K105 Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (See footnote 1, below.)
- K111 Product washwaters from the production of dinitrotoluene via nitration of toluene.
- K112 Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K113 Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K114 Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K115 Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K116 Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (See footnote 1, below.)
- K117 Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.
- K118 Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.
- K136 Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.

Explosives:

- K044 Wastewater treatment sludges from the manufacturing and processing of explosives.
- K045 Spent carbon from the treatment of wastewater containing explosives.
- K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
- K047 Pink/red water from TNT operations.

Inorganic Chemicals:

- K071 Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.
- K073 Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (See footnote 1, below.)
- K106 Wastewater treatment sludge from the mercury cell process in chlorine production.

Petroleum Refining:

- K048 Dissolved air flotation (DAF) float from the petroleum refining industry.
- K049 Slop oil emulsion solids from the petroleum refining industry.
- K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry.
- K051 API separator sludge from the petroleum refining industry.
- K052 Tank bottoms (leaded) from the petroleum refining industry.

Iron and Steel:

- K061 Emission control dust/sludge from the primary production of steel in electric furnaces.
- K062 Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).

Pesticides:

- K031 Byproduct salts generated in the production of MSMA and cacodylic acid.
- K032 Wastewater treatment sludge from the production of chlordane. (See footnote 3, below.)
- K033 Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (See footnote 3, below.)
- K034 Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (See footnote 3, below.)
- K097 Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (See footnote 3, below.)
- K035 Wastewater treatment sludges generated in the production of creosote.
- K036 Still bottoms from toluene reclamation distillation in the production of disulfoton.
- K037 Wastewater treatment sludges from the production of disulfoton.
- K038 Wastewater from the washing and stripping of phorate production. (See footnote 3, below.)
- K039 Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (See footnote 3, below.)
- K040 Wastewater treatment sludge from the production of phorate. (See footnote 3, below.)
- K041 Wastewater treatment sludge from the production of toxaphene. (See footnote 3, below.)
- K098 Untreated process wastewater from the production of toxaphene. (See footnote 3, below.)
- K042 Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (See footnote 1, below.)

- K043 2,6-Dichlorophenol waste from the production of 2,4-D. (See footnote 1, below.)
- K099 Untreated wastewater from the production of 2,4-D. (See footnote 1, below.)
- K123 Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenedisithiocarbamic acid and its salts.
- K124 Reactor vent scrubber water from the production of ethylenedisithiocarbamic acid and its salts.
- K125 Filtration, evaporation, and centrifugation solids from the production of ethylenedisithiocarbamic acid and its salts.
- K126 Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenedisithiocarbamic acid and its salts.

K131 Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide.

K132 Spent absorbent and wastewater separator solids from the production of methyl bromide.

Primary Copper:

- K064 Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.

Primary Lead:

- K065 Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities.

Primary Zinc:

- K066 Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production.

Primary Aluminum:

- K088 Spent potliners from primary aluminum reduction.

Ferroalloys:

- K090 Emission control dust or sludge from ferrochromium-silicon production.
- K091 Emission control dust or sludge from ferrochromium production.

Secondary Lead:

- K069 Emission control dust/sludge from secondary lead smelting.
- K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.

Veterinary Pharmaceuticals:

- K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
- K101 Distillation tar residues from the distillation of aniline-based compounds in the production of

veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

- K102 Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

Ink Formulation:

- K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.

Coking:

- K060 Ammonia still-lime sludge from coking operations.
- K087 Decanter tank tar sludge from coking operations.

Footnotes

- 1 These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.
- 2 For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.
- 3 These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste EHW.

State Sources

- W001 The following wastes generated from the salvaging, rebuilding, or discarding of transformers, bushing, or capacitors which contain polychlorinated biphenyls (PCB): Cooling and insulating fluids; cores, including core papers, from unrinsed transformers and capacitors; transformers and capacitors which will no longer be used for their intended use, except for those transformers or capacitors which have been rinsed; and, rinsate from the rinsing of transformers and capacitors. For the purposes of this listing, the rinsing of PCB containing items shall be conducted as follows: First, the item is drained of all free flowing liquid; second, the item is filled with solvent and allowed to stand for at least eighteen hours; last, the item is drained thoroughly and the solvent is collected. Solvents may include kerosene, xylene, toluene and other solvents in which PCB are readily soluble. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if his PCB waste is excluded from the requirements of chapter 173-303 WAC.)

AMENDATORY SECTION (Amending Order 88-24, filed 1/4/89)**WAC 173-303-9905 Dangerous waste constituents list.**

Acetic Acid,2,4,5-trichlorophenoxy-, salts and esters (2,4,5-T, salts and esters)
 Acetonitrile [Ethanenitrile]
 Acetophenone (Ethanone, 1-phenyl)
 -(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
 2-Acetylaminofluorene (Acetamide,N-9H- fluoren-2-yl)-
 Acetyl chloride (Ethanoyl chloride)
 1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
 Acrolein (2-Propenal)
 Acrylamide (2-Propenamide)
 Acrylonitrile (2-Propenenitrile)
 Aflatoxins
 Aldrin (1,2,3,4,10,10-Hexachloro- 1,4,4a,5,8,8a,-hexahydro-endo,exo- 1,4:5,8-Dimethanonaphthalene)
 Allyl alcohol (2-Propen-1-ol)
Allyl chloride (1-Propane, 3-chloro)
 Aluminum phosphide
 4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
 6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl- carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C)
 (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7- dione, 6-amino-8[
 4-Aminopyridine(4-Pyridinamine)
 Arsenic and compounds, N.O.S.*
 Barium and compounds, N.O.S.*
 Barium cyanide
 Benz[c]acridine (3,4-Benzacridine)
 Benz[a]anthracene (1,2-Benzanthracene)
 Benzene (Cyclohexatriene)
 Benzenearsonic acid (Arsonic acid, phenyl-)
 Benzene, 2-amino-1-methyl (o-Toluidine)
 Benzene, 4-amino-1-methyl (p-Toluidine)
 Benzene, dichloromethyl- (Benzal chloride)
 Benzenethiol (Thiophenol)
 Benzidine ([1,1'-Biphenyl]-4,4'diamine)
 Benzo[b]fluoranthene (2,3-Benzofluoranthene)
 Benzo[j]fluoranthene (7,8-Benzofluoranthene)
 Benzo[a]pyrene (3,4-Benzopyrene)
 p Benzoquinone (1,4-Cyclohexadienedione)
 Benzotrichloride (Benzene, trichloromethyl-)
 Benzyl chloride (Benzene, (chloromethyl)-)
 Beryllium and compounds, N.O.S.*
 Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
 Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
 N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
 Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
 Bis(chloromethyl) ether (Methane, oxybis[chloro-])

Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
 Bromoacetone (2-Propanone, 1-bromo-)
 Bromomethane (Methyl bromide)
 4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
 Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
 2-Butanone peroxide (Methyl ethyl ketone, peroxide)
 Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
 2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
 Cadmium and compounds, N.O.S.*
 Calcium chromate (Chromic acid, calcium salt)
 Calcium cyanide
 Carbamic Acid, ethyl ester
 Carbon disulfide (Carbon bisulfide)
 Carbon oxyfluoride (Carbonyl fluoride)
 Chloral (Acetaldehyde, trichloro-)
 Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
 Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
 Chlorinated benzenes, N.O.S.*
 Chlorinated ethane, N.O.S.*
 Chlorinated fluorocarbons, N.O.S.*
 Chlorinated naphthalene, N.O.S.*
 Chlorinated phenol, N.O.S.*
 Chloroacetaldehyde (Acetaldehyde, chloro-)
 Chloroalkyl ethers, N.O.S.*
 P-Chloroaniline (Benzenamine, 4-chloro-)
 Chlorobenzene (Benzene, chloro-)
 Chlorobenzilate (Benzenoacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester)
 2-Chloro-1,3-butadiene
 p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
 2-Chloroethyl vinyl ether (Ethene; (2-chloroethoxy)-)
 Chloroform (Methane, trichloro-)
 Chloromethane (Methyl chloride)
 Chloromethyl methyl ether (Methane, chloromethoxy-)
 2-Chloronaphthalene (Naphthalene, beta-chloro-)
 2-Chlorophenol (Phenol, o-chloro-)
 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
 3-Chloropropene
 3-Chloropropionitrile (Propanenitrile, 3-chloro-)
 Chromium and compounds, N.O.S.*
 Chrysene (1,2-Benzphenanthrene)
 Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
 Coal tars
 Copper cyanide
 Creosote (Creosote, wood)
 Cresols (Cresylic acid) (Phenol, methyl-)
 Crotonaldehyde (2-Butenal)
 Cyanides (soluble salts and complexes), N.O.S.*
 Cyanogen (Ethanedinitrile)
 Cyanogen bromide (Bromine cyanide)

- Cyanogen chloride (Chlorine cyanide)
 Cytasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
 Cyclophosphamide (2H-1,3,2-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
 Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxohexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
 DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
 DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
 DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
 Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
 Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
 Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
 Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
 Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
 Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
 Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
 1,2-Dibromoethane (Ethylene dibromide)
 Dibromomethane (Methylene bromide)
 Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
 o-Dichlorobenzene (Benzene, 1,2-dichloro-)
 m-Dichlorobenzene (Benzene, 1,3-dichloro-)
 p-Dichlorobenzene (Benzene, 1,4-dichloro-)
 Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
 Dichlorodifluoromethane (Methane, dichlorodifluoro-)
 1,1-Dichloroethane (Ethylidene dichloride)
 1,2-Dichloroethane (Ethylene dichloride)
 trans-1,2-Dichloroethene (1,2-Dichloroethylene)
 Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
 Dichloromethane (Methylene chloride)
 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
 2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
 Dichlorophenylarsine (Phenyl dichloroarsine)
 Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
 1,2-Dichloropropane (Propylene dichloride)
 Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
 Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
 1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)
 Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
 Diethylarsine (Arsine, diethyl-)
 N,N'-Diethylhydrazine (Hydrazine, 1,2-diethyl)
 O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
 O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
 Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
 O,O-Diethyl O-2-pyraxinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyraxinyl ester)
 Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
 Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
 Diisopropylfluorophosphate (DFP) (Phosphorofluoric acid, bis(1-methylethyl) ester)
 Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-)
 p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
 7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
 3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
 Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
 alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
 Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
 Dimethyl sulfate (Sulfuric acid, dimethyl ester)
 Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*)
 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
 Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
 1,4-Dioxane (1,4-Diethylene oxide)
 Diphenylamine (Benzenamine, N-Phenyl-)
 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
 Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
 Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)

- 2,4-Dithiobiuret (Thioimidodicarbonic diamide)
 Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
 Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
 Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
 Ethyl cyanide (propanenitrile)
 Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanedylbiscarbamodithioic acid, salts and esters)
Ethylene glycol monoethyl ether (2-Ethoxyethanol)
 Ethyleneimine (Aziridine)
 Ethylene oxide (Oxirane)
 Ethylenethiourea (2-Imidazolidinethione)
 Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
 Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
 Fluoranthene (Benzo[j,k]fluorene)
 Fluorine
 2-Fluoroacetamide (Acetamide, 2-fluoro-)
 Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
 Formaldehyde (Methylene, oxide)
 Formic acid (Methanoic acid)
 Glycidylaldehyde (1-Propanol-2,3-epoxy)
 Halomethane, N.O.S.*
 Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
 Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
 Hexachlorobenzene (Benzene, hexachloro-)
 Hexachlorobutadiene (1,3-Butadiene, hexachloro-)
 Hexachlorocyclohexane (all isomers) (Lindane and isomers)
 Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
 Hexachlorodibenzo-p-dioxins
 Hexachlorodibenzofurans
 Hexachloroethane (Ethane, hexachloro-)
 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
 Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
 Hexachloropropene (Propene, hexachloro-)
 Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
 Hydrazine (Diamine)
 Hydrocyanic acid (Hydrogen cyanide)
 Hydrofluoric acid (Hydrogen fluoride)
 Hydrogen sulfide (Sulfur hydride)
 Hydroxydimethylarsine oxide (Cacodylic acid)
 Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
 Iodomethane (Methyl iodide)
 Iron Dextran (Ferric dextran)
 Isocyanic acid, methyl ester (Methyl isocyanate)
 Isobutyl alcohol (1-Propanol, 2-methyl-)
 Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
 Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalene-2-one)
 Lasiocarpine (2-Butenoic acid, 2-methyl-,7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
 Lead and compounds, N.O.S.*
 Lead acetate (Acetic acid, lead salt)
 Lead phosphate (Phosphoric acid, lead salt)
 Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
 Maleic anhydride (2,5-Furandione)
 Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
 Malononitrile (Propanedinitrile)
 Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
 Mercury Fulminate (Fulminic acid, mercury salt)
 Mercury and compounds, N.O.S.*
 Methacrylonitrile (2-Propenenitrile, 2-methyl-)
 Methanethiol (Thiomethanol)
 Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
 Metholonyl (Acetimidic acid, N-[(methylcarbamoxy)oxy]thio-,methyl ester)
 Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
 2-Methylaziridine (1,2-Propylenimine)
 3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
 Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
 4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-))
 Methyl ethyl ketone (MEK) (2-Butanone)
 Methyl hydrazine (Hydrazine, methyl-)
 2-Methylactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
 Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
 Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
 2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime
 N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitros-N-methyl-N' nitro-)
 Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
 Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
 Mustard gas (Sulfide, bis(2-chloroethyl)-)
 Naphthalene
 1,4-Naphthoquinone (1,4-Naphthalenedione)
 1-Naphthylamine (alpha-Naphthylamine)
 2-Naphthylamine (beta-Naphthylamine)
 1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
 Nickel and compounds, N.O.S.*
 Nickel carbonyl (Nickel tetracarbonyl)
 Nickel cyanide (nickel (II) cyanide)
 Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
 Nitric oxide (Nitrogen (II) oxide)

- p-Nitroaniline (Benzenamine, 4-nitro-)
 Nitrobenzene (Benzene, nitro-) Nitrobenzene
 Nitrogen dioxide (Nitrogen (IV) oxide)
 Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
 Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydro-chloride salt)
 Nitroglycerine (1,2,3-Propanetriol, trinitrate)
 4-Nitrophenol (Phenol, 4-nitro-)
2-Nitropropane (Propane 2-nitro)
 4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
 Nitrosamine, N.O.S.*
 N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
 N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
 N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)
 N-Nitrosodimethylamine (Dimethylnitrosamine)
 N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
 N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
 N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
 N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
 N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
 N-Nitrosomorpholine (Morpholine, N-nitroso-)
 N-Nitrosornicotine (Nornicotine, N-nitroso-)
 N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
 N-Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)
 N-Nitrososarcosine (Sarcosine, N-nitroso-)
 5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
 Octamethylpyrophosphoramidate (Diphosphoramidate, octamethyl-)
 Osmium tetroxide (Osmium (VIII) oxide)
 7-Ocabcyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)
 Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
 Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester)
 Pentachlorobenzene (Benzene, pentachloro-)
 Pentachlorodibenzo-p-dioxins
 Pentachlorodibenzofurans
 Pentachloroethane (Ethane, pentachloro-)
 Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
 Pentachlorophenol (Phenol, pentachloro-)
 Perchloromethyl mercaptan (Methanesulferryl chloride, trichloro-)
 Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
 Phenol (Benzene, hydroxy-)
 Phenylenediamine (Benzenediamine)
 Phenylmercury acetate (Mercury, acetatophenyl-)
 N-Phenylthiourea (Thiourea, phenyl-)
 Phosgene (Carbonyl chloride)
 Phosphine (Hydrogen phosphide)
 Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)
 Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)
 Phthalic acid esters, N.O.S.* (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.*
 Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)
 2-Picoline (Pyridine, 2-methyl-)
 Polychlorinated biphenyl, N.O.S.*
 Potassium cyanide
 Potassium silver cyanide (Argentate(1-), dicyano-, potassium)
 Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)
 1,3-Propanesultone (1,2-Oxathiolane, 2,2-dioxide)
 Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP, Silvex, salts and esters)
 n-Propylamine (1-Propane)
 Propylthiouracil (2,3 dihydro-6-propyl-2 thioxo-4(1H)-pyrimidinone)
 2-Propyn-1-ol (Propargyl alcohol)
 Pyridine
 Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester)
 Resorcinol (1,3-Benzenediol)
 Saccharin and salts (1,2-Benzoisothiazolin-3-one, 1,1-dioxide, and salts)
 Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
 Selenious acid (Selenium dioxide)
 Selenium and compounds, N.O.S.*
 Selenium sulfide (Sulfur selenide)
 Selenourea (Carbamimidoseleonic acid)
 Silver and compounds, N.O.S.*
 Silver cyanide
 Sodium cyanide
 Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
 Strontium sulfide
 Strychnine and salts (Strychnidin-10-one, and salts)
 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
 Tetrachlorodibenzo-p-dioxins
 Tetrachlorodibenzofurans
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) Dibenzop-dioxin, 2,3,7,8-tetrachloro-)
 Tetrachloroethane, N.O.S.* (Ethane, tetrachloro-, N.O.S.*)
 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
 Tetrachlorethylene (Ethene, 1,1,2,2-tetrachloro-)¹
 Tetrachloromethane (Carbon tetrachloride)
 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
 Tetraethylthiopyrophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)
 Tetraethyl lead (Plumbane, tetraethyl-)
 Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)
 Tetranitromethane (Methane, tetranitro-)
 Thallium and compounds, N.O.S.*
 Thallous oxide (Thallium (III) oxide)

Thallium (1) acetate (Acetic acid, thallium (I) salt)
 Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
 Thallium (I) chloride
 Thallium (I) nitrate (Nitric acid, thallium (I) salt)
 Thallium selenite
 Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
 Thioacetamide (Ethanethioamide)
 Thiosemicarbazide (Hydrazinecarbothioamide)
 Thiourea (Carbamide thio-)
 Thiuram (Bis(dimethylthioucarbomoyl) disulfide)
 Toluene (Benzene, methyl-)
 Toluenediamine, N.O.S. (Toluene, 2,5-diamine-)
 2,4-Toluenediamine
 2,6-Toluenediamine
 3,4-Toluenediamine
 o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
 Toluene diisocyanate (Benzene, 2,4- and 2,6- diisocyanatomethyl-)
 Toxaphene (Camphene, octachloro-)
 Tribromomethane (Bromofom)
 1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
 1,1,1-Trichloroethane (Methyl chloroform)
 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
 Trichloroethene (Trichloroethylene)
 Trichloromonofluoromethane (Methane, trichlorofluoro-)
 2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T, salts and esters) (Acetic acid, 2,4,5-trichlorophenoxy-, salts and esters)
 2,4,5-Trichlorophenoxypropionic acid (Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP, Silvex, salts and esters))
 Trichloropropane, N.O.S.* (Propane, trichloro-, N.O.S.*)
 1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
 O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
 sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
 Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl-))
 Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
 Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
 Undecamethylenediamine, N,N'-bis-(2-chloro-benzyl)-, dihydrochloride N,N'-Undecamethyl-enebis(2-chlorobenzylamine, dihydrochloride)
 Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)
 Vanadic acid, ammonium salt (ammonium vanadate)
 Vanadium pentoxide (Vanadium (V) oxide)
 Vinyl chloride (Ethane, chloro-)
 Zinc cyanide
 Zinc phosphide

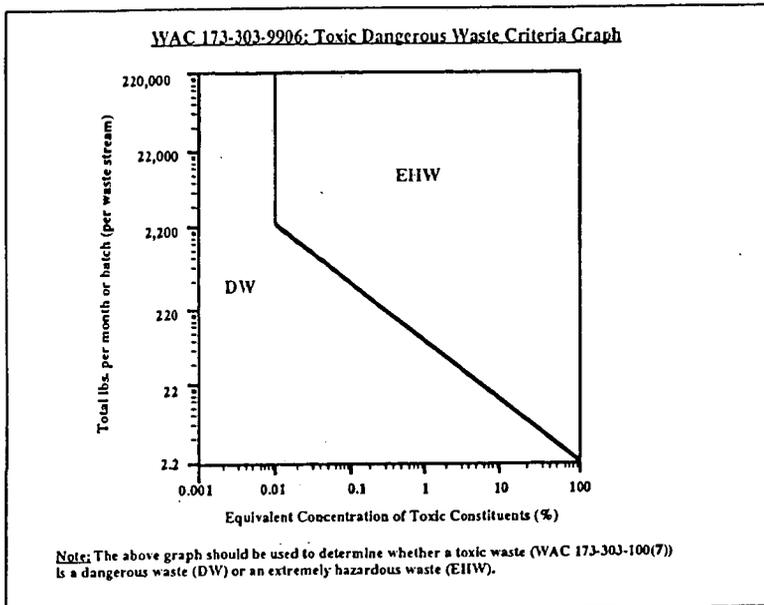
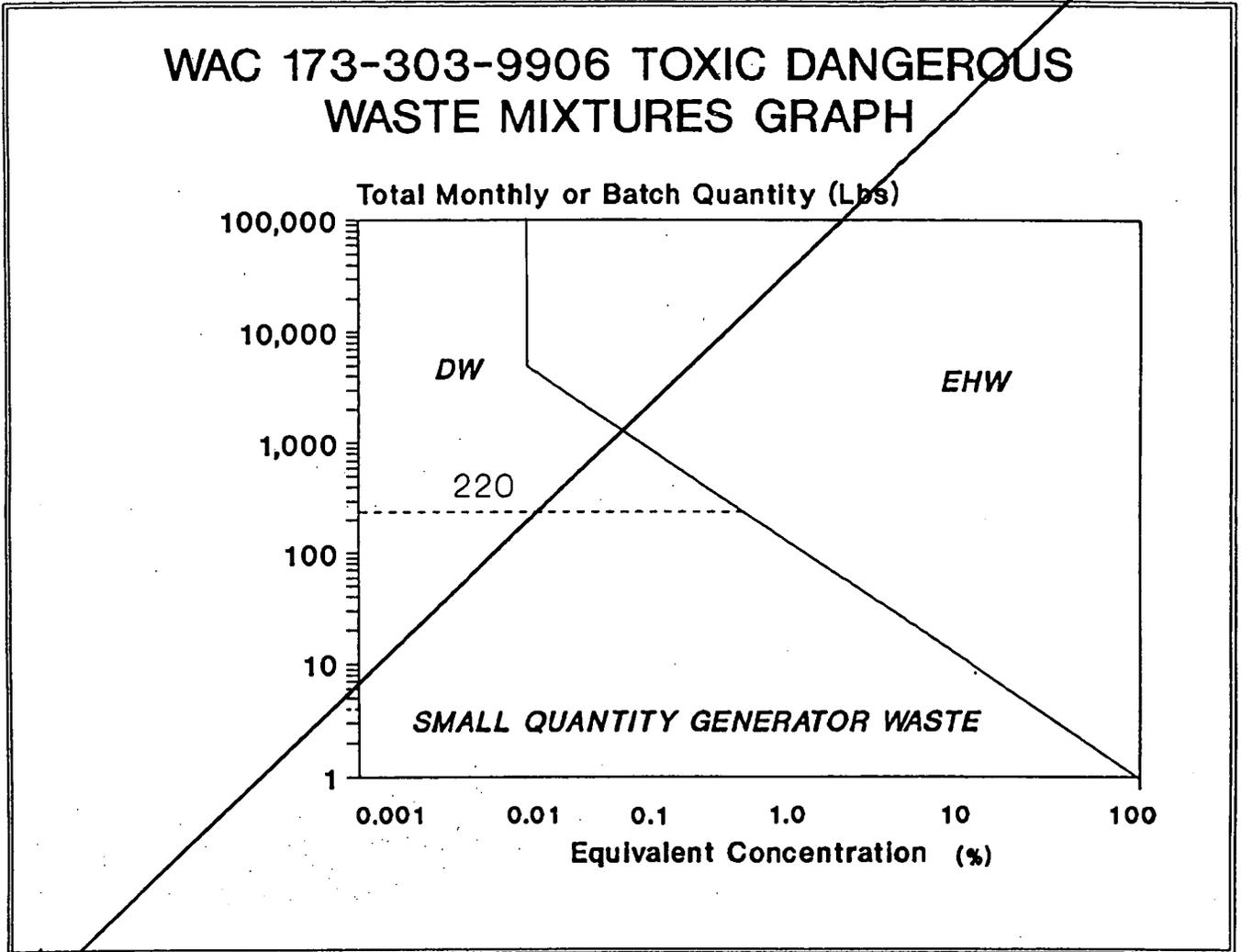
* The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

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

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

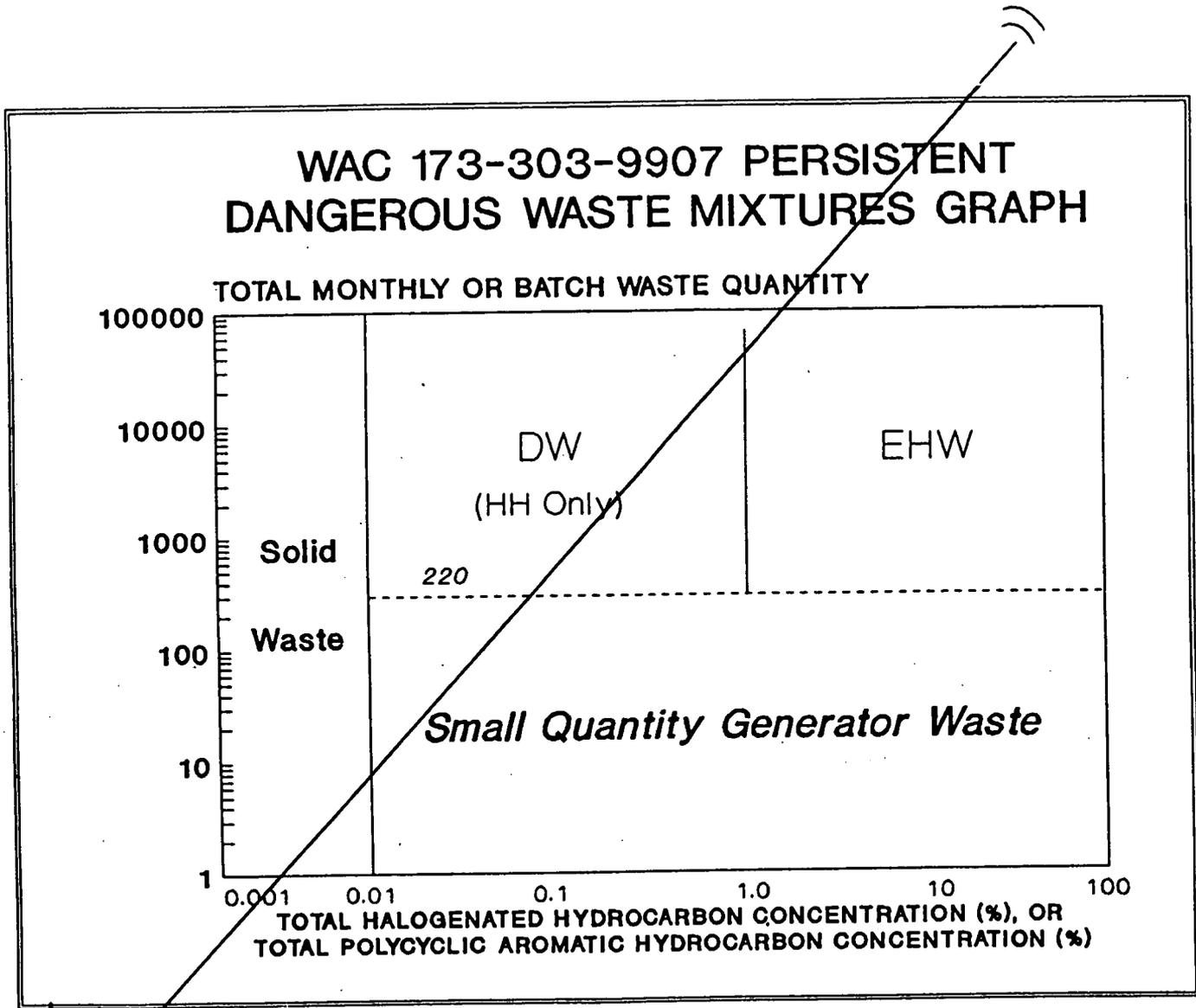
AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

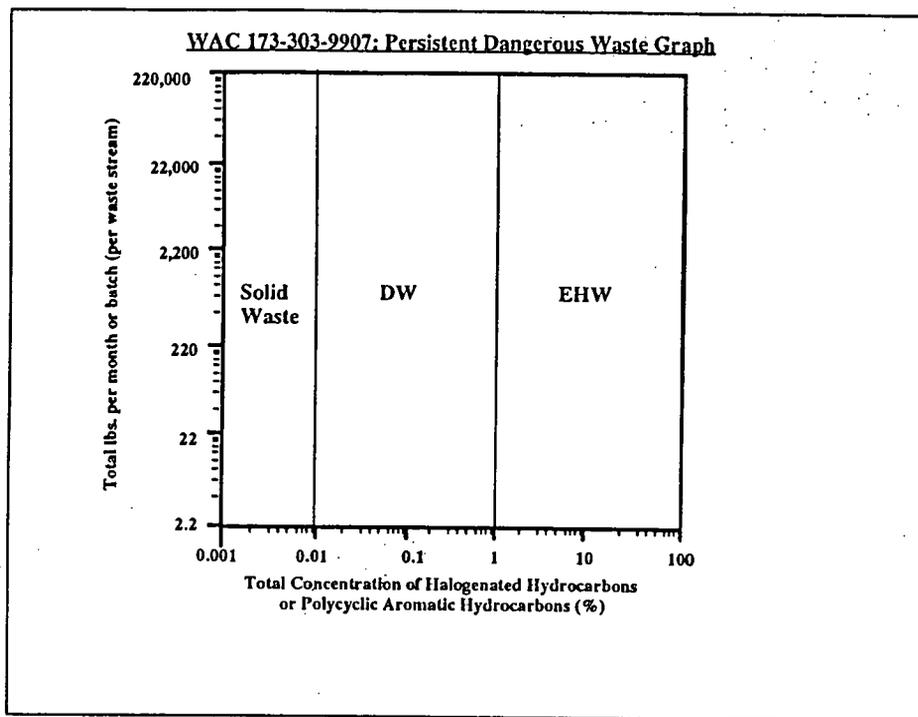
WAC 173-303-9906 Toxic dangerous waste mixtures graph.



AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-9907 Persistent dangerous waste mixtures graph.





NEW SECTION

WAC 173-303-9908 Carcinogenic dangerous waste list.

Chemical Name	Chemical Abstract Numbers	Concentration Levels (ppm)
acephate	30560-19-1	15,100.0
acrylamide	79-06-1	29.2
acrylonitrile	107-13-1	243.0
alachlor	15972-60-8	1,620.0
aldrin	309-00-2	7.72
aniline	62-53-3	23,000.0
aramite	140-57-8	5,250.0
arsenic	7440-38-2	188.0
atrazine	1912-24-9	597.0
azobenzene	103-33-3	1,190.0
benzene	71-43-2	4,530.0
benzidine	92-87-5	.571
benzo[a]anthracene	56-55-3	18.0
benzo[a]pyrene	50-32-8	18.0
benzo[b]fluoranthene	205-99-2	18.0
benzo[k]fluoranthene	207-08-9	18.0
benzotrichloride	98-07-7	10.1
benzyl chloride	100-44-7	772.0
beryllium	7440-41-7	30.5
bis(2-chloro-1-methyl-ethyl)ether	108-60-1	1,870.0
bis(2-chloroethyl)ether	111-44-4	119.0
bis(2-ethylhexyl) phthalate	117-81-7	9,370.0
bis(chloromethyl)ether	542-88-1	.597
bromodichloromethane	75-27-4	2,120.0
bromoform	75-25-2	16,600.0
captafol	2425-06-1	15,300.0
captan	133-06-2	37,500.0
carbazole	86-74-8	6,560.0
carbon tetrachloride	56-23-5	1,010.0
chlordanil	118-75-2	326.0
chlordane	57-74-9	101.0
chloro-2-2-methylaniline hydrochloride;4-	unavailable	285.0
chloro-2-methylaniline;4-	95-69-2	226.0

chlorodibromoethane	unavailable	1,560.0
chloroform	67-66-3	21,500.0
chloromethane	74-87-3	10,100.0
chloronitrobenzene;o-	88-73-3	5,250.0
chloronitrobenzene;p-	100-00-5	7,290.0
chlorothalonil	1897-45-6	11,900.0
chrysenes	218-01-9	18.0
crotonaldehyde	123-73-9	69.1
ddd	72-54-8	547.0
dde	72-55-9	386.0
ddt	50-29-3	386.0
di(2-ethylhexyl)adipate	103-23-1	109,000.0
diallate	2303-16-4	2,150.0
dibenzo[a,h]anthracene	53-70-3	18.0
dibromo-3-chloropropane;1,2-	96-12-8	5.97
dibromoethane;1,2-	106-93-4	1.54
dichlorobenzene;1,4-	106-46-7	5,470.0
dichlorobenzidine;3,3'-	91-94-1	292.0
dichloroethane;1,1-	75-34-3	1,440.0
dichloroethane;1,2-	107-06-2	1,440.0
dichloroethylene;1,1-	75-35-4	219.0
dichloropropane;1,2-	78-87-5	1,930.0
dichloropropene;1,3-	542-75-6	729.0
dieldrin	60-57-1	8.2
dimethoxybenzidine;3,3'-	119-90-4	9,370.0
dimethylaniline hydrochloride;2,4-	unavailable	226.0
dimethylaniline;2,4-	95-68-1	175.0
dimethylaniline;N,N-	121-69-7	2,850.0
dimethylbenzidine;3,3'-	119-93-7	14.3
dimethylhydrazine;1,1-	57-14-7	15.1
dimethylhydrazine;1,2-	540-73-8	.0938
dinitrotoluene;2,4-	121-14-2	193.0
dinitrotoluene;2,6-	606-20-2	193.0
dioxane;1,4-	123-91-1	11,900.0
diphenylhydrazine;1,2-	122-66-7	164.0
direct black 38	unavailable	15.1
direct blue 6	2602-46-2	15.1
direct brown 95	unavailable	14.1
epichlorohydrin	106-89-8	13,300.0
ethyl acrylate	140-88-5	2,730.0
ethylene thiourea	96-45-7	3,650.0
folpet	133-07-3	37,500.0

formaldehyde	50-00-0	4,380.0
furazolidone	unavailable	34.5
furium	unavailable	2.63
heptachlor	76-44-8	29.2
heptachlor epoxide	1024-57-3	14.4
hexachloro-p-dioxin, mixture	19408-74-3	.0212
hexachlorobenzene	118-74-1	82.0
hexachlorobutadiene	87-68-3	1,680.0
hexachlorocyclohexane;alpha	319-84-6	20.8
hexachlorocyclohexane;beta-	319-85-7	72.9
hexachlorocyclohexane;technical	608-73-1	72.9
hexachloroethane	67-72-1	9,370.0
hydrazine sulfate	302-01-2	43.8
isophorone	78-59-1	138,000.0
lindane	58-89-9	101.0
methoxy-5-nitroaniline;2-	99-59-2	2,850.0
methyl-5-nitroaniline;2-	99-55-8	3,980.0
methylaniline hydrochloride;2-	636-21-5	729.0
methylaniline;2-	95-53-4	547.0
methylene bis(2-chloroaniline);4,4'-	unavailable	1,010.0
methylene chloride	75-09-2	17,500.0
methylhydrazine	60-34-4	119.0
mirex	2385-85-5	72.9
nitrofurazone	59-87-0	87.5
nitropropane;2-	79-46-9	14.0
nitroso-N-methylethylamine;N-	10595-95-6	5.97
nitroso-di-n-butylamine;N-	924-16-3	24.3
nitroso-di-n-propylamine;N-	621-64-7	18.8
nitrosodiethanolamine;N-	1116-54-7	46.9
nitrosodiethylamine;N-	55-18-5	.875
nitrosodimethylamine;N-	62-75-9	2.57
nitrosodiphenylamine;N-	86-30-6	26,800.0
nitrosopyrrolidine;N-	930-55-2	62.5
pah	unavailable	18.0
pentabromo-6-chloro-cyclohexane;1,2,3,4,5-	unavailable	5,710.0
pentachloronitrobenzene	82-68-8	505
pentachlorophenol	87-86-5	1,090.0
perthane	72-56-0	398,000.0
phenylenediamine;o-	95-54-5	2,790.0
phenylphenol;2-	90-43-7	69,100.0
polybrominated biphenyls	unavailable	14.7
polychlorinated biphenyls	1336-36-3	17.0
propylene oxide	75-56-9	547.0
quinoline	91-22-5	10.9
rdx	121-82-4	1,190.0
simazine	122-34-9	1,090.0
sodium diethyldithiocarbamate	148-18-5	486.0
styrene	100-42-5	4,380.0
tcdd;2,3,7,8-	1746-01-6	87,500.0
tetrachloroethane;1,1,1,2-	630-20-6	5,050.0
tetrachloroethane;1,1,2,2-	79-34-5	656.0
tetrachloroethylene	127-18-4	2,570.0
tetrachlorotoluene;p,a,a,a,-	unavailable	6.56
tetrachlorvinphos	961-11-5	5,470.0
tnt	118-96-7	4,380.0
toluenediamine;2,4-	95-80-7	41.0
toluidine;o-	95-53-4dup	547.0
toluidine;p-	106-49-0	691.0
toxaphene	8001-35-2	119.0
trichloroaniline hydrochloride;2,4,6-	unavailable	4,530.0
trichloroaniline;2,4,6-	634-93-5	3,860.0
trichloroethane;1,1,2-	79-00-5	2,300.0
trichloroethylene	79-01-6	11,900.0
trichlorophenol;2,4,6-	88-06-2	11,900.0
trifluralin	1582-09-8	17,000.0
trimethyl phosphate	512-56-1	3,550.0
vinyl chloride	75-01-4	69.1

WSR 93-12-110
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed June 2, 1993, 9:15 a.m.]

Original Notice.

Title of Rule: Chapter 173-351 WAC, Criteria for municipal solid waste landfills.

Purpose: To comply with 40 CFR 257-258, promulgated October 9, 1991, states are required to have rules in place within 24 months (October 9, 1993) along with requesting and receiving federal delegation for the municipal solid waste landfill program.

Statutory Authority for Adoption: Chapter 70.95 RCW.

Statute Being Implemented: FED 40 CFR 257 and 258 through chapter 70.95 RCW.

Summary: The proposed rule will substantially increase the requirements for municipal solid waste landfills to meet RCRA Subtitle D (40 CFR 257 and 258). The rule addresses locational requirements; design criteria; operating requirements; closure/post closure requirements; ground water monitoring; and corrective action.

Reasons Supporting Proposal: Requirement for Washington to continue to operate a municipal solid waste program consistent with federal requirements.

Name of Agency Personnel Responsible for Drafting: James Pendowski, HQ, 459-6259; Implementation: Ecology, local health departments; and Enforcement: Local health departments.

Name of Proponent: Mary Riveland, Director, Department of Ecology, governmental.

Rule is necessary because of federal law, 40 CFR 257 and 258.

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 173-351 WAC, Criteria for municipal solid waste landfills, being promulgated to make Washington rules consistent with federal requirements. This rule will eliminate conflicts between state and federal requirements along with eliminating duplicative activities. The rule addresses: Location requirements, design criteria, operating requirements, closure and post-closure requirements, ground water monitoring and corrective action. The proposed rule will significantly effect the costs to locate, design, and operate municipal solid waste landfills. As a consequence, the number of facilities will decrease, tipping fees will increase, and the size of facilities will increase. Local government will increasingly get out of the landfill business leaving to private facilities, construction and operation of the remaining facilities.

Proposal Changes the Following Existing Rules: The following are major areas of changes from the existing rules (chapter 173-304 WAC): Design requirements, ground water monitoring, closure/post-closure, and corrective action. Design requirements have been expanded. Ground water monitoring requirements are probably where the most significant changes have occurred. The requirements have increased requiring better site characterization, monitoring analysis, expanded simple parameters [parameters], and site assessments, should corrective action be necessary. Corrective action has never been incorporated into these rules until now.

Small Business Economic Impact Statement: The Department of Ecology (ecology) is proposing chapter 173-

PROPOSED

351 WAC to regulate municipal solid waste landfills throughout the state of Washington. Ecology is required to adopt standards which are at least as stringent as the federal standards issued in 40 CFR, Part 258 no later than October 9, 1993. Chapter 173-351 WAC closely follows the federal rule and incorporates applicable requirements from several existing state regulations.

Municipal solid waste landfills (MSWLFs) have been regulated in recent years under Subtitle D of the Resource Conservation and Recovery Act and individual states' laws. These regulations are intended to protect the quality of air and ground and surface waters near any MSWLF and to provide for public safety in relation to a landfill site both during and after its active life. The standards in chapter 173-351 WAC are based on potential risks to public health and the environment as well as climatological and geologic considerations. The major provisions of criteria for municipal solid waste landfills are for the following items: Location restrictions, design criteria, operating criteria, groundwater monitoring and corrective action, closure and post-closure care, financial assurance criteria, and permits.

The Economic Policy Act, chapter 43.21H RCW, requires state agencies to give appropriate consideration to economic values when writing rules. The Economic Policy Act does not specify methods for assessing economic impacts and is not limited to small businesses.

The Regulatory Fairness Act, chapter 19.85 RCW, requires a number of steps to be taken in determining the extent of regulatory impacts on small businesses and developing approaches for mitigating disproportionate impacts on small businesses. A small business is defined in RCW 43.31.025 as "any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees." Based on the requirements of the Regulatory Fairness Act and its compliance guidelines (January 1993), ecology must perform the following steps:

An analysis must be conducted to determine whether the regulatory action has an economic impact on 20 percent of all industries or 10 percent of the businesses in one industry (defined as any 3-digit standard industrial classification (SIC) code).

If there are impacts on 20 percent of all industries or on 10 percent of all businesses in one industry, then a small business [economic] impact statement (SBEIS) must be prepared. The SBEIS must include the following elements: A brief description of the reporting, record-keeping, and other compliance requirements of the proposed regulation; a description of the kinds of professional services needed by a small business in order to comply; an analysis of the costs of compliance, based on existing data, including costs of equipment, supplies, labor and increased administrative costs; and a comparison, to the greatest extent possible, of the cost of compliance for small versus large businesses. This comparison must be based on either cost per employee, cost per hour of labor, cost per \$100 of sales, or any combination of these measures.

If small businesses are impacted proportionately greater than large businesses, the impacts on small businesses must be mitigated by implementing any of the following: Adjusting reporting and record-keeping requirements; establishing performance rather than design standards; exempting small businesses from any or all regulatory requirements, to the extent allowable and feasible under the law; and other measures as needed.

Ecology identified 61 MSWLFs in Washington as of August 1992. Thirteen did not receive waste in 1991, and three others are federal facilities. Ten of the 61 MSWLFs, or 20%, are owned by private businesses. Of the ten private facilities, only four will receive waste on or after October 9, 1993, and will be subject to chapter 173-351 WAC. As indicated in the table below, less than 10% of the businesses in each affected industry will be impacted. And the three affected industries comprise less than 20% of all industries in the state. Because the criteria for preparing an SBEIS are not satisfied, no SBEIS is required for the proposed criteria for municipal solid waste landfills, chapter 173-351 WAC.

Affected Industries

SIC Code	Industry Name	Total Number of Businesses	Number of Affected Businesses
162	Heavy Construction, Except Highway	899	1
421	Trucking & Courier Services, Except Air	2149	1
495	Sanitary Services	167	2

For copies of the complete Economic Compliance Document, contact: Mr. Randy Martin, Solid and Waste Hazardous Waste Program, Department of Ecology, Mailbox 47600, Olympia, WA 98504.

Hearing Location: Yakima, July 7, 1993, Wednesday, Yakima City Chambers, 129 North 2nd Street, Yakima, WA, (509) 575-6040, at 7:00 p.m. - 9:00 p.m.; at Spokane, on July 8, 1993, Thursday, Spokane County Health District, West 1101 College Avenue, Spokane, WA 98201-2095, (509) 324-1500, at 7:00 p.m. - 9:00 p.m.; and at Bellevue,

July 12, 1993, Monday, NWRO, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, (SCAN) 354-7067 or (SCAN) 354-7245, at 7:00 p.m. - 9:00 p.m.

Submit Written Comments to: James Pendowski, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by July 19, 1993.

Date of Intended Adoption: September 7, 1993.

June 1, 1993
Mary Riveland
Director

**Chapter 173-351 WAC
CRITERIA FOR MUNICIPAL SOLID WASTE
LANDFILLS**

NEW SECTION

WAC 173-351-010 Purpose, applicability and effective dates. (1) Purpose. The purpose of this regulation is to establish minimum state-wide standards for all municipal solid waste landfill (MSWLF) units under the authority of chapter 70.95 RCW as amended in order that jurisdictional health departments can enact ordinances equally as or more stringent than this regulation and to have jurisdictional health departments implement such ordinances through a permit system set forth in Section 700. It is also the purpose of this regulation to implement rule making by the Environmental Protection Agency (EPA) under the authority of subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended in 1984, and under the authority of Section 405(d) of the Clean Water Act as amended. The Clean Water Act required EPA "to establish standards for sewage sludge that is co-disposed with municipal solid waste." EPA satisfied both statutory requirements with the publication of 40 CFR Part 258-Criteria For Municipal Solid Waste Landfills on October 9, 1991. These minimum state-wide criteria ensure the protection of human health and the environment.

(2) Applicability.

(a) These criteria apply to new MSWLF units, existing MSWLF units, and lateral expansions, except as otherwise specifically provided in this regulation; all other solid waste disposal facilities and practices that are not regulated under subtitle C of RCRA and chapter 70.105 RCW are subject to the criteria contained in 40 CFR part 257, Criteria For Classification of Solid Waste Disposal Facilities, and/or chapter 173-304 WAC as amended.

Note: These rules do not apply to facilities that receive only inert and demolition waste, wood waste, industrial solid wastes, or other types of solid waste (other than household waste) disposed of in limited purpose landfills regulated in chapter 173-304 WAC, minimum functional standards for solid waste handling. Co-disposal of any solid waste with household waste is governed by these rules.

(b) These criteria do not apply to MSWLF units that do not receive waste on or after October 9, 1993. MSWLF units that stopped receiving waste prior to October 9, 1991, are subject to closure and post-closure rules under chapter 173-304 WAC, the Minimum Functional Standards for Solid Waste Handling. MSWLF units that received waste on and after October 9, 1991, but stop receiving waste prior to October 9, 1993:

(i) Are also subject to federal closure rules under 40 CFR part 258.60(a);

(ii) Will be subject to all the requirements of this regulation unless otherwise specified, if such MSWLF units fail to meet the federal closure rules under 40 CFR part 258.60(a) and the closure standards of chapter 173-304 WAC; except that jurisdictional health departments may grant extensions authorized by 40 CFR 258.60(f) and 258.60(g); and

(iii) Will be subject to the ground water monitoring and corrective action requirements of WA 173-351-400 and the

permitting requirements of WAC 173-351-700 if such MSWLF units are part of a multi-unit ground water monitoring system of WAC 173-351-450(4).

(c) All MSWLF units that receive waste on or after October 9, 1993 must comply with all requirements of this regulation unless otherwise specified.

(d) Small landfills.

(i) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions that dispose of less than twenty tons of municipal solid waste daily, based on an annual average, are exempt from WAC 173-351-300, Design criteria, and WAC 173-351-400, Ground water monitoring systems and corrective action, so long as there is no evidence of existing ground water contamination from the MSWLF unit, and the MSWLF unit serves:

(A) A community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility; or

(B) A community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to twenty-five inches (63.5 centimeters) of precipitation.

(ii) Owners or operators of new MSWLF units, existing MSWLF, and lateral expansions that meet the criteria in (d)(i)(A) or (B) of this subsection must demonstrate this in the application for a permit under WAC 173-351-700.

(iii) If the owner or operator of a new MSWLF unit, existing MSWLF unit, or lateral expansion has knowledge of ground water contamination resulting from the unit that has asserted the exemption in (d)(i)(A) or (B) of this subsection, the owner or operator must notify the jurisdictional health department and the department of such contamination and, thereafter, comply with WAC 173-351-300, Design criteria, and WAC 173-351-400, Ground water monitoring systems and corrective action.

(e) MSWLF units failing to satisfy these criteria are considered open dumps for purposes of state solid waste management planning under RCRA.

(f) MSWLF units failing to satisfy these criteria constitute open dumps, which are prohibited under section 4005 of RCRA.

(g) MSWLF units containing sewage sludge and failing to satisfy these criteria violate Sections 309 and 405(e) of the Federal Clean Water Act.

Note: All state codes standards, rules and regulations cited in this chapter are available by writing to the Department of Ecology, P.O. Box 4-7600, Olympia, Washington 98504-7600, or call 1-800-RECYCLE for the location of the nearest regional office of the department.

NEW SECTION

WAC 173-351-100 Definitions. Unless otherwise noted, all terms contained in this part are defined by their plain meaning. This section contains definitions for terms that appear throughout this regulation; additional definitions appear in the specific sections to which they apply.

"Active area" means that part of a facility that includes the active portion and portions of a facility that recycle, store, treat, or dispose of solid (including liquid) wastes. The active area includes leachate treatment facilities and runoff ponds. It excludes run-on ponds and on-site roads

which are used for any purpose; on-site roads are considered part of the buffer zone. See active portion and buffer zone definition below.

"Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities in accordance with WAC 173-351-500, Closure and post-closure care.

"Active portion" means that part of a facility or MSWLF unit that has received or is receiving wastes and that has not been closed in accordance with WAC 173-351-500, Closure and post-closure care.

"Airport." See WAC 173-351-130 (2)(d)(i).

"Areas susceptible to mass movement." See WAC 173-351-130 (7)(b)(iv).

"Arid" means locations in the state of Washington having less than twelve inches (30 centimeters) of precipitation annually.

"Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all requirements under chapter 70.95J RCW. Biosolids includes septic tank sludge, also known as septage, that can be beneficially recycled and meets all requirements of chapter 70.95J RCW.

"Bird hazard." See WAC 173-351-130 (2)(d)(ii).

"Buffer zone" means that part of a facility which lies between the active area and the property boundary.

"Closure" means those actions taken by the owner or operator of a MSWLF unit or facility to cease disposal operations and to ensure that a MSWLF unit or facility is closed in conformance with applicable regulations at the time of such closures and to prepare the site for the post-closure period. Closure is considered part of operation. See definition of operation.

"Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

"Composite layer." See WAC 173-351-500 (1)(i)(B).

"Composite liner." See WAC 173-351-300 (2)(a)(ii).

"Construction quality assurance" means a planned system of activities that provide assurance that a facility is constructed as specified in the design and that the materials used in construction are manufactured according to specifications. Construction quality assurance includes inspections, verifications, audits, and evaluations of materials and workmanship necessary to determine and document the quality of the constructed facility.

"Construction quality control" means a planned system of activities that is used to directly monitor and control the quality of a construction project. Construction quality controls are the measures under taken by the contractor or installer to determine compliance with requirements for workmanship and materials put forth in the plans and specification for the construction project.

"Contaminate" means to allow to discharge a substance into ground water that would cause:

The concentration of that substance in the ground water to exceed the maximum contamination level specified in chapter 173-200 WAC; or

A statistically significant increase in the concentration of that substance in the ground water where the existing

concentration of that substance exceeds the maximum contaminant level specified in chapter 173-200 WAC; or

A statistically significant increase above background in the concentration of a substance which:

Is not specified in chapter 173-200 WAC; and

Is present in the solid waste; and

Has been determined to present a substantial risk to human health or the environment in the concentrations found at the point of compliance by the jurisdictional health department in consultation with the department and the department of health.

"Dangerous wastes" means any solid waste designated as dangerous waste under chapter 173-303 WAC, the Dangerous waste regulations.

"Demolition waste" means solid waste, largely inert waste resulting from the demolition or razing of buildings, roads and other man-made structures.

"Demonstration" means a showing by the owner or operator that human health and the environment can be protected as equally as a given requirement in the regulation. A demonstration is made in the application for a permit under WAC 173-351-700. A successful demonstration allows or authorizes an activity authorized for the life of the facility unless an alternative time period is approved by the jurisdictional health department.

"Department" means the department of ecology.

"Disease vectors." See WAC 173-351-200 (3)(b).

"Displacement." See WAC 173-351-130 (5)(b)(ii).

"Disposal" or "deposition" means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

"Establish" means to construct a new or laterally expanded MSWLF unit.

"Existing MSWLF unit" means any municipal solid waste landfill unit that is receiving solid waste as of the effective date of this regulation. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good waste management practices, including operating plans approved under chapter 173-304 WAC. For the purposes of this rule, any existing horizontal expansion approved by the jurisdictional health department for which as-built plans documenting construction prior to October 9, 1993, have been prepared and submitted to the jurisdictional health department shall be considered an existing MSWLF unit.

"Fault." See WAC 173-351-130 (5)(b)(i).

"Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

"Floodplain." See WAC 173-351-130 (3)(b)(i).

"Free liquids." See WAC 173-351-200(9).

"Gas condensate." See WAC 173-351-200 (9)(c)(ii).

"Ground water" means water below the land surface in a zone of saturation.

"Holocene." See WAC 173-351-130 (5)(b)(iii).

"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including household hazardous waste) (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). This term

does not include commercial, industrial, inert and demolition waste, or wood waste.

Note: Sanitary waste in septic tanks that is not disposed of in a MSWLF unit is subject to other state and federal rules.

"Hydrostratigraphic unit" means any water-bearing geologic unit or units hydraulically connected or grouped together on the basis of similar hydraulic conductivity; several geologic formations or part of a geologic formation may be grouped into a single hydrostratigraphic unit; perched sand lenses may be considered a hydrostratigraphic unit or part of a hydrostratigraphic unit, for example.

Note: 'Hydraulically connected' denotes water-bearing units which can transmit water to other transmissive units.

"Inert waste" means noncombustible, nondangerous solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack and chemical attack from acidic rain water.

"Industrial solid wastes" means solid waste or waste by-products generated by manufacturing or industrial processes such as scraps, trimmings, packing, pallets, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC, the Dangerous waste regulations. This term does not include commercial, inert, demolition, construction, woodwaste, mining waste, or oil and gas waste but does include lunch room, office, or other similar waste generated by employees at the industrial facility.

"Jurisdictional health department" means city, county, city-county, or district public health department as defined in chapters 70.05, 70.08, and 70.46 RCW.

"Landfill." See "Facility."

"Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSWLF unit that is not an existing horizontal expansion. (See also definition of "existing MSWLF unit.")

"Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

"Lithified earth material." See WAC 173-351-200 (6)(b)(iii).

"Liquid waste." See WAC 173-351-200 (9)(c)(i).

"Lower explosive limit." See WAC 173-351-200 (4)(d).

"Maximum horizontal acceleration in lithified earth material." See WAC 173-351-200 (6)(b)(ii).

"Modification" means a substantial change in the design or operational plans including removal of a design element of a MSWLF unit previously set forth in a permit application or a disposal or processing activity that is not approved in the permit. To be considered a substantial change, a modification must be reasonably related to a specific requirement of this rule. Lateral expansions, a fifty percent increase or greater in design volume capacity or changes resulting in significant adverse environmental impacts that have lead a responsible official to issue a declaration of significance under WAC 197-11-736 shall not be considered a modification.

"Municipal solid waste landfill unit (MSWLF unit)" means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those

terms are defined under chapter 173-304 WAC, the Minimum functional standards for solid waste handling or chapter 173-218 WAC, Underground injection control program. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally-exempt small quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

"New MSWLF unit" means any municipal solid waste landfill unit that has not received waste prior to the effective date of this regulation.

"Nonarid" means locations in the state of Washington having equal to or more than twelve inches (30 centimeters) of precipitation annually.

"Nuisance" means unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

"100-year flood." See WAC 173-351-130 (3)(b)(ii).

"Open burning" means the combustion of solid waste without:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and

Control of the emission of the combustion products.

"Operator" means the person(s) responsible for the overall operation of a facility or part of a facility.

"Operation" means those actions taken by an owner or operator of a facility or MSWLF unit beginning with waste acceptance at a facility or MSWLF unit up to and including closure of the facility or MSWLF unit.

"Owner" means the person(s) who owns a facility or part of a facility.

"Point of compliance" means the point located on land owned by the owner of the MSWLF unit, and is no more than one hundred fifty meters (four hundred ninety-two feet) from the waste management unit boundary; see also WAC 173-351-300 (2)(c).

"Poor foundation conditions." See WAC 173-351-130 (7)(b)(ii).

"Post-closure" means those actions taken by an owner or operator of a facility or MSWLF unit after closure.

"Purchase" means execution of a long term lease, securing of options to purchase or execution of agreements to purchase.

"Qualified ground-water scientist." See WAC 173-351-400(2).

"Random inspection." See WAC 173-351-200 (1)(b)(ii).

"Regulated dangerous waste." See WAC 173-351-200 (1)(b)(i).

"Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"Saturated zone" means that part of the earth's crust in which all voids are filled with water.

"Seismic impact zone." See WAC 173-351-130 (6)(b)(i).

"Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Sole source aquifer." See WAC 173-351-140 (1)(b)(vii).

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to garbage, rubbish, ashes, industrial wastes, commercial waste, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities and recyclable materials.

"Structural components." See WAC 173-351-130 (7)(b)(ii).

"Unstable area." See WAC 173-351-130 (7)(b)(i).

"Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric, and the formation occurs above the zone of saturation.

"Waste management unit" means a MSWLF unit.

"Waste management unit boundary" means a vertical surface located at the hydraulically down gradient limit of the unit. This vertical surface extends down into the hydrostratigraphic unit(s) identified in the hydrogeologic report.

"Waters of the state" means lakes, rivers, ponds, streams, inland waters, underground waters, salt water, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

"Wetlands." See WAC 173-351-130 (4)(b).

"Woodwaste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps.

NEW SECTION

WAC 173-351-120 Consideration of other local, state, and federal laws. The owner or operator of a municipal solid waste landfill unit must comply with any other applicable federal, state, and local rules, laws, regulations, or other requirements.

Note: Except for 40 CFR Part 258.60(f) and 258.60(g) set forth in WAC 173-351-010 (2)(b)(ii), 40 CFR Part 258 is not an applicable federal rule for purposes of this section.

NEW SECTION

WAC 173-351-130 Location restrictions. (1) Applicability.

(a) On and after the effective date of this chapter, all MSWLF units shall meet the locational restrictions of this section unless otherwise specified.

(b) Existing MSWLF units that cannot make the demonstration specified in subsection (2)(a) of this section, pertaining to airports, subsection (3)(a) of this section, pertaining to floodplains, subsection (7)(a) of this section, pertaining to unstable areas, must close by October 9, 1996, and conduct post-closure in accordance with WAC 173-351-500, Closure and post-closure care.

(c) The deadline for closure required by (b) of this subsection may be extended up to two years if the owner or operator demonstrates to the jurisdictional health department during the permitting process of WAC 173-351-700 that:

(i) There is no available alternative disposal capacity; and

(ii) There is no immediate threat to human health and the environment.

Note: Owners or operators of MSWLFs should be aware that the state department of health has adopted a state wellhead protection program in accordance with section 1428 of the Safe Drinking Water Act. The state wellhead protection programs may impose additional requirements on owners or operators of MSWLF units than those set forth in chapter 173-351 WAC, Criteria for Municipal Solid Waste Landfills. Owners and operators should also be aware of locational restrictions which may exist through the process of designating and implementing Ground water Management Areas, under chapter 173-100 WAC, and through the Special Protection Areas of chapter 173-200 WAC.

(2) Airport safety.

(a) Owners or operators of new MSWLF units, existing MSWLF units, and/or lateral expansions that are located within ten thousand feet (three thousand forty-eight meters) of any airport runway end used by turbojet aircraft or within five thousand feet (one thousand twenty-four meters) of any airport runway end used by only piston-type aircraft must demonstrate that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft.

(b) Owners or operators proposing to site new MSWLF units and/or lateral expansions within a five-mile (eight kilometer) radius of any airport runway end used by turbojet or piston-type aircraft must notify the effected airport and the Federal Aviation Administration (FAA).

(c) The owner or operator must place the demonstration required by (a) of this subsection in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department.

(d) For purposes of this subsection:

(i) "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(ii) "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(3) Floodplains.

(a) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions located in 100-year floodplains must demonstrate that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department.

(b) For purposes of this subsection:

(i) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

(ii) "100-year flood" or "base flood" means a flood that has a one-percent or less chance of recurring in any given year or a flood of a magnitude equalled or exceeded once in one hundred years on the average over a significantly long period.

(iii) "Washout" means the carrying away of solid waste by waters of the base flood.

(4) Wetlands.

(a) New MSWLF units and lateral expansions shall not be located in wetlands, unless the owner or operator can make the following demonstrations during the permit process of WAC 173-351-700:

(i) The construction and operation of the MSWLF unit will not:

(A) Cause or contribute to violations of chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington and chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington;

(B) Violate any applicable toxic effluent standard or prohibition under Section 307 of the Federal Clean Water Act or chapter 173-220 WAC, the National Pollutant discharge elimination system permit program;

(C) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973; and

(D) Violate any requirement under the Federal Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

(ii) The MSWLF unit will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate during the permit process of WAC 173-351-700 the integrity of the MSWLF unit and its ability to protect ecological resources by addressing the following factors:

(A) Erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the MSWLF unit;

(B) Erosion, stability, and migration potential of dredged and fill materials used to support the MSWLF unit;

(C) The volume and chemical nature of the waste managed in the MSWLF unit;

(D) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) The potential effects of catastrophic release of solid waste to the wetland and the resulting impacts on the environment; and

(F) Any additional factors, as necessary, to demonstrate during the permit process of WAC 173-351-700 that ecological resources in the wetland are sufficiently protected.

(iii) Where applicable under Section 404 of the Federal Clean Water Act or applicable state wetlands laws and regulations (e.g. chapter 173-22 WAC, Adoption of designations of wetlands associated with shorelines of the state), the presumption that a practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;

(iv) To the extent required under Section 404 of the Federal Clean Water Act steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by:

(A) Avoiding impacts to wetlands to the maximum extent practicable as required by (a)(iii) of this subsection;

(B) Minimizing unavoidable impacts to the maximum extent practicable; and

(C) Finally offsetting remaining unavoidable wetlands impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration and maintenance of existing degraded wetlands or creation of man-made wetlands);

(v) Sufficient information is available to make a reasonable determination with respect to these demonstrations.

(b) For purposes of this subsection, "wetlands" means those areas that are defined in 40 CFR 232.2(r): Areas that are inundated or saturated by surface 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 include, but are not limited to, swamps, marshes, bogs, and similar areas.

(5) Fault areas.

(a) New MSWLF units and lateral expansions shall not be located within two hundred feet (sixty meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates during the permit process of WAC 173-351-700 that an alternative setback distance of less than two hundred feet (sixty meters) will prevent damage to the structural integrity of the MSWLF unit and will be protective of human health and the environment.

(b) For the purposes of this subsection:

(i) "Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

(6) Seismic impact zones.

(a) New MSWLF units and lateral expansions shall not be located in seismic impact zones, unless the owner or operator demonstrates during the permit process of WAC 173-351-700 to the jurisdictional health department that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department.

(b) For the purposes of this subsection:

(i) "Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in two hundred fifty years.

(ii) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal accelera-

tion depicted on a seismic hazard map, with a ninety percent or greater probability that the acceleration will not be exceeded in two hundred fifty years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

(iii) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(7) Unstable areas.

(a) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions located in an unstable area must demonstrate that engineering measures have been incorporated into the MSWLF unit's design to ensure that the integrity of the structural components of the MSWLF units will not be disrupted. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department. The owner or operator must consider the following factors, at a minimum, when determining whether an area is unstable:

(i) On-site or local soil conditions that may result in significant differential settling;

(ii) On-site or local geologic or geomorphologic features; and

(iii) On-site or local human-made features or events (both surface and subsurface).

(b) For purposes of this subsection:

(i) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, and areas susceptible to mass movements.

(ii) "Structural components" means liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the MSWLF that is necessary for protection of human health and the environment.

(iii) "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a MSWLF unit.

(iv) "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the MSWLF unit, because of natural or human-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

NEW SECTION

WAC 173-351-140 Other location restrictions. (1) Ground water.

(a) Liner separation. No new MSWLF unit or lateral expansion shall be located at a site where the bottom of the lowest liner is any less than ten feet (three meters) above the seasonal high level of ground water in any water bearing unit which is horizontally and vertically extensive, hydraulically recharged and volumetrically significant as to harm or endanger the integrity of the liner at any time, unless a demonstration during the permit process of WAC 173-351-700 can be made that a hydraulic gradient control system or the equivalent can be installed to control ground water fluctuations and maintain a five foot (1.5 meter) separation between the controlled seasonal high level of ground water in the identified water-bearing unit and the bottom of the lowest liner. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department.

This demonstration must include:

(i) A hydrogeologic report required in WAC 173-351-490 including a discussion showing the effects from subsoil settlement, changes in surrounding land uses affecting ground water levels, liner leakage or other impacts will not bring any hydrostratigraphic unit to within five feet (1.5 meters) of the bottom of the lowest liner during the active life, closure and post-closure of the MSWLF unit;

(ii) Any currently available ground/surface water quality data for aquifers, springs, or streams in direct hydrologic contact with landfill's active area;

(iii) Any ground water discharge will be protective of existing ground/surface water users or instream flow in direct hydrologic contact or continuity with the landfill's active area that could be adversely affected by the hydraulic gradient control;

(iv) Conceptual engineering drawings of the proposed MSWLF unit and discussion as to how the hydraulic gradient control system will not affect the structural integrity nor performance of the liner;

(v) Design specifications for the proposed ground and surface water monitoring systems; and

(vi) Preliminary engineering drawings of the hydraulic gradient control system (if applicable).

(b) Sole source aquifers. No new MSWLF unit or lateral expansion shall be located over a designated sole source aquifer unless the owner or operator can demonstrate during the permit process of WAC 173-351-700 that the sole source aquifer is not vulnerable to potential ground water contamination from the active area. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department. Such a vulnerability demonstration must include the submission of a hydrogeologic report as required in WAC 173-351-490 and additionally must meet the following performance criteria:

(i) Demonstrates the presence of confining units or other lithology that will prevent the migration of ground water contamination;

(ii) Addresses the fate and transport of contaminants, including interactions in the lithologic framework, hydrogeochemical facies, contaminant travel times;

(iii) Defines and summarizes the ground water budgets for the active area and the sole source aquifer including recharge and discharge areas and includes flow net diagrams;

(iv) Provides a contingency and ground water assessment plan for the immediate arrest of any ground water contamination and steps to assess the extent of contamination;

(v) Design specifications for the proposed ground and surface water monitoring systems;

(vi) Is prepared by a hydrogeologist or other professional ground water scientist in accordance with WAC 173-351-400(2); and

(vii) "Sole source aquifer" means an aquifer designated by the Environmental Protection Agency pursuant to Section 1424e of the Safe Drinking Water Act (PL 93-523).

(c) Drinking water supply wells. No new MSWLF unit or lateral expansion active area shall be located closer than one thousand feet (three hundred meters) to any drinking water supply well, in use and existing at the time of the purchase of the property containing the active area unless the owner or operator can demonstrate during the permit process of WAC 173-351-700 that the active area is no less than a ninety-day hydraulic travel time to the nearest down-gradient drinking water supply well in the first useable aquifer. The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department. Such a demonstration must include:

(i) A hydrogeologic report required in WAC 173-351-490; and the necessary calculations for showing compliance with the ninety-day travel time; the ninety-day travel time shall be based on the peak or full pumping capacity of installed nearby wells and include potentiometric surface maps showing well capture zones and radius of influence;

(ii) Any currently available ground/surface water quality data for aquifers, springs, or streams in direct hydrologic contact with landfill's active area;

(iii) The waste management unit boundaries at facility closure;

(iv) Design specifications for the proposed ground and surface water monitoring systems; and

(v) A statement that the demonstration has been prepared by a hydrogeologist or qualified ground water scientist in accordance with 173-351-400(2).

(2) Surface water. No new MSWLF unit or lateral expansion active area shall be located within two hundred feet (sixty-one meters) measured horizontally from the ordinary high water mark, of a shoreline of the state as defined in RCW 90.58.030 (which includes some wetlands associated with waters of the state), nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 246-290-450.

See also wetlands in WAC 173-351-130(4). Local wetlands protection ordinances should be consulted to determine if greater setbacks are required.

(3) Land use. No new MSWLF unit or lateral expansion shall be located:

(a) In areas designated by the United States Fish and Wildlife Service or the department of wildlife as critical habitat for endangered or threatened species of plants, fish, or wildlife;

(b) So that the active area is any closer than one hundred feet (thirty meters) to the facility property line for land zoned as nonresidential or for unzoned lands, except that the active area shall be no closer than two hundred fifty feet (seventy-six meters) to the property line of adjacent land zoned as residential, existing at the time of the purchase of the property containing the active area.

(c) So as to be at variance with any locally-adopted land use plan or zoning requirement unless otherwise provided by local law or ordinance; and

(d) So that the active area is any closer than one thousand feet (three hundred meters) to any state or national park.

(4) Toxic air emissions. See WAC 173-351-200 (5)(a).

(5) Cover material. See WAC 173-351-200 (2)(a).

(6) Capacity. See WAC 173-351-010 (2)(d).

(7) Climatic factors. See WAC 173-351-300 (2)(b) for climatic factors.

(8) Natural soils. See WAC 173-351-300(2) for soil liner standards.

NEW SECTION

WAC 173-351-200 Operating criteria. (1) Procedures for excluding the receipt of dangerous waste.

(a) Owners or operators of all MSWLF units must implement a program at the facility for detecting and preventing the disposal of regulated dangerous wastes including polychlorinated biphenyls (PCB) waste as defined in chapter 173-303 WAC, the Dangerous waste regulations. This program must include, at a minimum:

(i) Random inspections of incoming loads unless the owner or operator takes other steps (for example, instituting source controls and restricting the type of waste received) to ensure that incoming loads do not contain regulated dangerous waste or PCB wastes;

(ii) Records of any inspections;

(iii) Training of facility personnel to recognize regulated dangerous waste and PCB wastes; and

(iv) Immediate notification of the department and the jurisdictional health department if a regulated dangerous waste or PCB waste is discovered at the facility.

(b) For purposes of this subsection:

(i) "Regulated dangerous waste" means a solid waste that is a dangerous waste as defined in WAC 173-303-070, Designation of dangerous waste, including asbestos not managed in accordance to 40 CFR Part 61, that is not excluded from regulation as a dangerous waste under WAC 173-303-071 or was not generated by an exempted small quantity generator as defined in WAC 173-303-070; and

(ii) "Random inspection" means:

(A) Discharging a random waste load onto a suitable surface. A suitable surface shall be chosen to avoid interference with operations so that sorted waste can be distinguished from other loads of uninspected waste, so as to avoid litter and to contain runoff;

(B) Viewing the contents prior to actual disposal of the waste; and

(C) Allowing the facility owner or operator to return excluded wastes to the hauler, arrange for disposal of excluded wastes at a facility permitted to manage dangerous waste, or take other measures to prevent disposal of the excluded wastes at the facility.

(2) Cover material requirements.

(a) Except as provided in (b) of this subsection, the owners or operators of all MSWLF units must cover disposed solid waste with six inches (fifteen centimeters) of earthen material, i.e., soils, at the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging.

(b) Alternative materials of an alternative thickness other than at least six inches (15 centimeters) of earthen material may be approved by the jurisdictional health department if the owner or operator demonstrates during the permit process of WAC 173-351-700 that the alternative material and thickness control disease vectors, fires, odors, blowing litter, provides adequate access for heavy vehicles, will not adversely affect gas or leachate composition and controls and scavenging without presenting a threat to human health and the environment.

(c) The jurisdictional health department may grant a temporary waiver not to exceed three months from the requirement of (a) and (b) of this subsection if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical.

(3) Disease vector control.

(a) Owners or operators of all MSWLF units must prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment.

(b) For purposes of this subsection, "disease vectors" means any rodents, flies, mosquitoes, or other animals, including insects, capable of transmitting disease to humans.

(4) Explosive gases control.

(a) Owners or operators of all MSWLF units must ensure that:

(i) The concentration of methane gas generated by the facility does not exceed twenty-five percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components);

(ii) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary or beyond; and

(iii) The concentration of methane gases does not exceed one hundred parts per million by volume of methane in off-site structures.

(b) Owners or operators of all MSWLF units must implement a routine methane monitoring program to ensure that the standards of (a)(i) and (ii) of this subsection are met.

(i) The type and frequency of monitoring must be determined based on the following factors:

(A) Soil conditions;

(B) The hydrogeologic conditions surrounding the facility;

(C) The hydraulic conditions surrounding the facility; and

(D) The location of facility structures and property boundaries.

(ii) The minimum frequency of monitoring shall be quarterly.

Note: All gas monitoring wells shall be constructed and decommissioned to ensure protection of the ground water and to prevent ground water contamination and follow the requirements of chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

(c) If methane gas levels exceeding the limits specified in subsection (4)(a)(i) or (ii) of this section are detected, the owner or operator must:

(i) Immediately take all necessary steps to ensure protection of human health including:

(A) Notifying the jurisdictional health department;

(B) Where subsection (4)(a)(ii) of this section is exceeded, monitoring of off-site structures for compliance with subsection (4)(a)(iii) of this section;

(C) Daily monitoring of methane gas levels unless otherwise authorized by the jurisdictional health department; and

(D) Evacuation of buildings affected by landfill gas shall be determined by the jurisdictional health department and fire department.

(ii) Within seven calendar days of detection, place in the operating record, the methane gas levels detected and a description of the steps taken to protect human health; and

(iii) Within sixty days of detection, implement a remediation plan for the methane gas releases, place a copy of the plan in the operating record, and notify the jurisdictional health department that the plan has been implemented. The plan shall describe the nature and extent of the problem and the remedy.

(iv) The jurisdictional health department may establish alternative schedules for demonstrating compliance with (c)(ii) and (iii) of this subsection.

(d) For purposes of this subsection, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at twenty-five degrees C and atmospheric pressure.

(5) Air criteria.

(a) Owners or operators of all MSWLF units must ensure that the units not violate any applicable requirements developed under the Washington state implementation plan approved or promulgated by the Federal Environmental Protection Agency pursuant to Section 110 of the Federal Clean Air Act, as amended.

(b) Open burning of solid waste is prohibited at all MSWLF units, except: For the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees or debris from emergency cleanup operations, provided that such open burning is not inconsistent with policies, regulations, and permits administered by the jurisdictional air pollution control agency or the department under the Washington Clean Air Act, chapter 70.94 RCW. Household waste shall not be open burned.

(6) Access requirements. Owners or operators of all MSWLF units must control public access and prevent unauthorized vehicular traffic, illegal dumping of wastes, and controls to keep animals out by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate shall be required at each entry to the facility.

(7) Run-on/run-off control systems.

(a) Owners or operators of all MSWLF units must design, construct, and maintain:

(i) A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a twenty-five year storm;

(ii) A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a twenty-four hour, twenty-five year storm.

(b) Run-off from the active portion of the landfill unit must be handled in accordance with WAC 173-351-200(8).

(8) Surface water requirements. MSWLF units shall not:

(a) Cause a discharge of pollutants into waters of the state, including wetlands, that violates any requirements of chapter 90.48 RCW, Water pollution control, including, but not limited to, chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, chapter 173-220 RCW, the National pollutant discharge elimination system permit program and chapter 173-216 WAC, State waste discharge permit program.

(b) Cause the discharge of a nonpoint source of pollution to waters of the state, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under Section 208 or 319 of the Federal Clean Water Act, as amended.

(9) Liquids restrictions.

(a) Bulk or noncontainerized liquid waste may not be placed in MSWLF units unless:

(i) The waste is household waste other than septic waste; or

(ii) The waste is leachate or gas condensate derived from the MSWLF unit, or water added in a controlled fashion and necessary for enhancing decomposition of solid waste, as approved during the permitting process of WAC 173-351-700, whether it is a new or existing MSWLF, or lateral expansion and the MSWLF unit:

(A) Is designed with a leachate collection system and composite liner as described in WAC 173-351-300 (2)(a)(i) and (ii) or (iii); and

(B) Is not accepting leachate, condensate or water resulting from an emergency in disposing of such liquids.

The owner or operator must place the demonstration in the application for a permit under WAC 173-351-700 and be issued a solid waste permit by the jurisdictional health department.

Note: Condensate and leachate are subject to designation to determine whether either is a dangerous waste under chapter 173-303 WAC.

(b) Containers holding liquid waste may not be placed in a MSWLF unit unless:

(i) The container is a small container similar in size to that normally found in household waste;

(ii) The container is designed to hold liquids for use other than storage; or

(iii) The waste is household waste.

(c) For purposes of this subsection:

(i) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," SW-846.

(ii) "Gas condensate" means the liquid generated as a result of gas recovery processes at the MSWLF unit.

(10) Recordkeeping requirements.

(a) The owner or operator of a MSWLF unit must record and retain the required information as it becomes available. The operating record must be retained at or near the facility in an operating record or in an alternative location approved by the jurisdictional health department during the permitting process of WAC 173-351-700. The required information includes:

(i) Copies of all initial, renewal, reissued and modified permit applications including all demonstrations, and issued permits;

(ii) Inspection records, training procedures, and notification procedures required in subsection (1) of this section, Procedures for excluding the receipt of hazardous waste, and inspection documents associated with the plan of operation, WAC 173-351-210 (1)(b).

(iii) Gas monitoring results from monitoring and any remediation plans required by WAC 173-351-200(4);

(iv) Any demonstration, certification, declaration of construction, finding, monitoring, testing, or analytical data as required by WAC 173-351-400 (Ground water monitoring systems and corrective action);

(v) Major deviations from the plan of operation required in WAC 173-351-210; and

(vi) Daily records of weights or volumes of solid waste and, if available, types of waste received at the facility.

(b) The owner or operator must notify the jurisdictional health department when the documents from (a) of this subsection have been placed in or added to the operating record, unless:

(i) Such documents have been made a part of a permit application under this regulation;

(ii) Notification occurs under the renewal application requirements of WAC 173-351-730 (3)(b)(iv); or

(iii) The documents are daily records of weights or volumes specified in WAC 173-351-200 (10)(a)(vi).

(c) The jurisdictional health department can set alternative schedules during the permitting process of WAC 173-351-700 for recordkeeping and notification requirements as specified in (a) and (b) of this subsection, except for the notification requirements in WAC 173-351-130 (2)(b), the Federal Aviation Administration and in WAC 173-351-440 (6)(c), notification of land owners under assessment monitoring.

(d) All information contained in the operating record must be furnished upon request to the jurisdictional health department or be made available at all reasonable times for inspection by the jurisdictional health department and the department.

(11) Annual reports. Each owner or operator shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1 of each year. The annual report shall:

(a) Include information on facility activities during the previous year;

(b) Be on forms supplied by the department; and

(c) Include the following information:

(i) Facility location;

(ii) Facility contact;

(iii) Operational and/or post-closure information;

- (iv) Permit status;
- (v) Compliance information;
- (vi) Facility capacity information;
- (vii) Information on ground water monitoring as required in WAC 173-351-415(1).
- (viii) Information on violation of ambient standards for surface water and explosive gases whose monitoring is required by chapter 173-351 WAC or performed as part of the permit issued under WAC 173-351-700; and
- (ix) Other information as required.

NEW SECTION

WAC 173-351-210 Plan of operation. Each owner or operator shall develop, keep, and abide by a plan of operation approved as part of the permitting process in WAC 173-351-700. The plan of operation shall describe the facilities' operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health officer. The facility must be operated in accordance with the plan of operation or the plan must be so modified with the approval of the jurisdictional health department.

Each plan of operation shall include:

- (1) How solid wastes are to be handled on-site during its active life including transportation, routine filling, grading, cover, and housekeeping;
- (2) How inspections are conducted and their frequency;
- (3) Actions to take if there is a fire or explosion;
- (4) Actions to take for sudden releases (e.g., failure of run-off containment system);
- (5) How equipment such as leachate collection and gas collection equipment are to be operated and maintained;
- (6) A safety plan or procedure; and
- (7) Other such details as required by the jurisdictional health department.

NEW SECTION

WAC 173-351-220 Additional operating criteria. All owners or operators of MSWLF units shall operate the facility so as to:

- (1) Control road dust;

Note: Operators should carefully select dust suppressants approved by the jurisdictional health departments that do not pose a threat to surface or ground water quality.

- (2) Collect scattered litter as necessary to prevent vector harborage, a fire hazard, an aesthetic nuisance, or adversely affect wildlife or its habitat;
- (3) Prohibit scavenging;
- (4) Landfill personnel. All landfills shall:
 - (a) Ensure that at least two landfill personnel are on-site with one person at the active portion when the site is open to the public for landfills with a permitted capacity of greater than fifty thousand cubic yards per year; and
 - (b) Comply with the certification requirements of chapter 173-300 WAC, Certification of operators of solid waste incinerator and landfill facilities.

Note: The definition of operators in chapter 173-300 WAC is not the same as the definition of operator in this rule.

(5) Ensure that reserve operational equipment shall be available to maintain and meet these standards;

(6) Clearly mark the active area boundaries authorized in the permit, with permanent posts or using equivalent method clearly visible for inspection purposes;

(7) Thoroughly compact the solid waste before succeeding layers are added except for the first lift over a liner;

(8) Maintain the monitoring system required in WAC 173-351-400, Ground water monitoring systems and corrective action, WAC 173-351-200(4), explosive gas monitoring of this regulation and any other monitoring specified in the permit issued in WAC 173-351-700.

(9) Require recycling.

(a) All owners and operators shall provide the opportunity for the general public to conveniently recycle cans, bottles, paper, and other material brought to the landfill site and for which a market exists or as required according to the most recently adopted county comprehensive solid waste management plan:

- (i) During the normal hours of operation; and
- (ii) In facilities convenient to the public (i.e., near entrance to the gate).

(b) Owners or operators shall conduct recycling activities in an orderly, sanitary manner and in a way that does not interfere with MSWLF operations.

(c) Owners or operators may demonstrate during the permit process of WAC 173-351-700 alternative means to providing an opportunity to the general public to recycle household solid waste including other conveniently located facilities which offer recycling opportunities.

(10) Prohibiting disposal of sewage sludge or biosolids in MSWLF units.

(a) The disposal of sewage sludge or biosolids or any material containing sewage sludge or biosolids and which is not a liquid as defined in this rule in a MSWLF unit is prohibited unless such disposal is specifically approved as part of a valid NPDES permit, or a valid permit issued in accordance with 40 CFR Part 503 or chapter 70.95J RCW.

(b) Notwithstanding WAC 173-351-200 (10)(a), the jurisdictional health department may allow disposal of sewage sludge or biosolids in a landfill if an emergency situation exists and other management options are unavailable or would pose a threat to human health or the environment.

(c) Upon determination that an emergency situation exists, the jurisdictional health department shall notify the department in writing, of its findings and basis for its determination. In its notification, the jurisdictional health department shall state the date on which disposal is approved to commence, any conditions and the date after which continued disposal shall be prohibited.

(d) For the purposes of this regulation, the use of sewage sludge or biosolids or any material containing sewage sludge or biosolids, which is subject to regulation under 40 CFR Part 503 and or chapter 70.95J RCW, as daily cover or as an amendment to daily cover shall be considered disposal.

(11) Disposal of dangerous waste prohibited. Owners or operators of landfills shall not knowingly dispose, treat, store, or otherwise handle dangerous waste unless the requirements of the Dangerous waste regulation, chapter 173-303 WAC are met.

(12) Jurisdictional health department inspection of activities. In accordance with RCW 70.95.190, employees of the jurisdictional health department or their agents may enter upon, inspect, sample, and move freely about the premises of any MSWLF, after presentation of credentials.

NEW SECTION

WAC 173-351-300 Design criteria. (1) Applicability. Existing MSWLF units are not subject to this section. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management, including operating plans approved under chapter 173-304 WAC.

(2) New MSWLF units and lateral expansions shall be constructed:

(a) For nonarid landfills, in accordance with a standard design as follows:

(i) A composite liner as defined in (a)(ii) of this subsection and a leachate collection system that is designed and constructed to maintain less than a 1 foot (30 cm) depth of leachate over the liner.

Note: Leachate head in leachate pump sump areas, only, shall not be allowed to exceed two feet (60 cm).

(ii) For purpose of this section, "composite liner" means a system consisting of two components; the upper component must consist of a minimum of 60 mil thickness high density polyethylene (HDPE) geomembrane. The lower component must consist of at least a two-foot (60 cm) layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. The geomembrane must be installed in direct and uniform contact with the compacted soil component. Thinner geomembranes of other than high density polyethylene may be used provided that a demonstration can be made that the alternative has equivalent mechanical strength under conditions of construction and use. Minimum thickness of geomembranes other than high density polyethylene shall be 30 mils.

(iii) Equivalent liner designs and liner materials may be used provided a demonstration during the permitting process of WAC 173-351-700 can be made that the liner is equivalent to the composite liner design:

(A) With respect to hydraulic effectiveness as shown by the use of the hydraulic evaluation of landfill performance (HELP) model or other approved models or methods;

(B) With respect to mechanical strength;

(C) With respect to chemical resistance;

(D) With respect to potential physical damage during construction and operation;

(E) With respect to attenuative capacity; and

(F) And other factors identified by the jurisdictional health department and the department on a case-by-case basis.

(b) For arid landfills, in accordance with a design that ensures that the maximum contaminant levels listed in Table 1 of this section will not be exceeded in the hydrostratigraphic unit(s) identified in the hydrogeologic characterization/report at the relevant point of compliance as specified during the permitting process in WAC 173-351-700. When approving a design that complies with the arid landfill design of (b) of this subsection, the jurisdictional

health department shall consider at least the following factors:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The climatic factors of the area; and

(iii) The volume, physical and chemical characteristics of the leachate.

Note: When determining the need for a liner in arid settings and its ability to meet the performance standard of this section, considering (b)(i), (ii), and (iii) of this subsection, the owner or operator may use:

(A) Existing information such as vadose zone, ground water monitoring, or leachate characterization that has previously been conducted at the facility;

(B) Contaminant transport modeling in accordance with the requirements of WAC 173-351-480; and/or

(C) Other information determined as appropriate and relevant by the jurisdictional health department.

(c) The relevant point of compliance approved during the permitting process in WAC 173-351-700, shall be no more than one hundred fifty meters (four hundred ninety-two feet) from the waste management unit boundary and shall be located on land owned by the owner of the MSWLF unit. In approving the relevant point of compliance the jurisdictional health department shall consider at least the following factors:

(i) The hydrogeologic characteristics of the facility and surrounding land;

(ii) The volume, and physical/chemical characteristics of the leachate;

(iii) The quantity and quality, and direction, of flow of ground water;

(iv) The proximity and withdrawal rate of the ground water users;

(v) The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking water;

(vi) Public health, safety, and welfare effects; and

(vii) Practical capability of the owner or operator.

TABLE 1

CHEMICAL	Maximum Contaminant Levels (MCL (mg/l))
ARSENIC	0.00005
BARIUM	1.0
BENZENE	0.001
CADMIUM	0.01
CARBON TETRACHLORIDE	0.0003
CHROMIUM (HEXAVALENT)	0.05
2,4-DICHLOROPHENOXY ACETIC ACID	0.1
1,4-DICHLOROENZENE	0.004
1,2-DICHLOROETHANE	0.0005
1,1 DICHLOROETHYLENE	0.007
ENDRIN	0.0002
FLUORIDE	4
LINDANE	0.00006
LEAD	0.05
MERCURY	0.002
METHOXYCHLOR	0.1
NITRATE	10
SELENIUM	0.01

SILVER	0.05
TOXAPHENE	0.00008
1,1,1-TRICHLOROETHANE	0.20
TRICHLOROETHYLENE	0.003
2,4,5-TRICHLOROPHOENOXY ACETIC ACID	0.01
VINYL CHLORIDE	0.00002

NEW SECTION

WAC 173-351-400 Ground water monitoring systems and corrective action. (1) Applicability.

(a) The requirements of WAC 173-351-400 through WAC 173-351-490 apply to MSWLF units whose owners and operators are required to perform ground water monitoring under chapter 173-351 WAC.

(b) Owners and operators of MSWLF units must comply with the ground water monitoring requirements of this regulation according to the following schedule:

(i) Existing MSWLF units and lateral expansions less than one mile (1.6 kilometers) from a drinking water intake (surface or subsurface) must be in compliance with the ground water monitoring requirements specified in WAC 173-351-400 through 173-351-450, and 173-351-490 by October 9, 1994;

Note: A drinking water intake is any surface water or ground water intake that is used for the purposes of drinking water i.e., water supply wells.

(ii) Existing MSWLF units and lateral expansions greater than one mile (1.6 kilometers) from a drinking water intake (surface or subsurface) must be in compliance with the ground water monitoring requirements specified in WAC 173-351-400 through 173-351-450, and 173-351-490 by October 9, 1995;

(iii) New MSWLF and lateral expansions units must be in compliance with the ground water monitoring requirements specified in WAC 173-351-400 through 173-351-450, and 173-351-490 before waste can be placed in the MSWLF unit.

(c) Existing MSWLF units and lateral expansions with ground water contamination as defined under WAC 173-304-100 and chapter 173-200 WAC must begin an assessment ground water monitoring program under WAC 173-351-440 by October 9, 1994.

(d) Interim ground water monitoring programs. Prior to the compliance schedules in (b) of this subsection, all existing MSWLF units and lateral expansions must either:

- (i) Continue to monitor under WAC 173-304-490; or
- (ii) Begin to monitor under this section.

(e) All MSWLF units closed in accordance with chapter 173-304 WAC must continue to monitor ground water in accordance with chapter 173-304 WAC.

(2) Personnel qualifications. For the purposes of this regulation, a "qualified ground water scientist" must be a hydrogeologist, geologist, engineer, or other scientist who meets all of the following criteria:

(a) Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and

(b) Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding

ground water monitoring, contaminant fate and transport, and corrective action.

(3) A qualified ground water scientist is required to prepare the following reports, demonstrations and information:

(a) The hydrogeologic report(s) of WAC 173-351-490;

(b) The ground water monitoring program(s) including the ground water monitoring system design and well placement of WAC 173-351-405; the ground water sampling and analysis plan of WAC 173-351-410; the detection monitoring program(s) of WAC 173-351-430; and the assessment monitoring program(s) of WAC 173-351-440;

(c) Any demonstration(s) under WAC 173-351-430 (4)(c) or 173-351-440 (6)(e), or 173-351-140(1);

(d) Any modification(s) proposals/requests to the approved ground water monitoring program in accordance with WAC 173-351-450; and

(e) Any ground water modeling demonstrations made under WAC 173-351-480.

Note: A hydrogeologist or other qualified ground water scientist is **NOT** required for the actual ground water sampling.

NEW SECTION

WAC 173-351-405 Performance standards for ground water monitoring system designs. Ground water monitoring well placement.

The ground water monitoring system design shall meet the following performance criteria:

(1) A sufficient number of wells must be installed at appropriate locations and depths to yield representative ground water samples from those hydrostratigraphic units which have been identified as the earliest target hydraulic pathways and conduits of flow for ground water movement, storage, and ground water contamination.

(2) The number, spacing, and depths of monitoring wells must be based on the site characteristics including the area of the MSWLF unit and the hydrogeological characterization of WAC 173-351-490, and requires a demonstration based on all of the following information:

(a) A ground water flow path analysis which supports why the chosen hydrostratigraphic unit best serves the installation of a detection or assessment ground water monitoring well system capable of providing early warning detection of any ground water contamination.

(b) Documentation and calculations of all of the following information:

(i) Hydrostratigraphic unit thicknesses including confining units and transmissive units;

(ii) Vertical and horizontal ground water flow directions including seasonal, man-made, or other short term fluctuations in ground water flow;

(iii) Stratigraphy and lithology;

(iv) Hydraulic conductivity; and

(v) Porosity and effective porosity.

(3) Hydraulically placed upgradient wells (background wells) must meet the following performance criteria:

(a) Must be installed in ground water that has not been affected by leakage from a MSWLF unit; or

(b) If hydrogeologic conditions do not allow for the determination of a hydraulically placed upgradient well then

sampling at other monitoring wells which provide representative background ground water quality may be allowed; and

(4) Hydraulically placed down-gradient wells (compliance wells) must meet the following performance criteria:

(a) Represent the quality of ground water passing the relevant point of compliance specified by the jurisdictional health department. The downgradient monitoring system must be installed at the relevant point of compliance specified by the jurisdictional health department during the permitting process of WAC 173-351-700. Additional wells may be required by the jurisdictional health department based upon areal extent of the MSWLF unit, complex hydrogeologic settings or to define the extent of contamination under WAC 173-351-440 and 173-351-450.

(b) When physical obstacles preclude installation of ground water monitoring wells at the relevant point of compliance at existing units, the downgradient monitoring system may be installed at the closest practicable distance hydraulically down gradient from the relevant point of compliance that ensures detection of ground water contamination in the chosen hydrostratigraphic unit.

(5) All monitoring wells must be cased in a manner that maintains the integrity of the bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of samples. The annular space between the bore hole and well casing above the sampling depth must be sealed to prevent contamination of samples and ground water. All wells must be constructed in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of water wells and chapter 173-162 WAC, Regulation and licensing of well contractors and operators. All wells must be clearly labeled, capped, and locked.

(6) The owner or operator must apply for a permit modification under WAC 173-351-720(5) or must apply during the renewal process of WAC 173-351-720 (1)(i), for any proposed changes to the design, installation, development, and decommission of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices. Upon completing changes, all documentation, including date of change, new well location maps, boring logs, and well diagrams must be submitted to the jurisdictional health department and must be placed in the operating record of WAC 173-351-200(10).

(7) All monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(8) The ground water monitoring system and hydrogeologic report including any changes to the ground water monitoring system shall be prepared by a hydrogeologist or other qualified ground water scientist and include a statement of personnel qualifications.

(9) The prepared ground water monitoring system design and hydrogeologic report must be made a part of the permit application in accordance with WAC 173-351-730 (1)(b)(iii).

NEW SECTION

WAC 173-351-410 Ground water sampling and analysis requirements. (1) The ground water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of ground water quality at the background and downgradient wells installed in compliance with WAC 173-351-400 and with this section. The owner or operator must submit the sampling and analysis program documentation as a part of the permit application in accordance with WAC 173-351-730 (1)(b)(iii). The program must include procedures and techniques for:

- (a) Sample collection and handling;
- (b) Sample preservation and shipment;
- (c) Analytical procedures;
- (d) Chain-of-custody control;
- (e) Quality assurance and quality control;
- (f) Decontamination of drilling and sampling equipment;
- (g) Procedures to ensure employee health and safety during well installation and monitoring; and
- (h) Well operation and maintenance procedures.

(2) The ground water monitoring program must include sampling and analytical methods that are appropriate for ground water sampling and that accurately measure hazardous constituents and other monitoring parameters in ground water samples or reflect an acceptable practical quantitation limit (PQL). Ground water samples shall not be field-filtered for organic constituents prior to laboratory analysis. All analyses must be sent to an accredited laboratory in accordance with chapter 173-50 WAC, Accreditation of environmental laboratories.

(3) Ground water elevations must be measured in each well immediately prior to purging, each time ground water is sampled. The owner or operator must determine the rate and direction of ground water flow each time ground water is sampled. Ground water elevations in wells which monitor the same MSWLF unit must be measured within a period of time short enough to avoid any ground water fluctuations which could preclude the accurate determination of ground water flow rate and direction. All ground water elevations must be determined:

(a) By a method that ensures measurement to the 0.01 (one/one hundredth) of a foot (3mm) relative to the top of the well casing; and

(b) The orthometric elevation of the top of the well casing is related to a vertical benchmark based on the national geodetic vertical datum of 1929 (NGVD 29) and be established to 3rd order classification standards per federal geodetic control committee, or its successor, as specified in WAC 332-130-060.

(4) The owner or operator must establish background ground water quality in hydraulically placed upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular ground water monitoring program that applies to the MSWLF unit, as determined under this section. Background ground water quality may be established at wells that are not located hydraulically upgradient from the MSWLF unit if it meets the requirements of WAC 173-351-400 through 173-351-490.

(5) The number of samples collected to establish water quality data must be consistent with the appropriate statisti-

cal procedures determined pursuant to WAC 173-351-420. The sampling procedures shall be those specified under WAC 173-351-430 for detection monitoring, WAC 173-351-440 for assessment monitoring, and WAC 173-351-440(6) for corrective action.

NEW SECTION

WAC 173-351-415 Ground water reporting. (1) The annual report shall be included with the facility annual report as required in WAC 173-351-200(11) and shall be on forms developed by the department which will request the following information:

(a) A brief summary of statistical results and/or any statistical trends including any findings of any statistical increases for the year;

(b) A brief summary of ground water flow rate and direction for the year, noting any trends or changes;

(c) A xerox copy of all potentiometric surface maps developed for each quarter or approved semi-annual period; and

(d) A summary geochemical evaluation noting any changes or trends in the cation-anion balances, Trilinear diagrams and general water chemistry for each well.

(2) A quarterly ground water report shall be submitted to the jurisdictional health department and the department no later than sixty days after the receipt of the quarterly analytical data and shall include all of the following:

(a) All ground water monitoring data for the sampling period;

(b) All statistical calculations and summaries;

(c) Notification of any statistical increase and concentrations above MCL's;

(d) Static water level readings for each monitoring well for each sampling event;

(e) Potentiometric surface elevation maps depicting ground water flow rate and direction;

(f) Cation-anion balances and Trilinear diagrams; and

(g) Leachate analyses.

NEW SECTION

WAC 173-351-420 Statistical methods for ground water monitoring. (1) The owner or operator must calculate and evaluate all of the following statistics using background ground water quality data:

(a) The background mean;

(b) The background variance;

(c) The standard deviation of the background data;

(d) The coefficient of variation of the background data;

(e) The standard error of the background data; and

(f) Other statistics testing for homogeneity of variance and the normality of the background data.

(2) The owner or operator must specify in the permit application in accordance with WAC 173-351-730 (1)(b)(iii) one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent. The statistical test chosen shall be conducted separately for each hazardous constituent in each well. The statistical methods to be used are:

(a) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each

constituent in each compliance well is compared to the upper tolerance or prediction limit;

(b) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(c) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(d) A control chart approach that gives control limits for each constituent; or

(e) Another statistical test method that meets the performance standards of this section. The owner or operator must place a justification for this alternative in the permit application in accordance with WAC 173-351-730 (1)(b)(iii). The justification must demonstrate that the alternative method meets the performance standards of this section.

(3) Any statistical method chosen under this section shall comply with the following performance standards, as appropriate:

(a) The statistical method used to evaluate ground water monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data must be evaluated to determine if nonnormal conditions are due to laboratory or sampling error, poor well construction, seasonal or spatial variability, or actual site conditions. Transformed or a distribution-free theory test may be used, upon a determination of why nonnormal conditions exist. If the distributions for the constituents differ, more than one statistical method may be needed.

(b) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparison procedure is used, the Type I experiment wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(c) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(d) If a tolerance interval or a predictional interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters

shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(e) The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(f) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(4) The owner or operator must determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular ground water monitoring program that applies to the MSWLF unit after each sampling event and as determined under this section.

(a) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality of each parameter or constituent at each monitoring well designated pursuant to WAC 173-351-430 or 173-351-440 to the background value of that constituent, according to the statistical procedures and performance standards specified under this section.

(b) Within thirty days after receipt of the analytical data, the owner or operator must determine whether there has been a statistically significant increase over background at each monitoring well (at all hydraulically placed upgradient and downgradient wells).

NEW SECTION

WAC 173-351-430 Detection monitoring program.

(1) Detection monitoring is required at MSWLF units at all ground water monitoring wells defined under WAC 173-351-405. At a minimum, a detection monitoring program must include the monitoring for the constituents listed in Appendix I and II of this regulation.

(2) Background data development.

(a) A minimum of eight independent samples shall be collected for each well (background and downgradient) and must be collected and analyzed for the Appendix I constituents for the first year of ground water monitoring.

(b) Each independent sampling event shall be no less than one month apart from the previous independent sampling event.

(c) Sampling for Appendix II parameters shall be done quarterly.

(d) MSWLF units which have previously developed background for those constituents listed in Appendix I will be waived from (a) of this subsection on a parameter by parameter basis providing all performance criteria of WAC 173-351-400 are met.

(3) Foreground data development. The monitoring frequency for all constituents listed in Appendix I and II shall be quarterly during the active life of the MSWLF unit including closure and the post-closure period and begins

after the first year of background data development, for all monitoring wells (upgradient and downgradient).

Note: Foreground denotes the period of time following the development of the background data set, for all monitoring wells (upgradient and downgradient).

(4) If the owner or operator determines, pursuant to WAC 173-351-420, that there is a statistically significant increase over background for one or more of the constituents listed in Appendix I, at any monitoring well at the boundary specified under WAC 173-351-405, the owner or operator:

(a) Must, within fourteen days of this finding, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels, and send the same notice to the jurisdictional health department and the department;

(b) Must establish an assessment monitoring program meeting the requirements of WAC-173-351-440 within ninety days except as provided for in (c) of this subsection;

(c) May demonstrate that a source other than a MSWLF unit caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be prepared by a hydrogeologist or other qualified ground water scientist and approved by the jurisdictional health department and be placed in the operating record. If a successful demonstration is made and documented, the owner or operator may continue detection monitoring as specified in this section. If, after ninety days, a successful demonstration is not made, the owner or operator must initiate an assessment monitoring program as required in WAC 173-351-440; and

(d) Must submit the assessment monitoring program to the jurisdictional health department at the end of ninety days as provided in (b) of this subsection.

(5) A geochemical evaluation of Appendix II parameters shall be conducted at each well on a quarterly basis and include all of the following methods:

(a) A cation-anion balance evaluating the difference between the cation and anion sums expressed in milliequivalents per liter; if a greater than a five percent difference occurs then the owner or operator shall provide a summary explanation and examine whether the difference is due to a laboratory error, poor well conditions, or other ions not accounted for in natural or impacted ground water conditions; if the total cation-anion sums are less than 5.0 meq/liter a greater difference may be used.

(b) A plot of cations and anions for each well on a trilinear diagram, as recommended in hydrogeologic texts and/or the department guidance documents.

NEW SECTION

WAC 173-351-440 Assessment monitoring program.

(1) Assessment monitoring is required whenever a statistically significant increase over background has been detected for one or more of the constituents listed in the Appendix I or in the alternative list approved in accordance with WAC 173-351-450, Alternative ground water monitoring programs.

(2) Within ninety days of triggering a detection monitoring program, and quarterly thereafter, the owner or operator must sample and analyze the ground water for all constitu-

ents identified in Appendix III of this part. A minimum of one sample from each downgradient well must be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete Appendix III analysis, a minimum of four independent samples from each well (background and downgradient) must be collected within a time period of one hundred eighty days, and analyzed to establish background for the constituents. Each independent sample shall be collected no less than one month apart from the previous sampling event.

(3) After obtaining the results from the initial or subsequent sampling events required in subsection (2) of this section, the owner or operator must:

(a) Within fourteen days, notify the jurisdictional health department of the increase, identifying the Appendix III constituent(s) that have been detected and place this notice in the operating record;

(b) Within ninety days, and on a quarterly basis thereafter, resample all wells, conduct analyses for all constituents in Appendix I and II, and, for those constituents in Appendix III that are detected in response to subsection (2) of this section, record their concentrations in the facility operating record and notify the jurisdictional health department. At least one sample from each well (background and downgradient) must be collected and analyzed during these sampling events;

(c) Establish background concentrations for any constituents detected pursuant to subsection (2) of this section;

(d) Establish ground water protection standards for all constituents detected pursuant to subsection (2) or (3) of this section. The ground water protection standards shall be established in accordance with subsection (7) of this section; and

(e) Continue performing geochemical evaluations in accordance with WAC 173-351-430(5) on a quarterly basis.

(4) If the concentrations of all Appendix III constituents are shown to be at or below background values, using the statistical procedures in WAC 173-351-420, for two consecutive sampling events, and before returning to detection monitoring the owner or operator must:

(a) Notify the jurisdictional health department of this finding;

(b) Receive approval in writing from the jurisdictional health department; and

(c) Place the notice and the approval in (a) and (b) of this subsection in the operating record of WAC 173-351-200(10).

(5) If the concentrations of any Appendix III constituents are above background values, but all concentrations are below the ground water protection standard established under subsection (7) of this section, using the statistical procedures in WAC 173-351-420, the owner or operator must continue assessment monitoring in accordance with this section.

(6) If one or more Appendix III constituents are detected at statistically significant levels above the ground water protection standard established under subsection (7) of this section in any sampling event, the owner or operator must, within fourteen days of this finding, notify the jurisdictional health department, the department and all appropriate local government officials of the increase and place a notice in the operating record identifying the Appendix III constitu-

ents that have exceeded the ground water protection standard. The owner or operator also:

(a) Must characterize the chemical composition of the release, the contaminant fate and transport characteristics; the rate and extent of contamination in all ground water flow paths by installing additional monitoring wells;

(b) Must install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with subsection (2) of this section;

(c) Must notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site if indicated by sampling of wells in accordance with subsection (6) of this section; and

(d) Must initiate an assessment, selection, and implementation of corrective measures as required by chapter 173-340 WAC, the Model Toxics Control Act regulation; or

(e) May demonstrate that a source other than a MSWLF unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be prepared by a hydrogeologist or other qualified ground water scientist and approved by the jurisdictional health department and placed in the operating record. If a successful demonstration is made the owner or operator must continue monitoring in accordance with the assessment monitoring program pursuant to this section, and may return to detection monitoring if the Appendix III constituents are at or below background as specified in subsection (4) of this section. Until a successful demonstration is made, the owner or operator must comply with this subsection (6) including initiating an assessment of corrective measures.

(7) The owner or operator:

(a) Must establish a ground water protection standard using the ground water quality criteria of chapter 173-200 WAC; and

(b) For constituents for which the background level is higher than the protection standard identified under (a) of this subsection, must use the background concentration for the constituents established from wells in accordance with WAC 173-351-400.

NEW SECTION

WAC 173-351-450 Alternate ground water monitoring programs. (1) The owner or operator may propose changes and/or alternate ground water monitoring programs for detection after the second year of ground water monitoring under WAC 173-351-430 or the assessment monitoring of WAC 173-351-440 as follows:

(a) Alternate ground water monitoring frequency for sampling and analysis of Appendix I and II constituents of no less than semiannual monitoring;

(b) Deletion or alternate ground water monitoring constituents for Appendix I, II and III.

(2) All proposed changes in ground water monitoring frequency must be no less than semiannually for detection ground water monitoring and no less than quarterly for assessment monitoring. The owner or operator must apply for a permit modification under WAC 173-351-720(5) or

must apply during the renewal process of WAC 173-351-720 (1)(i) for changes in ground water monitoring frequency making a demonstration based on the following information:

(a) A characterization of the hydrostratigraphic unit(s) including the unsaturated zone, transmissive and confining units and include all of the following:

- (i) Hydraulic conductivity; and
- (ii) Ground water flow rates.

(b) Minimum distance between upgradient edge of the MSWLF unit and downgradient monitoring wells (minimum distance of travel); and

(c) Contaminant fate and transport characteristics.

(3) The owner or operator must apply for a permit modification under WAC 173-351-720(5) or must apply during the renewal process of WAC 173-351-720 (1)(i) for all proposed deletions or changes to ground water monitoring constituents of Appendix I, II, and III based on all of the following information:

Verification that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit, by:

(a) Leachate monitoring results consisting of those parameters listed in Appendix IV; all leachate monitoring shall be quarterly unless otherwise approved by the jurisdictional health department and the department;

(b) The types, quantities, and concentrations of constituents in wastes managed at the MSWLF unit;

(c) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the MSWLF unit;

(d) The detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(e) The concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water background.

(4) Multi-unit ground water monitoring systems.

An owner or operator may propose during the permitting process of WAC 173-351-700 a multi-unit ground water monitoring system instead of separate ground water monitoring systems for each MSWLF unit, including MSWLF units which were closed in accordance with chapter 173-351, 173-304, or 173-301 WAC when the facility has several MSWLF units, provided the multi-unit system meets all of the requirements of WAC 173-351-400 through WAC 173-351-490 and will be as protective of human health and environment as individual ground water monitoring systems for each MSWLF unit. Permit approval for multi-unit ground water monitoring systems and programs will be based on the ability to provide early warning detection of any contaminant releases including:

- (a) Number, spacing, and orientation of units;
- (b) Hydrogeologic setting;
- (c) Site history;
- (d) Engineering design of the MSWLF units;
- (e) Type of waste accepted at the MSWLF units; and
- (f) Leachate analysis as referenced in subsection (3)(a) of this section.

NEW SECTION

WAC 173-351-460 Role of jurisdictional health department in corrective action. The jurisdictional health department:

(1) May participate in all negotiations, meetings, and correspondence between the owner and operator and the department in implementing the model toxics control action;

(2) May comment upon and participate in all decisions made by the department in assessing, choosing, and implementing a corrective action program;

(3) Shall require the owner or operator to continue closure and post-closure activities as appropriate under these rules, after corrective action measures are completed; and

(4) Shall continue to regulate all MSWLF units during construction, operation, closure and post-closure, that are not directly impacted by Model Toxics Control Act.

NEW SECTION

WAC 173-351-465 Role of department of ecology in corrective action. The department shall carry out all the responsibilities assigned to it under the Model Toxics Control Act, chapter 70.105D RCW, during the corrective action process.

NEW SECTION

WAC 173-351-480 Ground water modeling. All ground water and contaminant fate and transport modeling must meet the following performance standards:

(1) The model shall have supporting documentation that establishes its ability to represent ground water flow and contaminant transport and any history of previous applications;

(2) The set of equations representing ground water movement and contaminant transport must be theoretically sound and well documented;

(3) The numerical solution methods must be based upon sound mathematical principles and be supported by verification and checking techniques;

(4) The model must be calibrated against site-specific field data;

(5) A sensitivity analysis shall be conducted to measure the model's responses to changes in the values assigned to major parameters, specified tolerances, and numerically assigned space and time discretizations;

(6) Mass balance calculations on selected elements in the model shall be performed to verify physical validity. Where the model does not prescribe the amount of mass entering the system as a boundary condition, this step may be ignored;

(7) The values of the model's parameters requiring site specific data shall be based upon actual field or laboratory measurements; and

(8) The values of the model's parameters which do not require site specific data shall be supported by laboratory test results or equivalent methods documenting the validity of the chosen parameter values.

NEW SECTION

WAC 173-351-490 The hydrogeologic report contents. (1) The hydrogeologic report shall meet all of the following performance standards as follows:

(a) Examine existing site conditions for compliance with ground water and surface water location restrictions under WAC 173-351-130 and 173-351-140;

(b) Determine existing or background ground water quality conditions, including any ground water contamination; and

(c) Define a detection ground water monitoring program capable of immediate and early warning detection for potential contamination as required in WAC 173-351-400 and the information required in subsection (2) of this section.

(2) The hydrogeologic report contents shall include the following information:

(a) A summary of local and regional geology and hydrology, including faults, zones of joint concentrations, unstable slopes and subsidence areas on site; areas of ground water recharge and discharge; stratigraphy; erosional and depositional environments and facies interpretation(s);

(b) A borehole program which identifies all performance criteria of WAC 173-351-405 including lithology, soil/bedrock types and properties, preferential ground water flow paths or zones of potentially high hydraulic conductivity, the presence of continuing unit(s) and geologic features such as fall zones, cross-cutting structures etc.

(i) A minimum of twenty subsurface borings is required for MSWLF sites which are 50 acres or less in aerial extent. For sites greater than fifty acres, twenty borings, plus three borings for each additional ten acres thereafter, is required. Soil borings shall be established in a grid pattern with a boring in each major geomorphic feature such as topographic divides and lowlands;

(ii) Each boring will be of sufficient depth below the proposed grade of the bottom liner as to identify soil, bedrock and hydrostratigraphic unit(s) conditions as required in WAC 173-351-405.

(iii) The jurisdictional health department and the department may approve alternate methods including geophysical techniques, either surface or downhole including electric logging, some sonic logging, nuclear logging, seismic profiling, electromagnetic profiling and resistivity profiling to plan and/or supplement the number of borings in the subsurface borehole program of (b)(i) of this subsection.

Note: The department encourages the use and development of cost effective geophysical techniques for planning hydrogeologic investigations and supplementing some boreholes, provided that adequate and accurate hydraulic and geologic information is sufficiently gathered to implement an effective ground water monitoring program.

(iv) At each boring samples shall be collected from each lithologic unit and tested for all of the following:

(A) Particle size distribution by both sieve and hydrometer analyses in accordance with approved ASTM methods (D422 and D1120);

(B) Atterburg limits following approved ASTM methods (D4318); and

(C) Classification under the unified soil classification system, following ASTM standard D2487-85.

(iv) Each lithologic unit on site will be analyzed for:

(A) Moisture content, following approved ASTM methods (D2216); and

(B) Hydraulic conductivity by an in-situ field method or laboratory method approved by the jurisdictional health department and the department. All samples collected for the determination of permeability shall be collected by standard ASTM procedures.

(v) All boring logs shall be submitted with the following information:

(A) Soil and rock descriptions and classifications;

(B) Method of sampling;

(C) Sample depth;

(D) Date of boring;

(E) Water level measurements;

(F) Soil test data;

(G) Boring location; and

(H) Standard penetration number of ASTM standard D1586-67.

(vi) All borings not converted to monitoring wells or piezometers shall be carefully backfilled, plugged and recorded in accordance with WAC 173-160-420.

(vii) During the borehole drilling program, any on-site drilling and lithologic unit identification must be performed by a hydrogeologist, geologist or other qualified ground water scientist who is trained to sample and identify soils and bedrock lithology.

(c) Depths to ground water and hydrostratigraphic unit(s) including transmissive and confining units;

(d) Potentiometric surface elevations and contour maps; direction and rate of horizontal and vertical ground water flow;

(e) A description of regional ground water trends including vertical and horizontal flow directions and rates;

(f) All elevations and top of well casings shall be related to the national geodetic vertical datum of 1929 (NGVD 29) and the horizontal datum shall be in accordance with chapter 58.20 RCW, Washington Coordinate System and as amended per chapter 332-130 WAC.

(g) Quantity, location, and construction (where available) of private and public wells within a two thousand foot (six hundred ten meter) radius of site;

(h) Tabulation of all water rights for ground water and surface water within a two thousand foot (six hundred ten meter) radius of the site;

(i) Identification and description of all surface waters within a one-mile (1.6 kilometer) radius of the site;

(j) A summary of all previously collected ground water and surface water analytical data, and for expanded facilities, identification of impacts of existing facility of the applicant to date upon ground and surface waters from landfill leachate discharges;

(k) Calculation of a site water balance;

(l) Conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable a vadose zone monitoring plan, including well construction diagrams;

(m) Land use in the area, including nearby residences; and

(n) A topographic map of the site and drainage patterns; an outline of the waste management area and MSWLF units, property boundary, the proposed location of ground water monitoring wells;

(o) Geologic cross-sections.

(3) Ground water flow path analysis. The hydrogeologic report shall include a summary ground water flow path analysis which includes all supportive documentation, and calculations of the performance criteria of WAC 173-351-405.

NEW SECTION

WAC 173-351-500 Closure and post-closure care.

(1) Closure criteria.

(a) Nonarid areas. Owners or operators of all MSWLF units located in areas having mean annual precipitation of equal to or greater than twelve inches, must install a final cover system that is designed to minimize infiltration and erosion.

(i) The final cover system must be designed and constructed to:

(A) Minimize infiltration through the closed MSWLF by the use of an anti-infiltration layer that contains a composite layer as defined in (a)(i)(B) of this subsection;

(B) For the purpose of this section, "composite layer" means a system consisting of two components; the upper component must consist of a minimum of 30 mil (0.76 mm) thickness of geomembrane (60 mils (1.5 mm) for high density polyethylene geomembranes). The lower component must consist of at least a two-foot (60 cm) layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-5} cm/sec. The geomembrane must be installed in direct and uniform contact with the compacted soil component;

(C) Minimize erosion of the final cover by use of an anti-erosion layer that contains a minimum of a one-foot (30 cm) layer of earthen material of which at least six inches (15 cm) of the uppermost layer is capable of sustaining native plant growth; and

(D) Address anticipated settlement (with a goal of achieving no less than two to five percent slopes after settlement), drainage and/or the need for drainage layers, gas generation and/or the need for gas layers, freeze-thaw, desiccation and stability and mechanical strength of the design.

(ii) The jurisdictional health department may approve an alternative final cover design equivalent to that specified in (a)(i) of this subsection that includes:

(A) An anti-infiltration layer that achieves an equivalent reduction in infiltration as the anti-infiltration layer specified in (a)(i)(A) and (B) of this subsection;

(B) An anti-erosion layer that provides equivalent protection from wind and water erosion as the anti-erosion layer specified in (a)(i)(C) of this subsection; and

(C) The additional design features of (a)(i)(D) of this subsection.

(b) Arid areas. Owners or operators of all MSWLF units located in arid areas must install a final cover system that is designed to minimize infiltration and erosion.

(i) The final cover system must be designed and constructed to:

(A) Minimize infiltration through the closed MSWLF by the use of an anti-infiltration layer that contains at least a two-foot (60 cm) layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-5} cm/sec;

(B) Minimize erosion of the final cover by use of an anti-erosion layer that contains a minimum of one-foot (30 cm) layer of earthen material of which at least six inches (15 cm) of the uppermost layer is capable of sustaining native plant growth; and

(C) Address anticipated settlement (with a goal of reaching two to five percent slopes after settlement), drainage and/or the need for drainage layers, gas generation and/or the need for gas layers, freeze-thaw, desiccation and stability and mechanical strength of the design.

(ii) The jurisdictional health department may approve an alternative final cover design to that specified in (b)(i) of this subsection that includes:

(A) An anti-infiltration layer that achieves an equivalent reduction in infiltration as the anti-infiltration layer specified in (b)(i)(A) of this subsection;

(B) An anti-erosion layer that provides equivalent protection from wind and water erosion as the anti-erosion layer specified in (b)(i)(B) of this subsection; and

(C) The additional design features of (b)(i)(C) of this subsection.

(c) The owner or operator must prepare a written closure plan that describes the steps necessary to close all MSWLF units at any point during its active life. The closure plan must be approved by the jurisdictional health department during the permit process of Section 700 and, at a minimum, must include the following information:

(i) A description of the final cover, designed in accordance with (a) or (b) of this subsection and the methods and procedures to be used to install the cover;

(ii) An estimate of the largest area of the MSWLF unit or all MSWLF units ever requiring a final cover as required under (a) or (b) of this subsection at any time during the active life;

(iii) An estimate of the maximum inventory of wastes ever on-site over the active life of the facility; and

(iv) A schedule for completing all activities necessary to satisfy the closure criteria in this subsection (1), Closure criteria including sequencing of each MSWLF unit and the use of intermediate cover.

(d) The owner or operator of existing MSWLF units must no later than October 9, 1993:

(i) Prepare a closure plan;

(ii) Place the closure plan in the operating record; and

(iii) Notify the jurisdictional health department that (d)(i) and (ii) of this subsection have occurred.

(e) One hundred eighty days (but no sooner than October 9, 1993,) prior to beginning closure activities of each MSWLF unit or all MSWLF units as specified in (f) of this subsection, the owner or operator must:

(i) Notify the jurisdictional health department and the financial assurance trustee and/or insurer of the intent to close the MSWLF unit or all MSWLF units according to the approved closure plan; and

(ii) Submit final engineering closure plans for review, comment, and approval by the jurisdictional health department.

(f) The owner or operator must begin closure activities of each MSWLF unit or all MSWLF units no later than thirty days after the date on which the MSWLF unit or all MSWLF units receives the known final receipt of wastes or, if the MSWLF unit or all MSWLF units has remaining

capacity and there is a reasonable likelihood that the MSWLF unit or all MSWLF units will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the jurisdictional health department if the owner or operator demonstrates during the permit process of WAC 173-351-700 that the MSWLF unit or all MSWLF units has the capacity to receive additional waste and the owner or operator has taken and will continue to take all steps including the application of intermediate cover necessary to prevent threats to human health and the environment from the unclosed MSWLF unit or all MSWLF units.

(g) The owner or operator of all MSWLF units must complete closure activities of each MSWLF unit or all MSWLF units in accordance with the closure plan within one hundred eighty days following the beginning of closure as specified in (f) of this subsection. Extensions of the closure period may be granted by the jurisdictional health department if the owner or operator demonstrates that closure will, of necessity, take longer than one hundred eighty days and he/she has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

(h) Following closure of each MSWLF unit or all MSWLF units, the owner or operator must submit to the jurisdictional health department a certification or declaration of construction signed by an independent registered professional engineer verifying that closure has been completed in accordance with the approved final engineering plans and the closure plan.

(i) Notation on the deed.

(i) Following closure of all MSWLF units, the owner or operator must record a notation on the deed to the facility property, and send a copy of the notation as recorded to the jurisdictional health department.

(ii) The notation on the deed must in perpetuity notify any potential purchaser of the property that:

(A) The land has been used as a landfill facility; and

(B) Its use is restricted under subsection (2)(c)(iii) of this section.

(j) The owner or operator may request permission from the jurisdictional health department to remove the notation from the deed if all wastes (including any contaminated ground water and soils) are removed from the facility.

(2) Post-closure care requirements.

(a) Following closure of each MSWLF unit or all MSWLF units, the owner or operator must conduct post-closure care. Post-closure care must be conducted for thirty years, except as provided under (b) of this subsection and consist of at least the following:

(i) Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, maintaining the vegetative cover (including cutting of vegetation when needed) or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

(ii) Maintaining and operating the leachate collection system in accordance with the requirements in WAC 173-351-300 if applicable. The jurisdictional health department may recommend to the department and the department under

its authority in chapter 90.48 RCW, the Water Pollution Control Act, may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

(iii) Monitoring the ground water in accordance with the requirements of WAC 173-351-400, Ground water monitoring systems and corrective action and maintaining the ground water monitoring system, if applicable; and

(iv) Maintaining and operating the gas monitoring system in accordance with the requirements of WAC 173-351-200(4).

(b) The length of the post-closure care period may be:

(i) Decreased by the jurisdictional health department if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the jurisdictional health department; or

(ii) Increased by the jurisdictional health department if the jurisdictional health department determines that the lengthened period is necessary to protect human health and the environment.

(c) The owner or operator of all MSWLF units must prepare a written post-closure plan that is approved by the jurisdictional health department during the permit process of Section 700 and that includes, at a minimum, the following information:

(i) A description of the monitoring and maintenance activities required in (a) of this subsection for each MSWLF unit or all MSWLF units, and the frequency at which these activities will be performed;

(ii) Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and

(iii) A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this regulation. The jurisdictional health department may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

(d) The owner or operator of existing MSWLF units must notify the jurisdictional health department that a post-closure plan has been prepared and placed in the operating record no later than the effective date of this regulation.

(e) Following completion of the post-closure care period for each MSWLF unit or all MSWLF units, the owner or operator must submit to the jurisdictional health department and the financial assurance trustee and/or insurer a certification or declaration of construction signed by an independent registered professional engineer verifying that post-closure has been completed in accordance with the post-closure plan.

NEW SECTION

WAC 173-351-600 Financial assurance criteria. (1) Applicability and effective date.

(a) The requirements of this section apply to owners and operators of all MSWLF units.

(b) The requirements of this section are effective on the effective date of this rule.

(2) Financial assurance for closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the largest area of all MSWLF units ever requiring a final cover as required under WAC 173-351-500(1), Closure criteria, at any time during the active life in accordance with the closure plan. The owner or operator must place the detailed written estimate in the application for a permit under WAC 173-351-700 in order for the jurisdictional health department to determine whether a solid waste permit should be issued.

(i) The cost estimate must equal the cost of closing the largest area of the MSWLF unit or MSWLF units ever requiring a final cover at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan see WAC 173-351-500 (1)(c)(ii).

(ii) During the active life of the MSWLF unit or MSWLF units, the owner or operator must annually adjust the closure cost estimate for inflation.

(iii) The owner or operator must increase the closure cost estimate and the amount of financial assurance provided under (b) of this subsection if changes to the closure plan or MSWLF unit conditions increase the maximum cost of closure at any time during the remaining active life.

(iv) The owner or operator may reduce the closure cost estimate and the amount of financial assurance provided under (b) of this subsection if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the MSWLF unit or all MSWLF units. The owner or operator must submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the jurisdictional health department for approval as a condition of the solid waste permit.

(b) The owner or operator of each MSWLF unit or all MSWLF units must establish financial assurance for closure of the MSWLF unit or all MSWLF units in compliance with WAC 173-351-600(5), Allowable mechanisms. The owner or operator must provide continuous coverage for closure until released from financial assurance requirements by demonstrating compliance with WAC 173-351-500 (1)(h) and (i).

(3) Financial assurance for post-closure care.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the MSWLF unit or all MSWLF units in compliance with the post-closure plan developed under WAC 173-351-500(2). The post-closure cost estimate used to demonstrate, during the permit process of WAC 173-351-700, financial assurance in (b) of this subsection must account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period. The owner or operator must place the detailed

written estimate in the application for a permit under WAC 173-351-700 in order for the jurisdictional health department to determine whether a solid waste permit should be issued.

(i) The cost estimate for post-closure care must be based on the most expensive costs of post-closure care during the post-closure care period.

(ii) During the active life of the MSWLF unit or all MSWLF units and during the post-closure care period, the owner or operator must annually adjust the post-closure cost estimate for inflation.

(iii) The owner or operator must increase the post-closure care cost estimate and the amount of financial assurance provided under (b) of this subsection if changes in the post-closure plan or MSWLF unit conditions increase the maximum costs of post-closure care.

(iv) The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under (b) of this subsection if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. The owner or operator must submit justification for the reduction of the post-closure cost estimate and the amount of financial assurance to the jurisdictional health department for approval as a condition of the solid waste permit.

(b) The owner or operator of each MSWLF unit or all MSWLF units must establish, in a manner in accordance with subsection (5) of this section, financial assurance for the costs of post-closure care as required under WAC 173-351-500(2). The owner or operator must provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with WAC 173-351-500 (2)(e).

(4) Financial assurance for corrective action.

(a) An owner or operator of a MSWLF unit or all MSWLF units required to undertake a corrective action program under WAC 173-351-440(6) must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under WAC 173-351-440(6). The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator must submit the corrective action cost estimate to the jurisdictional health department for approval.

(i) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with WAC 173-351-440(6).

(ii) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided under (b) of this subsection if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.

(iii) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under (b) of this subsection if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator must submit justification for the reduction of the corrective action cost estimate and the amount of financial assurance to the jurisdictional health department for approval.

(b) The owner or operator of each MSWLF unit or all MSWLF units required to undertake a corrective action

program under WAC 173-351-440(6), must establish, in a manner in accordance with subsection (5) of this section, financial assurance for the most recent corrective action program. The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action under the Model Toxics Control Act regulation, chapter 173-340 WAC.

(5) Allowable mechanisms. The mechanisms used to demonstrate financial assurance under WAC 173-351-600 must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators of MSWLF units must use the financial mechanisms specified in (a) or (b) of this subsection.

(a) For MSWLF units owned or operated by municipal corporations, the closure, post-closure, and corrective action reserve account shall be handled in one of the following ways:

(i) Reserve account. Cash and investments accumulated and restricted for closure, post-closure, and corrective action for known releases with an equivalent amount of fund balance reserved in the fund accounting for solid waste activity; or

(ii) The cash and investments held in a nonexpendable trust fund as specified in (c) of this subsection.

(b) For MSWLF units owned by private disposal companies, the closure, post-closure, and corrective action for known releases financial assurance account shall be a trust account as spelled out in (c) of this subsection, except that established financial assurance accounts shall not constitute an asset of the facility owner or operator.

(c) Trust fund.

An owner or operator may satisfy the requirements of this section by establishing a trust fund which conforms to the requirements of (c)(i) through (xi) of this subsection.

(i) The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The owner or operator must place a copy of the trust agreement in the application for a permit under WAC 173-351-700 in order for the jurisdictional health department to determine whether a solid waste permit should be issued.

(ii) Payments into the trust fund must be made annually by the owner or operator over the duration (as defined in WAC 173-351-750) of the initial permit or over the remaining life of the MSWLF unit or all MSWLF units, whichever is shorter, in the case of a trust fund for closure or post-closure care, or over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.

(iii) For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into each fund must be at least equal to the current cost estimate for closure or post-closure care, except as provided in (d) of this subsection, divided by the number of years in the pay-in period as defined in (c) of this subsection. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{CE-CV}{Y}$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(iv) For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least equal to one-half of the current cost estimate for corrective action, except as provided in (d) of this subsection, divided by the number of years in the corrective action pay-in period as defined in (c)(ii) of this subsection. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB-CV}{Y}$$

where RB is the most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(v) The initial payment into the trust fund must be made before the initial receipt of waste or before the effective date of this section, whichever is later, in the case of closure and post-closure care, or no later than one hundred twenty days after the corrective action remedy has been selected in accordance with the requirements of WAC 173-351-480 (6) and (7).

(vi) If a municipal corporation owning or operating MSWLF units establishes a trust fund after having used cash and investments held in a nonexpendable reserve account specified in (a)(i) of this subsection, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this paragraph and (c) of this subsection as applicable.

(vii) The owner or operator, or other person authorized to conduct closure, post-closure care, or corrective action activities may request reimbursement from the trustee for these expenditures. Requests for reimbursement will be granted by the trustee only if:

(A) Sufficient funds are remaining in the trust fund to cover the remaining costs of closure, post-closure care, or corrective action;

(B) If justification and documentation of the cost is submitted to the jurisdictional health department for review and approval; and

(C) The owner or operator has a post-closure permit in effect according to WAC 173-351-730 (4)(c).

(viii) The trust fund may be terminated by the owner or operator only if:

(ix) In the case of a municipal corporation owning or operating MSWLF units, the municipal corporation substitutes a reserve account as specified in (a)(i) of this subsection; or

(x) Any owner or operator is no longer required to demonstrate financial responsibility in accordance with the

requirements of subsection (2)(b), (3)(b), or (4)(b) of this section.

(d) Use of multiple financial mechanisms. A municipal corporation owning or operating MSWLF units may satisfy the requirements of this section by establishing more than one financial mechanism per facility. The mechanisms must be as specified in (a) and (b) of this subsection, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable.

(e) The language of the mechanisms listed in (a) and (b) of this subsection must ensure that the instruments satisfy the following criteria:

(i) The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases when needed;

(ii) The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

(iii) The financial assurance mechanisms must be obtained by the owner or operator by the effective date of these requirements or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care, and no later than one hundred twenty days after the corrective action remedy has been selected in accordance with the requirements of WAC 173-351-460, until the owner or operator is released from the financial assurance requirements under subsection (2)(b), (3)(b), or (4)(b) of this section.

(f) The financial assurance mechanisms must be legally valid, binding, and enforceable under state and federal law.

NEW SECTION

WAC 173-351-700 Permitting requirements. (1) WAC 173-351-700 through 173-351-750 shall constitute the permitting requirements of chapter 173-351 WAC, Criteria for municipal solid waste landfills. Except as provided for in subsection (5) of this section, no owner or operator shall construct, operate, close, or perform post-closure activity with respect to a facility except in conformance with a valid MSWLF permit issued pursuant to this chapter.

(2) Transition rules for existing MSWLF units. The following constitute the transition rules for this section:

(a) Existing MSWLF units with valid chapter 173-304 WAC permits expiring before October 9, 1993. Owners or operators of existing MSWLF units having valid permits expiring before October 9, 1993, must apply for a valid MSWLF permit no later than ninety days after promulgation of this regulation, to continue operation under the terms of this regulation. Each valid chapter 173-304 WAC permit expiring before October 9, 1993, is hereby continued until the valid MSWLF permit is issued under these rules. For these transition rules, the owner or operator shall prepare applications according to WAC 173-351-730(4), Reissuance/transition applications. Upon issuance of a valid MSWLF permit, the owner or operator must comply with the requirements of this regulation.

Note: MSWLF units that do not accept waste on or after October 9, 1993, and close under chapter 173-304 WAC, Minimum

functional standards for solid waste handling, and the federal rules for closure under 40 CFR part 258.60 would continue to be permitted under chapter 173-304 WAC unless such MSWLF units are part of a multi-unit ground water monitoring system according to WAC 173-351-450(4).

(b) Existing MSWLF units with valid chapter 173-304 WAC permits expiring on or after October 9, 1993. Each valid chapter 173-304 WAC permit (for existing MSWLF units) expiring on or after October 9, 1993, is hereby continued until the expiration date set forth in the permit. Owners and operators must comply with the conditions of the permit and the regulations of chapter 173-304 WAC, in effect on October 8, 1993, for the duration of that permit. Owners or operators of existing MSWLF units with valid chapter 173-304 WAC permits expiring on or after October 9, 1993, must apply for a valid MSWLF permit no later than ninety days after promulgation of this regulation. For these transition rules, the owner or operator shall prepare applications according to WAC 173-351-730(4), Reissuance/transition applications. Upon issuance of a valid MSWLF permit, the owner or operator must comply with the requirements of this regulation.

Note: See also WAC 173-351-720 (6)(a), filing for reissuance.

(3) New and laterally expanded MSWLF units. New and laterally expanded MSWLF units receiving waste after October 9, 1993, shall meet the requirements of this section before construction has begun and before waste is accepted to the MSWLF unit or lateral expansion.

Note: Any owner or operator planning to incorporate a 50 percent increase or greater in design volume capacity not previously authorized in permit, or unpermitted changes resulting in significant adverse environmental impacts that have lead a responsible official to issue a declaration of significance under WAC 197-11-736 shall meet the requirements of this section before construction has begun and before waste is accepted to the MSWLF unit, or lateral expansion.

(4) Exemptions. The MSWLF units identified in this subsection are exempt from this section:

(a) MSWLF units that are excluded under WAC 173-351-010 (2)(b);

(b) Single family residences and single family farms dumping or depositing solid waste resulting from their own domestic, on-site activities onto or under the surface of land owned or leased by them when such action does not create a nuisance, violate any other statutes, ordinances, regulations, or this regulation, provided that such facilities:

(i) Are fenced or otherwise protected by natural barriers from unauthorized entry by the general public and large animal scavengers; and

(ii) Have placed a monthly soil cover to allow no visible solid waste.

(c) Corrective actions at a MSWLF unit performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), the Model Toxics Control Act or corrective actions taken by others to comply with a state and/or federal cleanup order provided that:

(i) The action results in an overall improvement of the environmental impact of the site;

(ii) The action does not require or result in additional waste being delivered to the facility or increase the amount of waste or contamination present at the facility;

(iii) The facility standards of WAC 173-351-300, 173-351-320, and 173-351-500 are met; and

(iv) The jurisdictional health department is informed of the actions to be taken and is given the opportunity to review and comment upon the proposed corrective action plans.

Note: MSWLF units not covered under corrective action are not exempted from permitting under this section.

(5) **Renewal required.** The owner or operator of a facility shall apply for renewal of the facility's permit annually, except for that year that a permit has been or will be reissued under WAC 173-351-720(6).

NEW SECTION

WAC 173-351-720 Permit application procedures.

(1) **Initial procedures.**

(a) Forms and complete application. An application for any permit under this regulation must be submitted on a form prescribed by the department. In order to be determined complete:

(i) Two or more copies (as determined by the jurisdictional health department) of the application must have been signed by the owner and operator and received by the jurisdictional health department;

(ii) The application must include evidence of compliance with the State Environmental Policy Act (SEPA) rules, chapter 197-11 WAC; and

(iii) The application must include the plans, reports, and other supporting information required by this regulation.

(b) **Notice.** Once the jurisdictional health department determines that an application for a permit is factually complete, it shall:

(i) Refer one copy to the appropriate regional office of the department for review and comment;

(ii) For all permits except renewal, modified and transition permits give notice of its receipt of a proposed complete permit application to the public and to interested persons for public comment for thirty days after the publication date of the notice;

(iii) For all permits except renewal, modified and transition permits perform the following additional public notification requirements:

(A) Mail the notice to persons who have requested notice in writing;

(B) Mail the notice to state agencies and local governments with a regulatory interest in the proposal;

(C) Include in the public notice a statement that any person may express their views in writing to the jurisdictional health department within thirty days of the last date of publication;

(D) Mail a copy of the MSWLF permit decision to any person who has made written request for such decision; and

(E) Add the name of any person, upon request, to a mailing list to receive copies of notices for all applications, within the state or within a geographical area.

(c) **Standards for approval.** The jurisdictional health department shall investigate every application to determine whether the facility meets all applicable laws and regula-

tions, conforms with the most recently adopted comprehensive solid waste management plan in effect at the time of application and complies with all zoning requirements. A land use permit or letter from the jurisdictional zoning authority shall be sufficient demonstration of compliance with zoning requirements.

(d) **Fees.** The jurisdictional health department may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the account from which the jurisdictional health department's operating expenses are paid.

(e) **Department's findings.** The department shall report to the jurisdictional health department its findings on each permit application within forty-five days of receipt of a complete application or inform the jurisdictional health department as to the status of the application and when it expects its findings will be transmitted to the jurisdictional health department. Additionally, the department shall recommend for or against the issuance of each permit by the jurisdictional health department.

(f) **Permit approval.** When the jurisdictional health department has evaluated all information in the public record, it shall issue or deny a permit. Every completed solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department or the owner or operator shall be informed as to the status of the application with a schedule for final determination.

(g) **Permit format.** Every permit issued by a jurisdictional health department shall be on a format prescribed by the department and shall contain specific requirements necessary for the proper operation of the facility including the requirement that final engineering plans and specifications be submitted for approval to the jurisdictional health department.

(h) **Filing permits with the department.** The jurisdictional health department shall mail all issued permits to the department no more than seven days after the date of issuance. The department shall review and may appeal the permit as set forth in RCW 70.95.185 and 70.95.190.

(i) **Renewal procedures.** The owner or operator of a facility shall apply for renewal of the MSWLF permit annually, except for that year that a permit has been or will be reissued under subsection (6) of this section. The jurisdictional health department shall annually:

(A) Review the original application and such additional information as required in WAC 173-351-730 (3)(b) for compliance with these regulations;

(B) Collect the renewal fee if the jurisdictional health department so chooses;

(C) If the requirements of (b)(i)(A) of this subsection are met, renew the permit; and

(D) File the renewed permit with the department no more than seven days after the date of renewal. The department shall review and may appeal the renewal as set forth in RCW 70.95.185 and 70.95.190. See also reissuance under subsection (6) of this section.

(2) **SEPA review.** The State Environmental Policy Act (SEPA), the SEPA rules and the local SEPA rules apply to permit decisions made pursuant to this chapter.

(3) **Preapplication meetings.** Preapplication meetings between the jurisdictional health department and the owner

or operator are encouraged to address, among other things, the development of a complete application pertaining to the owner's or operator's prospective project.

(4) Activities authorized in permits, generally.

(a) Construction. Issuance of a valid MSWLF permit entitles the permittee to construct the MSWLF unit or MSWLF units, subject to any appropriate conditions the jurisdictional health department may impose. If the facility is to be constructed in several or more MSWLF units, the initial application must contain the conceptual design for the entire facility and the information of WAC 173-351-730 (1)(b) for the initial MSWLF unit. In addition, information of WAC 173-351-730 (1)(b) may be submitted covering all other MSWLF units that will be constructed up to the first ten years of facility operation. The permit will identify the extent of each permitted MSWLF unit and the specific time frames for the first MSWLF unit and estimated time frames for subsequent MSWLF units within which construction activities must begin and end for each MSWLF unit. Authorization to construct each subsequent MSWLF unit must, as to that MSWLF unit, contain the detailed construction plans as specified in this regulation, and those plans and the construction of that MSWLF unit must comply with all requirements of the SEPA and of this regulation and other regulations applicable at the time jurisdictional health department approval is granted.

(b) Operation. Except for MSWLF units governed by the transition rules of WAC 173-351-700(2), the jurisdictional health department's approval to accept solid waste will not be given until the permittee has demonstrated to the jurisdictional health department's satisfaction that the MSWLF unit has been constructed in accordance with the approved plans and specifications for that MSWLF unit. If a facility is to be constructed in several or more MSWLF units, the jurisdictional health department must determine that each specific MSWLF unit has been constructed in accordance with the approved permit before operation will be permitted in that specific MSWLF unit.

(c) Post-closure activities. The jurisdictional health department's approval for post-closure activities will not be given until the permittee has demonstrated to the jurisdictional health department's satisfaction that the MSWLF unit or all the MSWLF units have been closed in accordance with the final engineering plans WAC 173-351-500 (1)(e)(ii) and the approved closure plan.

Note: Failure to obtain approval for post-closure activities may prevent reimbursement under post-closure financial assurance in WAC 173-351-600.

(5) Permit modifications.

(a) Any owner or operator intending to modify a valid MSWLF permit must file a modification application at least thirty days before the intended modification. A modification application must be made on forms authorized by the jurisdictional health department and the department, and the forms must include information identified in WAC 173-351-730 (3)(a).

(b) The jurisdictional health department shall follow the procedures of subsection (1) of this section in issuing a permit modification except for the following:

(i) Subsection (1)(b)(ii) and (iii) of this section, public notice; and

(ii) Subsection (1)(i) of this section, renewal procedures.

(c) In order to allow for permit modifications to be authorized at the time of permit renewal, any owner or operator may combine the application required for a permit modification in WAC 173-351-730 (3)(a) with the application required for a renewal permit in WAC 173-351-730 (3)(b), at the time of permit renewal.

(6) Permit reissuance. Except for permits during transition under subsection (2) of this section, any owner or operator intending to continue construction, operation or post-closure beyond the permitted duration of a valid MSWLF permit must file a reissuance application at least ninety days before the existing permit expires. Reissuance applications are subject to the public notification process of subsection (1)(b) of this section. A reissuance application must be made on forms authorized by the jurisdictional health department and the department, and must include information identified in WAC 173-351-730(4).

NEW SECTION

WAC 173-351-730 Contents of applications. (1) Applications for MSWLF permits and level of detail, generally.

(a) General requirements for MSWLF permit applications and level of detail.

(i) An application for an MSWLF permit to construct, operate, and conduct post-closure activities at a facility must include all applicable information identified in this section pertaining to the facility for which the permit is being sought.

(ii) The information in every application submitted under this regulation must be of sufficient detail so as to allow the jurisdictional health department to fulfill its responsibilities under SEPA and this regulation by:

(A) Having detail sufficient to be readily understood by the persons using the documents contained in the application to enable them to determine how the facility will be constructed, operated, and closed and how it will be monitored and maintained after closure;

(B) Providing the jurisdictional health department with sufficient detail to ascertain the environmental impact of the proposed project; and

(C) Providing sufficient detail to demonstrate that the location, design, construction, operation, closure, and post-closure monitoring and maintenance of the MSWLF will be capable of compliance with the applicable requirements of this regulation.

(b) Specific requirements for permit applications. In addition to other requirements set forth in this section, complete applications for MSWLF permits must contain the following:

(i) Engineering plans that set forth the proposed facility's location, property boundaries, adjacent land uses, and detailed construction plans pursuant to subsection (5)(a) of this section;

(ii) How the facility will meet the location standards of WAC 173-351-130 and 173-351-140 including demonstrations;

(iii) A hydrogeologic report and water quality monitoring plan prepared in accordance with the provisions of WAC 173-351-400 (including all demonstrations);

(iv) The plan of operation that prescribes how the facility will fulfill the operating requirements set forth in WAC 173-351-200, 173-351-210, and 173-351-220, including the demonstrations of this regulation;

(v) An engineering report comprehensively describing the existing site conditions and an analysis of the facility, including closure, post-closure criteria, and any necessary demonstrations with subsection (5)(b) of this section;

(vi) A construction quality assurance and quality control plan prepared in accordance with subsection (6) of this section;

(vii) The closure and post-closure plans required by WAC 173-351-500, including the schedule of WAC 173-351-500 (1)(c)(iv) and for the submission of final engineering plans for closure six months prior to closure of the facility or the MSWLF unit. See WAC 173-351-500 (1)(e)(ii);

(viii) Either a legal document (contract, local permit, etc.) certifying acceptance of leachate by the operator of a wastewater treatment facility for the discharge of leachate to that facility, or an application for a National Discharge Elimination System (NPDES) permit pursuant to chapter 173-220 WAC or a state discharge permit (for solar evaporation ponds having no surface water discharge) pursuant to chapter 173-216 WAC or other necessary environmental permit applications (including air quality permit applications) for otherwise managing leachate;

(ix) For small landfills, the demonstration of WAC 173-351-010 (2)(d);

(x) A demonstration of how the MSWLF conforms with the approved local comprehensive solid waste management plan in place at the time of application.

(2) Combined applications. Owners or operators may file a combined application for MSWLF units and other solid waste handling facilities, such as surface impoundments, composting facilities, storage piles, and MSWLF units closed under and/or regulated by chapter 173-304 WAC, Minimum functional standards for solid waste handling or other rules promulgated under the authority of chapter 70.95 RCW, including this regulation. The combined application must contain information required by each applicable regulation.

(3) Modification and renewal applications.

(a) Modification applications. An application on forms specified by the jurisdictional health department and the department to modify a valid MSWLF permit issued pursuant to WAC 173-351-700 must include, and address, the following at a minimum:

(i) A description of the proposed modification;

(ii) The reasons for the proposed modification;

(iii) A description of the impacts from the proposed modification upon the MSWLF unit or the facility as presently permitted; and

(iv) A showing that, as modified, the MSWLF unit will be capable of compliance with the applicable requirements of this regulation.

(b) Renewal applications. An application on forms specified by the jurisdictional health department and the department to renew a permit issued pursuant to WAC 173-351-700 must include and address the following at a minimum:

(i) Any changes in operating methods, closure cost or post-closure costs or other changes not falling under the definition of a permit modification;

(ii) Any changes as revealed by inspections, or complaints;

(iii) Evidence that the annual report of WAC 173-351-200(11) has been submitted;

(iv) A list of documents added to the operating record according to WAC 173-351-200(10); and

(v) Evidence that all MSWLF unit operators have continued to comply with the certification requirements of chapter 173-300 WAC, Certification of operators of solid waste incinerator and landfill facilities.

(4) Reissuance/transition applications. An application to reissue a permit previously issued pursuant to this regulation or to convert a chapter 173-304 WAC permit to a valid MSWLF permit under the transition permit rules of WAC 173-351-700(2) must, at a minimum, include and address the following:

(a) Review the original application and permit for compliance with these regulations and submit such additional information as follows:

(i) A compliance summary showing how the facility's construction, operation, closure and post-closure activities, as applicable, have been undertaken either in compliance or not in compliance with the terms and conditions of the expiring permit;

(ii) Specifying any changes proposed by the owner or operator to, and detailing any changes in circumstance that may affect, the design, construction, operation, closure, or post-closure care of the facility and describing how compliance with the applicable requirements of this regulation will be assured.

(b) Review of information collected from inspections, complaints, or known changes in the operations including:

(i) Results of ground water monitoring taken during the operation (including closure/post-closure) of the facility according to WAC 173-351-400; and

(ii) Results of surface water and methane monitoring taken during the operation (including closure/post-closure) of the facility.

(5) Engineering plans, reports, and specifications. Unless otherwise specified in chapter 173-351 WAC, all engineering plans, reports, and specifications must comply with the requirements of this subsection. Engineering plans, reports, specifications, programs, and manuals submitted to the jurisdictional health department must be prepared and certified by an individual licensed in engineering disciplines associated with landfill design and construction or with experience in landfill design and construction and to practice engineering in the state of Washington.

(a) Engineering plans. Unless otherwise specified in this chapter, the engineering plans for all MSWLF units must be submitted using the following format:

(i) The sheet size with title blocks must be twenty-two inches by thirty-four inches or twenty-four inches by thirty-six inches.

(ii) The cover sheet must include the project title, owner's and operator's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature, and seal.

(iii) The engineering plans relating the project to its environmental setting must include:

(A) A regional plan or map (having a minimum scale of 1:62,500) and indicate directions and distances to airports within five miles (eight kilometers) of the facility;

(B) A vicinity plan or map (having a minimum scale of 1:24,000) that must show the area within one mile (1.6 kilometers) of the property boundaries of the facility in terms of, the existing and proposed zoning and land uses within that area; and residences, public and private water supply wells, known private water supply aquifers, sole source aquifers, ground water management areas, well-head protection zones, special protection areas and surface waters (with quality classifications), access roads, bridges, railroads, airports, historic sites, and other existing and proposed man-made or natural features relating to the facility; and

(C) An overall site plan (having a minimum scale of 1:2,400 with five foot (or one meter) minimum contour intervals) that must show the landfill's property boundaries (as certified by an individual licensed to practice land surveying in the state of Washington), onsite and onsite utilities (such as electric, gas, water, storm, and sanitary sewer systems) and right-of-way easements; the 100-year floodplain, wetlands, Holocene faults, unstable areas; the names and addresses of contiguous property owners; the location of soil borings, excavations, test pits, gas venting structures, wells (including down-gradient drinking water supply wells within two thousand feet (six hundred ten meters) of the property boundary), lysimeters, piezometers, environmental and facility monitoring points and devices (with each identified in accordance with a numbering system acceptable to the jurisdictional health department and whose horizontal location are accurate to the nearest 0.5 foot (0.15 meter) and all orthometric evaluations should be related to a vertical benchmark based on the national geodetic vertical datum of 1929 (NGVD29) and be established to 3rd order classification standards per federal geodetic control committee, or its successor, as specified in WAC 332-130-060 as measured from the ground surface and top of well casing), benchmarks and permanent survey markers, and onsite buildings and appurtenances, fences, gates, roads, parking areas, drainage culverts, and signs; the delineation of the total landfill area including planned staged development of the landfill's construction and operation, and the lateral and vertical limits of previously filled areas; the location and identification of the sources of cover materials; the location and identification of special waste handling areas; a wind rose; and site topography with five foot (or one meter) minimum contour intervals.

Note: All horizontal locations shall be based upon a control station related to a horizontal datum specified in chapter 58.20 RCW and chapter 332-130 WAC (NAD.83 (1991)).

(D) Detailed plans of the landfill must clearly show in plan and cross-sectional views, the original, undeveloped site topography before excavation or placement of solid waste; the existing site topography (if different from the original, undeveloped site topography) including the location and approximate thickness and nature of any existing solid waste; the seasonal high ground water table; generalized geologic units; known and interpolated bedrock elevations; the proposed limits of excavation and waste placement; the

location and placement of each liner system and of each leachate collection system, locating and showing all critical grades and elevations of the collection pipe inverts and drainage envelopes, manholes, cleanouts, valves, sumps, and drainage blanket thicknesses; all berms, dikes, ditches, swales and other devices as needed to divert or collect surface water runoff; the final elevations and grades of the landfill cover system including the grading and gas venting layer, low permeability barrier, topsoil layers; the system used for monitoring and venting the decomposition gases generated within the landfill; ground water monitoring wells; geophysical and geochemical monitoring devices or structures; leachate storage, treatment and disposal systems including the collection network, sedimentation ponds and any treatment, pretreatment, or storage facilities; typical roadway sections, indicating the pavement type, dimensions, slopes and profiles; the building floor plans, elevations, appurtenances; and plans detailing the landfill entrance area including gates, fences, and signs.

(b) Engineering reports. The engineering reports for a facility must:

(i) Contain a cover sheet, stating the project title and location, the owner's or operator's name, and the engineer's name, address, signature, date of signature, and seal.

(ii) Have its text printed on 8 1/2" by 11" pages (paginated consecutively);

(iii) Contain a table of contents or index describing the body of the report and the appendices;

(iv) Include a body of report whose content is described by (c) of this subsection; and

(v) Include all appendices.

(c) An engineering report containing a description of the existing site conditions and, at a minimum, an analysis of the proposed facility that must:

(i) Describe current operating practices, expected life and any pending litigation or corrective actions relating to the existing or past facilities;

(ii) Specify the proposed design capacity of the MSWLF unit for which approval is being sought, describing the number, types, and the minimum specifications of all the necessary machinery and equipment needed to effectively operate the landfill at the proposed design capacity;

(iii) Contain a site analysis of the proposed action including:

(A) The location of the closest population centers;

(B) A comprehensive description of the primary transportation systems and routes in the facility service area (i.e., highways, airports, railways, etc.);

(C) An analysis of the existing topography, surface water and subsurface geological conditions in accordance with the hydrogeologic report requirements of WAC 173-351-490;

(D) A description of the materials and construction methods used for the placement of each monitoring well pursuant to the requirements of WAC 173-351-400; all gas venting systems; each liner and leachate collection and removal system; leachate storage, treatment, and disposal systems; and cover systems to demonstrate conformance with the design requirements found in WAC 173-351-300, 173-351-320, and 173-351-500. This description also must include a discussion of provisions to be taken to prevent

frost action upon each liner system in areas where refuse has not been placed;

(E) An estimate of the expected quantity of leachate to be generated, including:

(I) An annual water budget that estimates leachate generation quantities during initial operation, upon application of intermediate cover, and following MSWLF unit or all MSWLF units closure. At a minimum, the following factors must be considered in the preparation of the water budget to determine the amount of leachate generated as a result of precipitation infiltration into the MSWLF unit or all the MSWLF units: Average monthly temperature, average monthly precipitation, evaporation, evapotranspiration which considers the vegetation type and root zone depth, surface/cover soil conditions and their relation to precipitation runoff which must account for the surface conditions and soil moisture holding capacity and all other sources of moisture contribution to the landfill;

(II) Liner and leachate collection system efficiencies that must be calculated using an appropriate analytical or numerical assessment. The factors to be considered in the calculation of collection system efficiency must include, at a minimum, the saturated hydraulic conductivity of the liner, the liner thickness, the saturated hydraulic conductivity of the leachate collection system, the leachate collection system porosity, the base slope of the liner and leachate collection and removal system interface, the maximum flow distance across the liner and leachate collection and removal system interface to the nearest leachate collection pipe, the estimated leachate generation quantity as computed in accordance with the requirements of (c)(iii)(E)(I) of this subsection; and

(III) Predictions of the static head of leachate on the liners, volume of leachate to be collected, and the volume of leachate that may permeate through the entire liner system, all on a monthly basis. Information gained from the collection efficiency calculations required in (c)(iii)(E)(I) and (II) of this subsection must be used to make these predictions. This assessment also must address the amount of leachate expected to pass through the liner system in gallons per acre per day (liters per square meter per day).

(d) Discuss the closure and post-closure maintenance and operation of the facility which must include, but not be limited to:

(i) A closure design consistent with the requirements of WAC 173-351-500;

(ii) A post-closure water quality monitoring program consistent with the requirements of WAC 173-351-400 and 173-351-500;

(iii) An operation and closure plan for the leachate collection, treatment, and storage facilities consistent with the requirements of this regulation and WAC 173-304-430; and

(iv) A discussion of the future use of the facility, including the specific proposed or alternative uses during the post-closure period. Future uses must not adversely affect the final cover system. See WAC 173-351-500 (2)(c)(iii).

(e) Appendices submitted as part of an engineering report submitted with an application to construct a new or laterally expanded MSWLF unit must contain:

(i) Appropriate charts and graphs;

(ii) Copies of record forms used at the MSWLF unit;

(iii) Test pit logs, soil boring logs, and geological

information (such as stratigraphic sections, geophysical and geochemical surveys, and water quality analyses);

(iv) Engineering calculations (including the raw data from which they were made);

(v) Other supporting data, including literature citations.

(6) Quality assurance and quality control plans.

The quality assurance (QA) and quality control (QC) plan must address the construction of the MSWLF unit according to the designs set forth in chapter 173-351 WAC. (QA and QC are defined in WAC 173-351-100.) The owner or operator may submit separate QA plans and QC plans. For each specified phase of construction, these plans must include, but not be limited to:

(a) A delineation of the responsibilities for the QA management organization and the QC management organization, including the chain of command of the QA inspectors and contractors and the QC inspectors and contractors; quality assurance shall be performed by a third party organization that is independent of the landfill owner/operator/contractor.

(b) A description of the required level of experience and training for the contractor, his/her crew, and QA and QC inspectors for every major phase of construction in sufficient detail to demonstrate that the approved installation methods and procedures will be properly implemented; and

(c) A description of the QA and QC testing protocols for every major phase of construction, which must include, at a minimum, the frequency of inspection, field testing, sampling for laboratory testing, the sampling and field testing procedures and equipment to be utilized, the calibration of field testing equipment, the frequency of performance audits, the sampling size, the laboratory procedures to be utilized, the calibration of laboratory equipment and QA/QC of laboratory procedures, the limits for test failure, and a description of the corrective procedures to be used upon test failure.

(7) Signature and verification of applications.

(a) All applications for permits must be accompanied by evidence of authority to sign the application and must be signed by the owner or operator as follows:

(i) In the case of corporations, by a duly authorized principal executive officer of at least the level of vice-president; in the case of a partnership or limited partnership, by:

(ii) A general partner;

(iii) Proprietor; or

(iv) In the case of a sole proprietorship, by the proprietor;

(v) In the case of a municipal, state, or other governmental entity, by a duly authorized principal executive officer or elected official.

(b) Applications must be sworn to by, or on behalf of, the owner or operator, in respect to the veracity all statements therein; or must bear an executed statement by, or on behalf of, the owner or operator to the effect that false statements made therein are made under penalty of perjury.

NEW SECTION

WAC 173-351-740 Permit issuance criteria. The jurisdictional health department may issue, reissue, or modify a MSWLF permit to a facility, only if:

(1) The application's engineering and hydrogeological data and construction plans and specifications required by this regulation pertaining to such a MSWLF unit or MSWLF units substantiate that the proposed MSWLF unit or MSWLF units meets the requirements of this regulation;

(2) The application demonstrates the facility's ability to operate and close in accordance with the requirements of this regulation;

(3) The application demonstrates the facility's ability to conduct post-closure activities in accordance with the requirements of this regulation; and a form of surety or financial responsibility for post-closure activities has been filed with the jurisdictional health department; and

(4) The application demonstrates the facility's consistency with the local solid waste management plan in effect at the time of application.

NEW SECTION

WAC 173-351-750 Permit provisions. (1) Mitigation of adverse impacts. The jurisdictional health department may impose conditions in each permit, to assure mitigation of adverse environmental impacts pursuant to SEPA, chapter 43.21C RCW and to insure compliance with the requirements identified in WAC 173-351-130 through 173-351-600, with the applicable sections pertaining to such a MSWLF unit or all MSWLF units, and with other applicable laws and regulations.

(2) Transferability.

(a) All permits issued pursuant to this regulation are transferable only upon prior written approval of the jurisdictional health department and a demonstration that the prospective transferee will be able to comply with applicable laws and regulations, permit conditions, and other requirements to which the prospective transferor is subject.

(b) Upon transfer of ownership of all or part of a facility, a provision must be included in the property deed indicating the period of time during which the facility has been disposing of solid waste, a description of the solid waste contained within, and the fact that the records for the facility have been filed with the jurisdictional health department. The deed also must reference a map, which must be filed with the county clerk, showing the limits of the active areas as defined in WAC 173-351-100.

(3) Duration of permits. The jurisdictional health department must specify the duration of the MSWLF permit not to exceed ten years. Permits must be renewed annually according to WAC 173-351-730(3), and reissued according to WAC 173-351-720(6).

(4) Preconstruction review condition. The jurisdictional health department shall include in each permit for a new MSWLF unit or lateral expansion a condition requiring the owner or operator, prior to beginning construction, to obtain the jurisdictional health department's approval that the following documents conform with the engineering report and with the requirements of this chapter:

(a) Final design drawings;

(b) Construction specifications; and

(c) A construction quality assurance manual for the following MSWLF components:

(i) Bottom liner;

(ii) Leachate collection and removal system;

(iii) Landfill gas control system;

(iv) Leachate and landfill gas condensate treatment and disposal system; and

(v) Final cover system.

(5) Supervision and certification or declaration of construction. The construction of a MSWLF unit must be undertaken:

(a) Under the supervision of an individual licensed to practice engineering in the state of Washington; and

(b) In conformance with the construction quality assurance plan of WAC 173-351-730(6).

(6) Preoperation review conditions. Each permit issued under this chapter for a new MSWLF unit or lateral expansion shall contain a condition requiring that upon completion of construction, the licensed engineer who supervised construction shall certify or declare in writing that the construction is in accordance with the terms of the applicable permit and tested in accordance with construction quality assurance plans of WAC 173-351-730(6). Except as specified elsewhere in this regulation, this certification or declaration must be submitted to the jurisdictional health department within three months after completion of construction and must include recorded construction drawings and specifications. The operator must notify the jurisdictional health department, in writing, of the date when solid waste will be first received at the MSWLF unit.

(7) Cessation of construction or operation activities. If construction or operation activities started under a permit issued pursuant to this chapter cease for a period of twelve consecutive months, the jurisdictional health department may in its discretion revoke the permit. The jurisdictional health department shall provide notice to the owner or operator in writing explaining the reasons for revocation. The jurisdictional health department shall not revoke a permit where the cessation of construction or operation is caused by factors beyond the reasonable control of the permittee or when such cessation is in accordance with the provisions of the permit.

(8) Design volume capacity. Every MSWLF permit must set forth the facility's approved design volume capacity.

NEW SECTION

WAC 173-351-760 Appeals. Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste disposal site, it shall, upon request of the application or holder of the permit, grant a hearing on such denial or suspension within thirty days after the request therefor is made. Notice of the hearing shall be given to all interested parties including the county or city having jurisdiction over the site and the department. Within thirty days after the hearing the health officer shall notify the applicant or the holder of the permit in writing of his determination thereof. Any party aggrieved by such determination may appeal to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days after receipt of notice of the determination of the health officer. The hearings board shall hold a hearing in accor-

dance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended.

NEW SECTION

WAC 173-351-990 Appendices.

APPENDIX I¹

Appendix I - Constituents for Detection Monitoring

COMMON NAME² CAS RN³

Inorganic Constituents

1)	Antimony	(Dissolved)
2)	Arsenic	(Dissolved)
3)	Barium	(Dissolved)
4)	Beryllium	(Dissolved)
5)	Cadmium	(Dissolved)
6)	Chromium	(Dissolved)
7)	Cobalt	(Dissolved)
8)	Copper	(Dissolved)
9)	Lead	(Dissolved)
10)	Nickel	(Dissolved)
11)	Selenium	(Dissolved)

¹ This list contains 47 volatile organics for which possible analytical procedures provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste," third edition, November 1986, as revised December 1987, includes Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number.

12)	Silver	(Dissolved)
13)	Thallium	(Dissolved)
14)	Vanadium	(Dissolved)
15)	Zinc	(Dissolved)
16)	Nitrate	

Organic Constituents

17)	Acetone	67-64-1
18)	Acrylonitrile	107-13-1
19)	Benzene	71-43-2
20)	Bromochloromethane	74-97-5
21)	Bromodichloromethane	75-27-4
22)	Bromoform; Tribromomethane	75-25-2
23)	Carbon disulfide	75-15-0
24)	Carbon tetrachloride	56-23-5
25)	Chlorobenzene	108-90-7
26)	Chloroethane; Ethyl chloride	75-00-3
27)	Chloroform; Trichloromethane	67-66-3
28)	Dibromochloromethane; Chlorodibromomethane	124-48-1
29)	1,2-Dibromo-3-chloropropane; DBCP	96-12-8
30)	1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
31)	o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
32)	p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
33)	trans-1,4-Dichloro-2-butene	110-57-6

34)	1,1-Dichloroethane; Ethylidene chloride	75-34-3
35)	1,2-Dichloroethane; Ethylene dichloride	107-06-2
36)	1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
37)	cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
38)	trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
39)	1,2-Dichloropropane; Propylene dichloride	78-87-5
40)	cis-1,3-Dichloropropene	10061-01-5
41)	trans-1,3-Dichloropropene	10061-02-6
42)	Ethylbenzene	100-41-4
43)	2-Hexanone; Methyl butyl ketone	591-73-6
44)	Methyl bromide; Bromomethane	74-83-9
45)	Methyl chloride; Chloromethane	74-87-3
46)	Methylene bromide; Dibromomethane	74-95-3
47)	Methylene chloride; Dichloromethane	75-09-2
48)	Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
49)	Methyl iodide; Iodomethane	74-88-4
50)	4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
51)	Styrene	100-42-5
52)	1,1,1,2-Tetrachloroethane	630-20-6
53)	1,1,2,2-Tetrachloroethane	79-34-5
54)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
55)	Toluene	108-88-3
56)	1,1,1-Trichloroethane; Methyl chloroform	71-55-6
57)	1,1,2-Trichloroethane	79-00-5
58)	Trichloroethylene; Trichloroethene	79-01-6
59)	Trichlorofluoromethane; CFC-11	75-69-4
60)	1,2,3-Trichloropropane	96-18-4
61)	Vinyl acetate	108-05-4
62)	vinyl chloride	75-01-4
63)	Xylenes	1330-20-7

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² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number.

Appendix II

Ground Water Quality Parameters

Field Parameters

- pH
- specific conductance
- temperature
- static water level

Geochemical Indicator Parameters

- Calcium (Ca)Sodium (Na)
- Bicarbonate (HCO₃)Chloride (Cl)
- Magnesium (Mg)Potassium (K)
- Sulfate (SO₄)Alkalinity (as Ca CO₃)
- Iron (Fe)
- Manganese (Mn)

Leachate Indicators

- Amononia (NH₃-N)
- Total Organic Carbon (TOC)
- Total Dissolved Solids (TDS)

Appendix III

List of Hazardous Inorganic and Organic Constituents.¹

Common Name ² (mg/L) ⁶	CAS RN ³	Chemical abstracts service index name ⁴	Suggested methods ⁵	PQL
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-	8100	200
			8270	10
Acenaphthylene	208-96-8	Acenaphthylene	8100	200
			8270	10
Acetone	67-64-1	2-Propanone	8260	100
Acetonitrile;	75-05-8	Acetonitrile	8015	100
Methyl cyanide				
Acetophenone	98-86-2	Ethanone, 1-phenyl-	8270	10
2-Acetylaminofluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluoren-2-yl-	8270	20
Acrolein	107-02-8	2-Propenal	8030	5
			8260	100
Acrylonitrile	107-13-1	2-Propenenitrile	8030	5
			8260	200
Aldrin	309-00-2	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4, 4a,5,8,8a-hexahydro- (1 α ,4 α , 4a β ,5 α ,8 α ,8a β)-	8080	0.05
			8270	10
Allyl chloride	107-05-1	1-Propene, 3-chloro-	8010	5
			8260	10
4-Aminobiphenyl	92-67-1	[1,1' -Biphenyl]-4-amine	8270	20
Anthracene	120-12-7	Anthracene	8100	200
			8270	10
Antimony	(Dissolved)	Antimony	6010	300
				2000
			7040	30
			7041	
Arsenic	(Dissolved)	Arsenic	6010	500
			7060	10
			7061	20
Barium	(Dissolved)	Barium	6010	20
			7080	1000
			8020	2
Benzene	71-43-2	Benzene	8021	0.1
			8260	5
			8100	200
Benzo[a]anthracene;	56-55-3	Benz[a]anthracene	8270	10
			8100	200
Benzanthracene	205-99-2	Benz[e]acephenanthrylene	8270	10
			8100	200
Benzo[b]fluoranthene	207-08-9	Benzo[k]fluoranthene	8270	10
			8100	200
Benzo[k]fluoranthene	191-24-2	Benzo[ghi]perylene	8270	10
			8100	200
Benzo[ghi]perylene			8270	10

Benzo[a]pyrene	50-32-8	Benzo[a]pyrene	8100	200
			8270	10
Benzyl alcohol	100-51-6	Benzenemethanol	8270	20
Beryllium	(Dissoved)	Beryllium	6010	3
				50
			7090	2
			7091	
alpha-BHC	319-84-6	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1 α ,2 α ,3 β ,4 α ,5 β ,6 β)-	8080	0.05
			8270	10
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1 α ,2 β ,3 α ,4 β ,5 α ,6 β)-	8080	0.05
			8270	20
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1 α ,2 α ,3 α ,4 β ,5 α ,6 β)-	8080	0.1
			8270	20
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1 α ,2 α ,3 β ,4 α ,5 α ,6 β)-	8080	0.05
			8270	20
Bis(2-chloroethoxy)methane	111-91-1	Ethane, 1,1 1 - [methylenebis(oxy)]bis[2-chloro-	8110	5
			8270	10
Bis(2-chloroethyl) ether; Dichloroethyl ether	111-44-4	Ethane, 1,1 1 -oxybis[2-chloro-	8110	3
			8270	10
Bis-(2-chloro-1-methylethyl) ether; 2,2 1 - Dichlorodiisopropyl ether; DCIP, See note 7	108-60-1	Propane, 2,2 1 -oxybis[1-chloro-	8110	10
			8270	10
Bis(2-ethylhexyl) phthalate	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester	8060	20
Bromochloromethane; Chlorobromomethane	74-97-5	Methane, bromochloro-	8021	0.1
			8260	5
Bromodichloromethane; Dibromochloromethane	75-27-4	Methane, bromodichloro-	8010	1
			8021	0.2
			8260	5
Bromoform; Tribromomethane	75-25-2	Methane, tribromo-	8010	2
			8021	15
			8260	5
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy-	8110	25
			8270	10
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester	8060	5
			8270	10
Cadmium	(Dissolved)	Cadmium	6010	40
			7130	50
			7131	1
Carbon disulfide	75-15-0	Carbon disulfide	8260	100
Carbon tetrachloride	56-23-5	Methane, tetrachloro-	8010	1
			8021	0.1
			8260	10
Chlordane	See Note 8	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-	8080	0.1
			8270	50
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro-	8270	20
Chlorobenzene	108-90-7	Benzene, chloro-	8010	2
			8020	2
			8021	0.1
			8260	5
Chlorobenzilate	510-15-6	Benzeneacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-, ethyl ester	8270	10
p-Chloro-m-cresol; 4-Chloro-3-methylphenol	59-50-7	Phenol, 4-chloro-3-methyl-	8040	5
			8270	20

Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-	8010	5
			8021	1
			8260	10
Chloroform; Trichloromethane	67-66-3	Methane, trichloro-	8010	0.5
			8021	0.2
			8260	5
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro-	8120	10
			8270	10
2-Chlorophenol	95-57-8	Phenol, 2-chloro-	8040	5
			8270	10
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy-	8110	40
			8270	10
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro-	8010	50
			8260	20
Chromium	(Dissolved)	Chromium	6010	70
			7190	500
			7191	10
Chrysene	218-01-9	Chrysene	8100	200
			8270	10
Cobalt	(Dissolved)	Cobalt	6010	70
			7200	500
			7201	10
Copper	(Dissolved)	Copper	6010	60
			7210	200
			7211	10
			8270	10
m-Cresol; 3-methylphenol	108-39-4	Phenol, 3-methyl-	8270	10
o-Cresol; 2-methylphenol	95-48-7	Phenol, 2-methyl-	8270	10
p-Cresol; 4-methylphenol	106-44-5	Phenol, 4-methyl-	8270	10
Cyanide	57-12-5	Cyanide	9010	200
2,4-D; 2,4-	94-75-7	Acetic acid, (2,4-	8150	10
Dichlorophenoxyacetic acid	72-54-8	Benzene 1,1 1 -(2,2-	8080	0.1
			dichloroethylidene)bis[4-	8270
4,4 1 -DDD	72-54-8	chloro-	8080	0.1
			Benzene, 1,1 1 -	8270
4,4 1 -DDE	72-55-9	(dichloroethylenylidene)bis[4-	8080	0.05
			chloro-	8270
4,4 1 -DDT	50-29-3	Benzene, 1,1 1 -(2,2,2-	8080	0.1
			trichloroethylidene)bis[4-	8270
Diallate	2303-16-4	Carbamothioic acid, bis(1-	8270	10
			methylethyl)-,S-(2,3-dichloro-	
Dibenz[a,h]anthracene	53-70-3	Dibenz[a,h]anthracene	8100	200
			8270	10
Dibenzofuran	132-64-9	Dibenzofuran	8270	10
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, dibromochloro-	8010	1
			8021	0.3
			8260	5
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro-	8011	0.1
			8021	30
			8260	25
1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4	Ethane, 1,2-dibromo-	8011	0.1
			8021	10
			8260	5
Di-n-butyl phthalate	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester	8060	5
			8270	10
o-Dichlorobenzene; 1,2-	95-50-1	Benzene, 1,2-dichloro-	8010	2

Dichlorobenzene			8020	5
			8021	0.5
			8120	10
			8260	5
			8270	10
m-Dichlorobenzene; 1,3-Dichlorobenzene	541-73-1	Benzene, 1,3-Dichloro-	8010	5
			8020	5
			8021	0.2
			8120	10
			8260	5
			8270	10
p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-	8010	2
			8020	5
			8021	0.1
			8120	15
			8260	5
			8270	10
3,3 1 1 -Dichlorobenzidine	91-94-1	[1,1 1 1 -Biphenyl]-4,4 1 -diamine, 3,3 1 1 -dichloro-	8270	20
trans-1,4-Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-, (E)-	8260	100
Dichlorodifluoromethane; CFC 12;	75-71-8	Methane, dichlorodifluoro-	8021	0.5
			8260	5
1,1-Dichloroethane; Ethylidene chloride	75-34-3	Ethane, 1,1-dichloro-	8010	1
			8021	0.5
			8260	5
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,1-dichloro-	8010	0.5
			8021	0.3
			8260	5
1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro-	8010	1
			8021	0.5
			8260	5
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)-	8021	0.2
			8260	5
trans-1,2-Dichloroethylene	156-60-5	Ethene, 1,2-dichloro-, (E)-	8010	1
trans-1,2-Dichloroethene			8021	0.5
			8260	5
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-	8040	5
			8270	10
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-	8270	10
1,2-Dichloropropane; Propylene dichloride	78-87-5	Propane, 1,2-dichloro-	8010	0.5
			8021	0.05
			8260	5
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro-	8021	0.3
			8260	5
2,2-Dichloropropane; Isopropylidene chloride	594-20-7	Propane, 2,2-dichloro-	8021	0.5
			8260	15
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro-	8021	0.2
			8260	5
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-, (Z)-	8010	20
			8260	10
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-, (E)-	8010	5
			8260	10
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1 α ,2 β ,2 α ,3 β ,6 β ,6 α ,7 β ,7 α)-	8080	0.05
			8270	10
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	8060	5
			8270	10
0,0-Diethyl 0-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester	8141	5
			8270	20

Dimethoate	60-51-5	Phosphorodithioic acid, 0,0-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	8141 8270	3 20
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-	8270	10
7,12-Dimethylbenz[a]anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-	8270	10
3,3 1 -Dimethylbenzidine	119-93-7	[1,1 1 -Biphenyl]-4,4 1 -diamine, 3,3 1 -dimethyl-	8270	10
2,4-Dimethylphenol; m-Xylenol	105-67-9	Phenol, 2,4-dimethyl-	8040 8270	5 10
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	8060 8270	5 10
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-	8270	20
4,6-Dinitro-o-cresol	534-52-1	Phenol, 2-methyl-4,6-dinitro	8040 8270	150 50y
Dinitro-2-methylphenol				
2,4-Dinitrophenol;	51-28-5	Phenol, 2,4-dinitro-	8040 8270	150 50
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-	8090 8270	0.2 10
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro-	8090 8270	0.1 10
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-	8150 8270	1 20
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester	8060 8270	30 10
Diphenylamine	122-39-4	Benzenamine, N-phenyl-	8270	10
Disulfoton	298-04-4	Phosphorodithioic acid, 0,0-diethyl S-[2-(ethylthio)ethyl] ester	8140 8141 8270	2 0.5 10
Endosulfan I	959-98-8	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexa- chloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide,	8080 8270	0.1 20
Endosulfan II	33213-65-9	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexa- chloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide, (3 α ,5 α ,6 β ,9 β ,9 α)-	8080 8270	0.05 20
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexa- chloro-1,5,5a,6,9,9a-hexahydro-,3-3-dioxide	8080 8270	0.5 10
Endrin	72-20-8	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1 α , 2 β ,2a β ,3 α ,6 α ,6a β ,7 β ,7a α)-	8080 8270	0.1 20
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopenta[cd]pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro-, (1 α ,2 β ,2a β ,4 β ,4a β ,5 β ,6a β ,6b β ,7R*)-	8080 8270	0.2 10
Ethylbenzene	100-41-4	Benzene, ethyl-	8020 8221 8260	2 0.05 5
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	8015 8260 8270	5 10 10
Ethyl methanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester	8270	20

Famphur	52-85-7	Phosphorothioic acid, 0-[4- [(dimethylamino)sulfonyl]pheny l] 0,0-dimethyl ester	8270	20
Fluoranthene	206-44-0	Fluoranthene	8100	200
Fluorene	86-73-7	9H-Fluorene	8270	10
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6, 7,8,8-heptachloro-3a,4,7,7a- tetrahydro-	8100	200
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno[1,2- b]oxirene, 2,3,4,5,6,7,7- heptachloro-1a,1b,5,5a,6,6a- hexahydro-, (1 α , 1b β , 2 α , 5 α , 5a β , 6 β , 6a α)	8080	1
Hexachlorobenzene	118-74-1	Benzene, hexachloro-	8270	10
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4- hexachloro-	8021	0.5
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5, 5-hexachloro-	8120	5
Hexachloroethane	67-72-1	Ethane, hexachloro-	8270	10
Hexachloropropene	1888-71-7	1-Propene, 1,1,2,3,3,3- hexachloro-	8120	5
2-Hexanone; Methyl butyl ketone	591-78-6	2-Hexanone	8270	10
Indeno(1,2,3-cd)pyrene	193-39-5	Indeno(1,2,3-cd)pyrene	8260	50
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-	8100	200
Isodrin	465-73-6	1,4,5,8-Dimethanonaphthalene, 1, 2,3,4,10,10- hexachloro-1,4,4a, 5,8,8a hexahydro- (1 α ,4 α ,4a β , 5 β ,8 β ,8a β)-	8015	50
Isophorone	78-59-1	2-Cyclohexen-1-one, 3,5,5- trimethyl-	8240	100
Isosafrole	120-58-1	1,3-Benzodioxole, 5-(1- propenyl)-	8270	20
Kepone	143-50-0	1,3,4-Metheno-2H- cyclobuta[cd]pentalen-2-one, 1, 1a,3,3a,4,5,5,5a,5b,6- decachlorooctahydro-	8270	10
Lead	(Dissolved)	Lead	8270	20
Mercury	(Total)	Mercury	6010	400
Methacrylonitrile	126-98-7	2-Propenenitrilè, 2-methyl-	7420	1000
Methapyrilene	91-80-5	1,2-Ethanediamine, N,N- dimethyl-N 1 -2-pyridinyl-N1/2- thienylmethyl)-	7421	10
Methoxychlor	72-43-5	Benzene,1,1 1 -(2,2,2, trichloroethylidene)bis[4- methoxy-	7470	2
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-	8015	5
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-	8260	100
			8270	100
			8080	2
			8270	10
			8010	20
			8021	10
			8010	1
			8021	0.3

3-Methylcholanthrene	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	8270	10
Methyl ethyl ketone; MEK; 2-Butanone	78-93-3	2-Butanone	8015	10
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-	8260	100
			8010	40
			8260	10
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester	8015	2
			8260	30
Methyl methanesulfonate	66-27-3	Methanesulfonic acid, methyl ester	8270	10
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl-	8270	10
Methyl parathion; Parathion methyl	298-00-0	Phosphorothioic acid, 0,0-dimethyl	8140	0.5
			8141	1
			8270	10
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl-	8015	5
			8260	100
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-	8010	15
			8021	20
			8260	10
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-	8010	5
			8021	0.2
			8260	10
Naphthalene	91-20-3	Naphthalene	8021	0.5
			8100	200
			8260	5
			8270	10
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione	8270	10
1-Naphthylamine	134-32-7	1-Naphthalenamine	8270	10
2-Naphthylamine	91-59-8	2-Naphthalenamine	8270	10
Nickel	(Total)	Nickel	6010	150
			7520	400
o-Nitroaniline; 2-Nitroaniline	88-74-4	Benzenamine, 2-nitro-	8270	50
m-Nitroaniline; 3-Nitroaniline	99-09-2	Benzenamine, 3-nitro-	8270	50
p-Nitroaniline; 4-Nitroaniline	100-01-6	Benzenamine, 4-nitro-	8270	20
Nitrobenzene	98-95-3	Benzene, nitro-	8090	40
			8270	10
o-Nitrophenol; 2-Nitrophenol	88-75-5	Phenol, 2-nitro-	8040	5
			8270	10
p-Nitrophenol; 4-Nitrophenol	100-02-7	Phenol, 4-nitro-	8040	10
			8270	50
N-Nitrosodi-n-butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso-	8270	10
N-Nitrosodiethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso-	8270	20
N-Nitrosodimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso-	8070	2
N-Nitrosodiphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-	8070	5
N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine; Di-n-propylnitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-	8070	10
N-Nitrosomethylethalamine	10595-95-6	Ethanamine, N-methyl-N-nitroso-	8270	10
N-Nitrosopiperidine	100-75-4	Piperidine, 1-nitroso-	8270	20
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso-	8270	40
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2-methyl-5-nitro-	8270	10
Parathion	56-38-2	Phosphorothioic acid, 0,0-diethyl 0-(4-nitrophenyl) ester	8141	0.5
			8270	10
Pentachlorobenzene	608-93-5	Benzene, pentachloro-	8270	10
Pentachloronitrobenzene	82-68-8	Benzene, pentachloronitro-	8270	20
Pentachlorophenol	87-86-5	Phenol, pentachloro-	8040	5
			8270	50
Phenacetin	62-44-2	Acetamide, N-(4-ethoxyphenyl)	8270	20

Phenanthrene	85-01-8	Phenanthrene	8100	200
			8270	10
Phenol	108-95-2	Phenol	8040	1
p-Phenylenediamine	106-50-3	1,4-Benzenediamine	8270	10
Phorate	298-02-2	Phosphorodithioic acid, 0,0-diethyl S-[(ethylthio)methyl] ester	8140	2
			8141	0.5
			8270	10
Polychlorinated biphenyls; PCBs; Aroclors	See Note 9	1,1'-Biphenyl, chloro derivatives	8080	50
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	8270	200
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile	8270	10
			8015	60
			8260	150
Pyrene	129-00-0	Pyrene	8100	200
			8270	10
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	8270	10
Selenium	(Dissolved)	Selenium	6010	750
				20
			7740	20
			7741	
Silver	(Dissolved)	Silver	6010	70
			7760	100
			7761	10
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	8150	2
Styrene	100-42-5	Benzene, ethenyl-	8020	1
			8021	0.1
			8260	10
Sulfide	18496-25-8	Sulfide	9030	4000
2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-	8150	2
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-	8270	10
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro-	8010	5
				0.05
			8021	5
			8260	
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro-	8010	0.5
				0.1
			8021	5
			8260	
Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4	Ethene, tetrachloro-	8010	0.5
			8021	0.5
			8260	5
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro-	8270	10
Thallium	(Dissolved)	Thallium	6010	400
				1000
			7840	10
			7841	
Tin	(Dissolved)	Tin	6010	40
Toluene	108-88-3	Benzene, methyl-	8020	2
				0.1
			8021	5
			8260	
o-Toluidine	95-53-4	Benzenamine, 2-methyl-	8270	10
Toxaphene	See Note 10	Toxaphene	8080	2
1,2,4-Trichlorobenzene	120-82-1	Benzene, 1,2,4-trichloro-	8021	0.3
				0.5
			8120	10
			8260	10
			8270	
1,1,1-Trichloroethane;	71-55-6	Ethane, 1,1,1-trichloro-	8010	0.3

Methylchloroform			8021	0.3
			8260	5
1,1,2-Trichloroethane	79-00-5	Ethane, 1,1,2-trichloro-	8010	0.2
			8260	5
Trichloroethylene;	79-01-6	Ethene, trichloro-	8010	1
Trichloroethene			8021	0.2
			8260	5
Trichlorofluoromethane; CFC-11	75-69-4	Methane, trichlorofluoro-	8010	10
			8021	0.3
			8260	5
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5-trichloro-	8270	10
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro-	8040	5
			8270	10
1,2,3-Trichloropropane	96-18-4	Propane, 1,2,3-trichloro-	8010	10
			8021	5
			8260	15
0,0,0-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, 0,0,0-triethylester	8270	10
sym-Trinitrobenzene	99-35-4	Benzene, 1,3,5-trinitro-	8270	10
Vanadium (Dissolved)		Vanadium	6010	80
			7910	2000
			7911	40
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester	8260	50
Vinyl chloride; Chloroethene	75-01-4	Ethene, chloro-	8010	2
			8021	0.4
			8260	10
Xylene (total)	See Note 11	Benzene, dimethyl-	8020	5
			8021	0.2
			8260	5
Zinc (Dissolved)		Zinc	6010	20
			7950	50
			7951	0.5

Notes

- 1 The regulatory requirements pertain only to the list of substances; the right hand columns (Methods and PQL) are given for informational purposes only. See also footnotes 5 and 6.
- 2 Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.
- 3 Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.
- 4 CAS index are those used in the 9th Collective Index.
- 5 Suggested Methods refer to analytical procedure numbers used in EPA Report SW-846 "Test Methods for Evaluating Solid Waste", third edition, November 1986, as revised, December 1987. Analytical details can be found in SW-846 and in documentation on file at the agency. CAUTION: The methods listed are representative SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.
- 6 Practical Quantitation Limits (PQLs) are the lowest concentrations of analytes in ground waters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5 mL samples for volatile organics and 1 L samples for semivolatile organics. CAUTION: The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; PQLs are not a part of the regulation.
- 7 This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2'-oxybis[2-chloro- (CAS RN 39638-32-9).

- 8 Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 µg/L by method 8270.
- 9 Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.
- 10 Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.
- 11 Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 µg/L by method 8020 or 8260.

Appendix IV

Parameters For Leachate Analysis

Appendix I¹

Appendix II

Nitrite

Total Colliform

COD

BOD

Cyanide

1. All metals analysis should be for total recoverable metals for the leachate samples only.

Note: All other appendices require dissolved metals (field-filtration for metals).

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

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

WSR 93-12-111
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed June 2, 1993, 9:29 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-115 Sales of packing materials and containers.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on July 7, 1993, at 9:30 a.m. (Written comments will be accepted to the date.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule. The rule will clarify that persons who perform processing for hire which includes packing the products are not consumers of the containers. The rule will also clarify that manufacturers are the consumers of packing materials for products shipped between their plants for further manufacturing. A draft of the proposed revisions to the rule is available, contact Roseanna Hodson, (206) 586-4281.

June 2, 1993
 Stephen P. Zagelow
 Senior Counsel

WSR 93-12-112
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed June 2, 1993, 9:30 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-116 Labels, name plates, tags, premiums and advertising matter.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on July 7, 1993, at 9:30 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule to clarify when labels, name plates, tags, and premiums may be purchased without payment of retail sales tax. The rule will include examples. The rule revision is not intended to involve any change in tax policy. A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

June 2, 1993
 Stephen P. Zagelow
 Senior Counsel

WSR 93-12-113
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed June 2, 1993, 9:32 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-117 Sales of dunnage.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on July 7, 1993, at 9:30 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule. The rule will clarify the B&O tax which applies to the sale of dunnage, as well as the retail sales or use tax. The rule is not expected to involve a change in tax policy. A draft of the proposed changes to the rule is available, contact Roseanna Hodson, (206) 586-4281.

June 2, 1993
 Stephen P. Zagelow
 Senior Counsel

WSR 93-12-114
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed June 2, 1993, 9:35 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-150 Optometrists, ophthalmologists, and oculists..

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on July 7, 1993, at 11:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule. The rule will clarify the tax reporting requirements for persons who make eye examinations and sell prescription lenses. The rule is not intended to involve a change in tax policy.

A draft of the proposed changes is available, contact Roseanna Hodson, (206) 586-4281.

June 2, 1993
 Stephen P. Zagelow
 Senior Counsel

WSR 93-12-115
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
 [Filed June 2, 1993, 9:37 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-167 Educational institutions, school districts, student organizations, private schools.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Alan R. Lynn, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 664-0972. Public meetings scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on July 7, 1993, at 11:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The department plans to revise this rule. The rule will clarify that educational institutions operated by the state are required to collect retail sales tax on books and similar items. The rule will clarify the tax liability of persons operating preschool facilities. A draft of the proposed changes is available, contact Roseanne Hodson, (206) 586-4281.

June 2, 1993
 Stephen P. Zagelow
 Senior Counsel

WSR 93-12-116
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed June 2, 1993, 9:45 a.m.]

Original Notice.

Title of Rule: WAC 314-20-180 Partial beer tax exemption.

Purpose: To set forth, by permanent rule, the manner in which breweries may be exempted from paying increased taxes on the first 60,000 barrels of malt liquor as allowed in chapter 492, Laws of 1993 (E2SSB 5304).

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Language enacted by the 1993 legislature prescribes the manner in which breweries may obtain exemptions from a new tax on the first 60,000 barrels of production sold in Washington.

Reasons Supporting Proposal: The rule was adopted under emergency powers on May 5, 1993, to assist in implementing the law which goes into effect July 1, 1993. This notification is for the permanent adoption of the emergency rule.

Name of Agency Personnel Responsible for Drafting and Implementation: Jim Hoing, 1025 East Union, Olympia, 98504, 753-6290; and Enforcement: Gary Gilbert, 1025 East Union, Olympia, 98504, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides for breweries to file a copy of BATF notice to pay reduced tax as required by 27 C.F.R. Sec. 25.167 as a means of not paying a new tax rate on the first 60,000 barrels of beer produced for sale in Washington.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Liquor Control Board, 5th Floor Conference Room, 1025 East Union, Olympia, WA 98504, on July 7, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504, by July 6, 1993.

Date of Intended Adoption: July 7, 1993.

June 1, 1993
 Paula O'Connor
 Chairman

NEW SECTION

WAC 314-20-180 Partial beer tax exemption. (1) The additional beer taxes imposed under RCW 66.24.290 (4)(a) shall not apply to the sale of the first sixty thousand barrels of beer in Washington each fiscal year beginning July 1, 1993, for beer produced in the United States if the producing brewery meets the qualifications of 26 U.S.C. Sec. 5051 (a)(2).

(2) In order to qualify for the exemption provided for in subsection (1), it shall be the responsibility of the licensed Washington brewer and/or the out-of-state beer certificate of approval holder to provide the board with a copy of a Bureau of Alcohol, Tobacco and Firearms (BATF) acknowledged copy of their filing "Notice of Brewer to Pay Reduced Rate of Tax" for the calendar year as required under 27 C.F.R. Sec. 25.167.

(3) The BATF acknowledged copy of the "Notice of Brewer to Pay Reduced Rate of Tax" must be on file with the board prior to June 1 in order to qualify for the tax exemption beginning on July 1 of each year. If proof of eligibility is not received prior to June 1, the tax exemption will not apply until the first day of the second month following the month notice is received.

WSR 93-12-117
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed June 2, 1993, 9:46 a.m.]

Original Notice.

Title of Rule: WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.

Purpose: To make corrections to clerical errors made in previous filings which have resulted in code reviser notes being recorded on the permanent record.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Minor clerical errors which have resulted in material being bracketed and noted as being exceptions to code reviser procedure will be corrected.

Reasons Supporting Proposal: To correct prior errors and preclude any misconceptions or interpretations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gary Gilbert, 1025 East Union, Olympia, WA 98504, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes qualifications for applicants for liquor licenses. Several clerical errors have resulted in bracketed material containing code reviser exception notices. The sole purpose of this amendatory language is to bring the rule into complete compliance with appropriate format.

Proposal Changes the Following Existing Rules: When adopted, the amendatory language will correct errors in style for previous amendments thereby eliminating notices of exception to acceptable style.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

No substantive changes are being made to existing rule. Technical, clerical changes only.

Hearing Location: Liquor Control Board, 5th Floor Conference Room, 1025 East Union, Olympia, WA 98504, on July 7, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504-3080, by July 6, 1993.

Date of Intended Adoption: July 7, 1993.

June 1, 1993

Paula O'Connor
Chairman

AMENDATORY SECTION (Amending WSR 90-24-007, filed 11/27/90, effective 12/28/90)

WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications. (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance or transfer of any annual license, fingerprinting (~~and criminal history record~~) and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any

subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible (~~for issuance of a license under RCW 66.24.010(2) shall also cease to be eligible~~) for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) An applicant for any license or permit issued by the liquor control board (~~who employs an attorney or agent in connection with an application~~), who employs an attorney or agent in connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received (~~shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received~~) shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.

(5) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

(6) The board may, at its discretion and for good cause shown, reconsider a denied application upon receipt of new information within sixty days of the original (~~denial~~) denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a

press release will be issued informing the public of the impending reconsideration.

WSR 93-12-118
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed June 2, 1993, 9:49 a.m.]

Original Notice.

Title of Rule: WAC 314-16-090 Bottles—Reuse.

Purpose: Specifies the type of container(s) that may be used by a licensee to fill a request by a purchaser for malt liquor for off-premises consumption.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Amendatory language allows for the use of containers which do not contain misleading identification to be filled with malt liquor for the purchasers use off the licensed premises.

Reasons Supporting Proposal: Clarify existing language, relax some restrictive language and make the rule more workable for all concerned.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, 1025 East Union, Olympia, WA 98504, 586-6701; Implementation and Enforcement: Gary Gilbert, 1025 East Union, Olympia, WA 98504, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board adopted Resolution 355 on May 5, 1993. The resolution adopted the changes as policy and the board intends to make the policy part of existing rule to clarify the type of containers which may be used to hold tap beer for off-premises consumption.

Proposal Changes the Following Existing Rules: Expands and enhances existing requirements for containers which may be used to hold tap beer for off-premises consumption. The rule prohibits a licensee from using a container which has some marking or identification which could be misleading to a customer as to the contents of the container.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

No additional requirements placed upon licensees to comply with amendatory changes.

Hearing Location: Liquor Control Board, Fifth Floor Conference Room, 1025 East Union, Olympia, WA 98504, on July 7, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504-3080, by July 3, 1993.

Date of Intended Adoption: July 7, 1993.

June 1, 1993
Paula O'Connor
Chairman

AMENDATORY SECTION (Amending Order 19, filed 8/10/72)

WAC 314-16-090 Bottles and containers—Reuse.

(1) No Class H licensee shall reuse, refill or tamper with any bottle of spiritous liquor, nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to, the contents of any bottle of spirituous liquor.

(2) No retail licensee shall ~~((refill))~~ fill a jug, bottle or other container with ~~((unpasteurized))~~ beer while such jug, bottle or other container bears ~~((the label or name of any brand of beer or of any brewer, wholesaler or bottler))~~ any identification or marking which would mislead the purchaser about the identity of the contents of the container.

(3) Every jug, bottle or other container a retail licensee fills for off-premise consumption must:

(a) Be capable of being sealed; and

(b) Be capable of holding a minimum of 750 ml (25.4 ounces) of liquid and may not hold more than 15 liters (or 4 gallons or 512 ounces) of any beer.

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

WSR 93-12-119
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed June 2, 1993, 9:51 a.m.]

Original Notice.

Title of Rule: WAC 314-16-250 Retail sale of malt liquor in kegs.

Purpose: Sets forth procedures for compliance with keg registration provisions of Title 66 RCW.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Amendatory language is to be adopted to bring rule into compliance with most recent changes made by legislative action in chapter 21, Laws of 1993 (SB 5128) allowing Class E licensees to sell malt liquor in containers holding no more than 5 1/2 gallons so long as the containers holding more than 4 gallons are registered to the buyer.

Reasons Supporting Proposal: Statutory changes to RCW 66.24.360, 66.28.200 and 66.28.220 made in 1993 regular session.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gary Gilbert, 1025 East Union, Olympia, WA 98504, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adds new language to existing rule so as to permit Class E licensees to sell malt liquor in containers holding between four and five and one-half gallons providing such containers are registered under state keg registration.

Proposal Changes the Following Existing Rules: Amendatory language adds Class E licensees to the list of licensees who may sell malt liquor in containers up to five and one-half gallons so long as the containers have been registered in compliance with keg registration requirements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Language allows new class of licensee to sell additional container sizes of malt liquor for off-premises consumption hence is beneficial to small business.

Hearing Location: Liquor Control Board, Fifth Floor Conference Room, 1025 East Union, Olympia, WA 98504, on July 7, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504-3080, by July 6, 1993.

Date of Intended Adoption: July 7, 1993.

June 1, 1993

Paula O'Connor
Chairman

AMENDATORY SECTION (Amending WSR 91-19-070, filed 9/16/91, effective 10/17/91)

WAC 314-16-250 Retail sale of malt liquor in kegs.

(1) Licensees holding a Class A or B license in combination with a Class E license may sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid.

(2) Licensees holding a Class E license may sell malt liquor in kegs or other containers capable of holding four gallons or more, but less than five and one-half gallons of malt liquor.

(3) Any licensee who sells or offers for sale kegs or other containers holding four gallons or more of malt liquor to consumers for off-premises consumption who are not licensed under chapter 66.24 RCW shall require the purchaser to:

(a) Provide one piece of identification pursuant to RCW 66.16.040.

(b) Sign a sworn statement, contained on the keg registration declaration and receipt form, under penalty of perjury that:

(i) The purchaser is of legal age to purchase, possess(~~(f))~~), or use malt liquor;

(ii) The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;

(iii) The purchaser will not remove, obliterate, or allow to be removed or obliterated, the keg registration declaration and receipt form affixed to the container.

(c) State the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located.

~~((2))~~ (4) The keg registration declaration and receipt forms shall be provided by the board to licensees holding a Class A or B license in combination with the Class E license. Licensees holding a Class E license must purchase the keg registration declaration and receipt forms from the board at the board's costs of providing the forms. Forms will be sold to Class E licensees upon receipt of a request and payment in the form of a check or money order for the proper amount.

(5) The keg registration declaration and receipt form provided by the board must be properly completed for sales of kegs for off-premises consumption.

(a) The form shall contain:

(i) The name and address of the purchaser(~~((f))~~).

(ii) The type and number of the identification presented by the purchaser pursuant to RCW 66.16.040(~~((f))~~).

(iii) A sworn statement, signed by the purchaser under penalty of perjury, that the purchaser is twenty-one years of age or older; will not allow persons under twenty-one years of age to consume the malt liquor purchased; and that ~~((the))~~ the purchaser will not remove or obliterate the keg registration tag affixed to the keg or allow its removal or obliteration.

(iv) The particular address where the malt liquor will be consumed, and the date on which it will be consumed.

(b) Where the purchaser obtains more than one keg for off-premises consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed keg registration and declaration receipt.

~~((3))~~ (6) The seller shall comply with all provisions of the keg registration law as ~~((provided) [adopted] in sections 229 through 234 chapter 271, Laws of 1989))~~ codified in RCW 66.28.200, 66.28.210, 66.28.220, 66.28.230, and 66.28.240 including provisions adopted in chapter 21, Laws of 1993.

~~((4))~~ (7) For the purpose of tracing the kegs and purchaser responsibility it shall be the responsibility of the seller to affix the properly completed and signed keg registration declaration and receipt form to all containers of four gallons or more of malt liquor prior to the container leaving the premises of the seller.

~~((5))~~ (8) The licensee must retain a copy of the keg registration declaration and receipt, which shall be retained on the licensed premises for a period of one year unless otherwise authorized in writing by the board. The records shall be available for inspection and copying by any liquor enforcement officer or other law enforcement officer.

~~((6))~~ (9) The keg registration declaration and receipt affixed to the keg may serve as the purchaser's receipt.

~~((7))~~ (10) Kegs or other containers holding four gallons or more of malt liquor shall be purchased for off-premises consumption only from an authorized retail source and shall, at all times, have a properly completed keg registration declaration and receipt form affixed thereon when sold for off-premises consumption. Possession of a keg or other container which holds four gallons or more of malt liquor, other than on the seller's premises, without a properly completed keg registration and declaration form either affixed thereon or in possession of the person with the keg(s) shall be a violation of this title.

WSR 93-12-120
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed June 2, 1993, 9:54 a.m.]

Original Notice.

Title of Rule: WAC 314-12-015 Applicant certification for a license.

Purpose: Sets forth specific procedures to pursue when new licensees are issued a state liquor license. Requires certain verification that the licensee has a basic understanding of liquor laws and regulations.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Amends existing language to require individuals who are issued a liquor license to acknowledge basic understanding of liquor laws and regulations. Modifies existing title to more clearly reflect the actual intent of the language. Eliminates written test procedure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gary Gilbert, 1025 East Union, Olympia, WA, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule sets forth criteria for new licensees to follow in order to prove overall knowledge of liquor laws and regulations. The streamlining the proposed changes will have will simplify the process, make it easier to understand and relieve problems in processing under the current procedure.

Proposal Changes the Following Existing Rules: The proposed changes eliminate a test for all applicants and, in place thereof, requires a statement of overall, basic understanding of liquor laws and regulations at the time the license is issued.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The rule does not place any requirements on current liquor licensees and, in reality, should reduce the time necessary for a license applicant to complete the application process.

Hearing Location: Liquor Control Board, Fifth Floor Conference Room, 1025 East Union, Olympia, WA 98504, on July 7, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504-3080, by July 6, 1993.

Date of Intended Adoption: July 7, 1993.

June 1, 1993
 Paula O'Connor
 Chairman

AMENDATORY SECTION (Amending WSR 92-14-024, filed 6/22/92, effective 7/23/92)

WAC 314-12-015 (~~Applicant certification for a license~~) **Receipt of liquor laws/rules summary.** (~~(+)~~) Upon (~~making application for~~) issuance of a liquor license (~~as authorized by~~) under chapter 66.24 RCW, (~~and prior to the board considering such license application~~) every

(~~applicant~~) licensee shall (~~take a test on forms prescribed by the board~~) be issued a guide on liquor laws, regulations, and other pertinent information. (~~The test shall be of the applicants' knowledge of liquor laws~~) Every licensee or designee of a licensee shall be required to sign a form provided by the board acknowledging receipt of the guide. The (~~passing of such test is a certification~~) issuance of the guide to the licensee and the receipt of the licensee's signed acknowledgement signifies that the (~~applicant has a~~) licensee is aware of the basic (~~knowledge of~~) liquor law requirements and is able to operate their liquor business in such a fashion as to protect the public health, welfare and safety.

~~((a) If the applicant is a sole proprietor, the sole proprietor must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.~~

~~(b) If the applicant is a partnership, all general partners must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.~~

~~(c) If the applicant is a corporation, the corporate president or designee must take and pass a "Liquor Law Knowledge" test prior to being issued a license by the board.)~~

WSR 93-12-121
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed June 2, 1993, 9:59 a.m.]

Original Notice.

Title of Rule: WAC 246-815-990 Dental hygiene fees.

Purpose: To establish a fee for temporary dental hygiene licenses mandated by 1993 legislation. The licenses are for out-of-state dental hygienists that can qualify according to the requirements.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: SHB 1801, passed in 1993 legislative session.

Summary: To establish a fee for temporary dental hygiene licenses mandated by 1993 legislation. The licenses are for out-of-state dental hygienists that can qualify according to the requirements.

Reasons Supporting Proposal: Mandated by legislation and will provide more access to care.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol L. Lewis and Sue Shoblom, Olympia, Washington, (206) 586-1867.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will establish a fee for temporary licenses of dental hygienists. The temporary licenses are for out-of-state dental hygienists, who meet the requirements of the statute. This will provide more access to care and the ability of out-of-state dental hygienists to work until acquiring a permanent dental hygiene license.

Proposal Changes the Following Existing Rules: The amendment to WAC 246-815-990 adds a fee for temporary dental hygiene licenses.

PROPOSED

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: General Administration Auditorium, General Administration Building, 11th and Columbia, Olympia, Washington 98504, on July 7, 1993, at 1:30 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47902, Olympia, WA 98504-7902, by July 6, 1993.

Date of Intended Adoption: July 10, 1993.

June 1, 1993
Bruce A. Miyahara
Secretary

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on July 7, 1993, at 2:00 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47902, Olympia, WA 98504-7902, by July 6, 1993.

Date of Intended Adoption: July 14, 1993.

June 1, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 173, filed 6/6/91, effective 7/7/91)

WAC 246-815-990 Dental hygiene fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application examination and reexamination	\$200.00
Renewal	95.00
Late renewal penalty	60.00
Credentialing application	300.00
<u>Temporary license application</u>	<u>115.00</u>
Duplicate license	15.00
Certification	35.00
Education program evaluation	200.00

WSR 93-12-122
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed June 2, 1993, 10:01 a.m.]

Original Notice.

Title of Rule: WAC 246-917-990 Physicians and surgeons fees.

Purpose: Establish fee for retired active physicians license as authorized by RCW 18.130.250.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 18.130.250.

Summary: Establishes the fees for retired active physician license as authorized by RCW 18.130.250.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Medical Examiners, Olympia, (206) 586-8934.

Name of Proponent: Board of Medical Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 246-917-300 established the criteria for granting a retired active physician license as authorized by RCW 18.130.250 and WAC 246-917-990 will establish the fee. We anticipate an increase of retired physicians to help at low income clinics.

Proposal Changes the Following Existing Rules: Adding a fee for retired active physician license.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

AMENDATORY SECTION (Amending Order 258, filed 3/27/92, effective 4/27/92)

WAC 246-917-990 Physician and surgeon fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Physician and surgeons:	
Application with examination or reexamination (both components)	\$600.00
Examination or reexamination (component I)	295.00
Examination or reexamination (component II)	320.00
Applicants (without full examination)	300.00
<u>Retired active physician license</u>	<u>125.00</u>
Renewal	107.50
Renewal effective April 1, 1991	100.00
Late renewal penalty	50.00
Disciplinary assessment	107.50
Disciplinary assessment effective April 1, 1991	100.00
Surcharge-impaired physician	25.00
Certification	50.00
Duplicate license	15.00
Temporary permit	50.00
Limited license:	
Limited license application	200.00
Renewal	107.50
Renewal effective April 1, 1991	100.00
Duplicate license	15.00
Disciplinary assessment	107.50
Disciplinary assessment effective April 1, 1991	100.00
Surcharge-impaired physician	25.00

WSR 93-12-123
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed June 2, 1993, 10:03 a.m.]

Original Notice.

Title of Rule: Pharmacy assistance specialized functions.

Purpose: Establishes criteria by which pharmacy assistants may perform certain functions they cannot if they have not met those criteria.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This rule allows pharmacy assistants who have met certain criteria to perform duties such as filling unit dose packs and mixing IVs, which they cannot do without meeting these criteria.

Reasons Supporting Proposal: This will allow hospitals to use pharmacy assistants to perform these duties if they meet the criteria which establish their ability and proficiency at those duties.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 1300 Quince S.E., P.O. Box 47863, Olympia, 98504-7863, 753-6834.

Name of Proponent: Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule would allow pharmacy assistants to perform duties to include filling medpacks and mixing IVs after demonstration of their proficiency in handling these duties.

Proposal Changes the Following Existing Rules: This only expands the possible utilization of pharmacy assistants and establishes the criteria by which they may be utilized in this fashion.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Wyndham Garden Hotel, 18118 Pacific Highway South, Seattle, WA, on July 14, 1993, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, P.O. Box 47863, Olympia, WA 98504-7863, by July 12, 1993.

Date of Intended Adoption: July 14, 1993.

May 27, 1993
Donald H. Williams
Executive Director

NEW SECTION

WAC 246-901-035 Pharmacy assistants specialized functions. A Level A pharmacy assistant who meets established criteria for employment, experience, training, and demonstrated proficiency may perform specialized functions. The criteria shall be specified in the utilization plan of the pharmacy (WAC 246-901-100(2)) and records of Level A pharmacy assistant training and proficiency demonstration will be kept on file in the pharmacy. In addition to the initial demonstration of proficiency, continued proficiency must be documented in the quality assurance program of the pharmacy. Specialized functions and proficiency criteria include the following:

(1) Unit-dose medication checking. Following training and demonstration of proficiency, a Level A pharmacy assistant may check unit-dose medication cassettes filled by another Level A pharmacy assistant or pharmacy intern in pharmacies serving facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42 RCW. The training proficiency criteria require demonstration of ninety-nine percent accuracy in medication checking.

(2) Intravenous admixture preparation. Following training and demonstration of proficiency, a Level A pharmacy assistant may prepare intravenous admixtures. The training proficiency criteria require demonstration of one hundred percent accuracy in intravenous admixture preparation of a representative sample of preparations provided by the facility using aseptic techniques.

(3) Other functions specifically approved by the board.

WSR 93-12-127

PROPOSED RULES

DEPARTMENT OF LICENSING

(Real Estate Appraiser Advisory Committee)

[Filed June 2, 1993, 10:31 a.m.]

Original Notice.

Title of Rule: Amending WAC 308-125-010(6) Licensed appraiser, defines licensed appraiser (new); WAC 308-125-010(6) Department, renumber this section only as new (7); WAC 308-125-010(7) Director, renumber this section only as new (8); WAC 308-125-010(8) Real estate, renumber this section only as new (9); WAC 308-125-010(9) Real property, renumber this section only as new (10); WAC 308-125-010(10) Specialized appraisal services, renumber this section only as new (11); WAC 308-125-010(11) State-certified real estate appraiser, renumber this section only as new (12); WAC 308-125-010(13) State-licensed real estate appraiser, defines state-licensed real estate appraiser, deletes reference to college degree; WAC 308-125-010(12) Advisory committee, renumber this section only as new (14); WAC 308-125-010(14) Classroom hour, renumber this section only as new (15); WAC 308-125-010(15) Full-time, renumber this section only as new (16); WAC 308-125-010(16) Residential appraiser classification, renumber to (17) and references state-licensed appraiser classification; WAC 308-125-010(17) General real estate appraiser, renumber this section only as new (18); WAC 308-125-010(18) Associate college degree, deletes reference to associate college degree; WAC 308-125-020 Appraiser process to take examination, (1) references state-licensed classification, (2) clarifies application process requirements, and (3) specifies validation period for application and fee, renumbers sections affected by inclusion of additional language; WAC 308-125-030 Examination prerequisite general classification, (1) clarifies prerequisite requirements for general appraiser and (2) clarifies course content prerequisites; WAC 308-125-040 Examination prerequisite state-certified residential classification, (1) clarifies prerequisite requirements for state certified residential appraiser and (2) specifies two years is twenty four months; WAC 308-125-045 Examination prerequisite state-licensed classification, references state-licensed classification, (1) clarifies prerequisite requirements for state-licensed appraiser and (2) specifies two years is twenty four months; WAC 308-125-050 Educational courses-preexamination, (1) references other pertinent WACs and (2) identifies limitation for course acceptability; WAC 308-125-060 Alternate to classroom hours, requirement preexamination, clarifies confusing language about alternate education acceptability; WAC 308-125-070 Experience requirements, (2) clarifies experience standards for work prior to 1/1/90 and (3)

June 2, 1993

Cleotis Borner

Program Manager

PROPOSED

clarifies experience standards for work after 1/1/90, renumbers sections because of inclusion of additional language, and adds maximum experience hours to be credited for an appraisal assignment; WAC 308-125-085 Temporary practice, (4) identifies scope of practice for temporary permit appraisers; WAC 308-125-090 Continuing education, (1) references state-licensed classification, (2) specifies term for completion of continuing education, (6) deletes reference to real estate feasibility and marketability studies, (7) adds additional areas for continuing education for residential classification, and (8) identifies topics for continuing education for state-licensed appraisers; WAC 308-125-100 Course approval requirements, (2) references other pertinent WACs; WAC 308-125-110 Address change, references state-licensed classification; WAC 308-125-130 Reexamination, changes title of mile and references state-licensed classification; WAC 308-125-140 Passing exam score, amends so all classifications are included in exam passing score; WAC 308-125-180 Reciprocity, references state-licensed classification; WAC 308-125-190 Examination required—Scope, references state-license classification; and WAC 308-125-210 Required records, references state-licensed classification.

New WAC 308-125-065 Education/experience credit for teachers of approved real estate courses, identifies criteria for teaching credit toward education/experience hours; and WAC 308-125-225 Meetings—Notice, requires those interested in notice of meetings to request the department in writing.

Repealing WAC 308-125-035 State-certified residential classification, this section is no longer needed because of the legislative changes incorporating these classifications into the law; and WAC 308-125-160 Waiver, delete section.

Purpose: These amendments and new sections are necessary as a result of legislative changes made during the 1993 session. Also, a number of these changes clarify existing language to avoid confusion by applicants and/or licensed and certified appraisers.

Statutory Authority for Adoption: RCW 18.140.030(1).

Statute Being Implemented: Chapter 18.140 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cleotis Borner, P.O. Box 49012, 753-1062.

Name of Proponent: Department of Licensing, Real Estate Appraiser Advisory Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: WestCoast SeaTac Hotel, 18220 Pacific Highway South, SeaTac, WA 98188, on Friday, July 9, 1993, at 9:00 a.m.

Submit Written Comments to: Cleotis Borner, 2424 Bristol Court, P.O. Box 9012, Olympia, WA 98507-9012, by July 8, 1993, 5:00 p.m.

Date of Intended Adoption: July 9, 1993.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-010 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has in the Certified Real Estate Appraiser Act, (chapter 18.140 RCW).

(2) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate for or in expectation of compensation. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

(3) "Appraisal report" means any communication, written or oral, of an appraisal. Except all appraisal reports in federally related transactions are required to be written reports.

(4) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(5) "Certified appraisal" means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(6) "Licensed appraisal" means an appraisal prepared or signed by a state-licensed real estate appraiser. A licensed appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(7) "Department" means the department of licensing.

~~((7))~~ (8) "Director" means the director of the department of licensing.

~~((8))~~ (9) "Real estate" means an identified parcel or tract of land, including improvements, if any.

~~((9))~~ (10) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~((10))~~ (11) "Specialized appraisal services" means all appraisal services which do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

~~((11))~~ (12) "State-certified real estate appraiser" means a person who develops and communicates real estate appraisals, and who holds a valid certificate issued to him/her for either general or residential real estate under this

chapter. A state-certified real estate appraiser may designate or identify an appraisal rendered by him/her as a "certified appraisal" and indicate which type of certification is held.

~~((12))~~ (13) "State-licensed real estate appraiser" means a person who develops and communicates real estate appraisals, and who holds a valid license issued to him/her for residential real estate under this chapter. A state-licensed real estate appraiser may designate or identify an appraisal rendered by him/her as a "licensed appraisal."

(14) "Advisory committee" means a committee of seven individuals, of whom at least five are real estate appraisers appointed by the director to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education, and examination requirements that are appropriate for each classification of state-certified real estate appraiser.

~~((13))~~ "College degree" means a baccalaureate degree awarded by a college or university which has been accredited by the Council on Postsecondary Accreditation or an accrediting body approved by the United States Department of Education.

~~((14))~~ (15) "Classroom hour" means fifty minutes out of each sixty minute hour.

~~((15))~~ (16) "Full-time" means the equivalent twelve-month period in which an applicant works at least one thousand five hundred hours in real estate appraisal.

~~((16))~~ (17) "Licensed or residential real estate appraiser" classification applies to those individuals qualified to appraise one to four residential units.

~~((17))~~ (18) "General real estate appraiser" classification applies to those individuals qualified to appraise all types of real property.

~~((18))~~ "Associate college degree" means a degree awarded by a college or university which has been accredited by the Council on Postsecondary Accreditation or an accrediting body approved by the United States Department of Education. The associate degree must be based upon a minimum two year program.)

(19) "Federally related transaction" means any real estate-related financial transaction which Federal Financial Institutions Regulatory Agency (FFIRA) or the Resolution Trust Company (RTC) engages in, contracts for, or regulates and which requires the services of an appraiser.

(20) "Real estate related-financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interest in property as security for a loan or investment, including mortgage-backed securities.

(21) "Residential properties" means one to four single family residential units and lots where the highest and best use is for one to four family purposes.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-020 Application process to take examination. (1) Any person desiring to take an examination for licensure or certification as a state-licensed or state-certified residential real estate appraiser, or as a state-certified general real estate appraiser, must submit a completed examination application with supporting documents and appropriate fee to the department of licensing, professional licensing services, at its official address. After the qualifications for the examination have been verified by the department, the applicant shall submit the preapproved examination application, the request for examination and the appropriate fee to the testing service approved by the director.

(2) An ~~((application and the))~~ applicant must, as of the date his/her application ~~((fee shall be valid for six months from receipt by))~~ is filed with the department, possess the requisite two years (twenty-four months) and three thousand hours of verifiable real estate appraisal experience. ~~((After six months, if the applicant has not met the prerequisite to sit for the certification examination, the applicant must submit a new application with the appropriate fee.))~~

(3) An application and the nonrefundable application fee shall be valid for six months from receipt by the department. An applicant may correct any discrepancies in the application other than experience during this six-month period. After six months, if the applicant has not met the prerequisites to sit for the licensure or certification examination, the applicant must submit a new application with the appropriate fee.

(4) Dishonored checks will be considered as an incomplete application.

~~((4))~~ (5) An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not take for any reason, other than through the fault or mistake of the department of licensing or the approved testing agency.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-030 Examination prerequisite general classification. The general real estate appraiser classification applies to the appraisal of all types of real property.

(1) As a prerequisite to taking the examination for certification as a state-certified general real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than one hundred sixty-five classroom hours of courses in subjects related to real estate appraisal approved by the director. Each applicant must ~~((have))~~ successfully ~~((completed not less than))~~ complete a thirty classroom hour ~~((s of study relating to))~~ course in the basic principles of real estate appraising and ~~((not less than))~~ a fifteen classroom hour ~~((s of study specifically relating to))~~ course in the Uniform Standards of Professional Appraisal Practice as part of the one hundred sixty-five classroom hours of course work.

(2) An original certification as a state-certified general real estate appraiser shall not be issued to any person who does not possess two years (twenty-four months) of experience as a full-time real estate appraiser in Washington or in

another state having comparable certification requirements within the five years immediately preceding the filing of the application for examination and certification. An applicant may accumulate the required experience over the preceding five years; however, a minimum of two years (twenty-four months) is required.

(3) To fulfill the experience requirement, a candidate must have at least fifteen hundred hours, accumulated over the previous five years, of nonresidential appraisal experience.

(4) The content for courses required prerequisite to taking the examination for certification as a state certified general real estate appraiser must include coverage of all topics listed below, with particular emphasis on the appraisal of nonresidential properties:

- (a) Influences on real estate value.
- (b) Legal considerations in appraisal.
- (c) Types of value.
- (d) Economic principles.
- (e) Real estate markets and analysis.
- (f) Valuation process.
- (g) Property description.
- (h) Highest and best use analysis.
- (i) Appraisal math and statistics.
- (j) Sales comparison approach.
- (k) Site value.
- (l) Cost approach.
- (m) Income approach.
- (i) Estimation of income expenses.
- (ii) Operation statement ratios.
- (iii) Direct capitalization.
- (iv) Cash flow estimates.
- (v) Measures of cash flow.
- (vi) Discounted cash flow analysis.
- (n) Valuation of partial interests.
- (o) Appraisal standards and ethics.
- (p) Narrative report writing.

Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

AMENDATORY SECTION (Amending WSR 91-23-007, filed 11/7/91, effective 12/8/91)

WAC 308-125-040 Examination prerequisite state-certified residential(~~(405)~~) classification. The state-certified residential real estate appraiser(~~(405)~~) classification applies to appraisals of all types of residential property of one to four units without regard to transaction value or complexity.

(1) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser(~~(405)~~), an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than one hundred five classroom hours of courses in subjects related to real estate appraisal approved by the director. Each applicant must (~~(have)~~) successfully (~~(completed not less than)~~) complete a thirty classroom hour(~~(s of study relating to)~~) course in the basic principles of real estate appraising and (~~(not less than)~~) a fifteen classroom hour(~~(s of studies specifically relating to)~~) course in the Uniform Standards of Professional Appraisal Practice as part of the one hundred five classroom hours of course work.

(2) An original certification as a state-certified residential real estate appraiser(~~(405)~~) shall not be issued to any person who does not possess two years of experience as a full time real estate appraiser in Washington or in another state having comparable certification requirements within five years immediately preceding the filing of the application for examination and certification. An applicant may accumulate the required experience over the preceding five years; however a minimum of two (~~(calendar)~~) years (twenty-four months) is required.

(3) The content for courses required prerequisite to taking the examination for certification as a state-certified residential real estate appraiser must include coverage of all the topics listed below with particular emphasis on the appraisal of one to four unit residential properties:

- (a) Influences on real estate value.
- (b) Legal considerations in appraisal.
- (c) Types of value.
- (d) Economic principles.
- (e) Real estate markets and analysis.
- (f) Valuation process.
- (g) Property description.
- (h) Highest and best use analysis.
- (i) Appraisal statistical concepts.
- (j) Sales comparison approach.
- (k) Site value.
- (l) Cost approach.
- (m) Income approach.
- (-) (i) Gross rent multiplier analysis.
- (-) (ii) Estimation of income and expenses.
- (-) (iii) Operating expense ratios.
- (-) (iv) Direct capitalization.
- (n) Valuation of partial interests.
- (o) Appraisal standards and ethics.
- (p) Narrative report writing.

Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

AMENDATORY SECTION (Amending WSR 91-23-007, filed 11/7/91, effective 12/8/91)

WAC 308-125-045 Examination prerequisite state-~~(certified residential/75)~~ licensed classification. The state-~~(certified residential)~~ licensed real estate appraiser(~~(75)~~) classification applies to appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units having a transaction value less than two hundred fifty thousand dollars and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-~~(certified residential)~~ licensed real estate appraiser(~~(75)~~), an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than seventy-five classroom hours of courses in subjects related to real estate appraisal approved by the director. Each applicant must (~~(have)~~) successfully (~~(completed not less than)~~) complete a thirty classroom hour(~~(s of study relating to)~~) course in the basic principles of real estate appraising and (~~(not less than)~~) a fifteen classroom hour(~~(s of studies specifically relating to)~~) course in

the Uniform Standards of Professional Appraisal Practice as part of the seventy-five classroom hours of course work.

(2) An original certification as a state-~~((certified residential))~~ licensed real estate appraiser~~((#75))~~ shall not be issued to any person who does not possess two years of experience as a full-time real estate appraiser in Washington or in another state having comparable certification requirements within five years immediately preceding the filing of the application for examination and certification. An applicant may accumulate the required experience over the preceding five years; however a minimum of two ~~((calendar))~~ years (twenty-four months) is required.

(3) The content for courses required prerequisite to taking the examination for certification as a state-~~((certified residential))~~ licensed real estate appraiser~~((#75))~~ must include coverage of all the topics listed below with particular emphasis on the appraisal of one to four unit residential properties:

- (a) Influences on real estate value.
- (b) Legal considerations in appraisal.
- (c) Types of value.
- (d) Economic principles.
- (e) Real estate markets and analysis.
- (f) Valuation process.
- (g) Property description.
- (h) Highest and best use analysis.
- (i) Appraisal statistical concepts.
- (j) Sales comparison approach.
- (k) Site value.
- (l) Cost approach.
- (m) Income approach.
- ~~((--))~~ (i) Gross rent multiplier analysis.
- ~~((--))~~ (ii) Estimation of income and expenses.
- ~~((--))~~ (iii) Operating expense ratios.
- (n) Valuation of partial interests.
- (o) Appraisal standards and ethics.

Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-050 Educational courses—Preexamination. (1) In order for courses to be accepted under WAC 308-125-030(1) ~~((and))~~, 308-125-040(1), and 308-125-045(1), courses must:

- (a) Be a minimum of fifteen classroom hours in length;
- (b) Include an examination; and
- (c) Be directly related to real estate appraising.

(2) ~~((For purposes of this section, prior to July 1, 1992, there will be no time limit on when credit may be obtained))~~ The following limitations may apply to course work submitted to the department for approval:

(a) A correspondence course may be acceptable to meet classroom hour requirements only if each course meets the following conditions:

(i) The course has been presented by an accredited college or university which offers correspondence courses in other disciplines;

(ii) An individual successfully completes a written examination administered at a location by an official approved by the college or university; and

(iii) The content and length of the course meet the requirements for real estate appraisal-related courses established by the appraiser qualifications board and approved by the director.

(b) Video and remote television educational courses may be to meet the classroom hour requirements only if each course meets the following conditions:

(i) The course has been presented by an accredited college or university which offers similar courses in other disciplines;

(ii) An individual successfully completes a written examination administered at a location by an official approved by the college or university; and

(iii) The content and length of the course meet the requirements for real estate appraisal-related courses established by the appraiser qualifications board and approved by the director.

(c) An applicant shall not receive "dual credit" for courses that have the same or very similar content and are deemed comparable by the department, even if an applicant completes the courses through different course providers.

(3) For the purposes of this section, ~~((after July 1, 1992,))~~ only those courses completed within the ten years immediately preceding the date of application will be accepted for meeting educational requirements.

(4) Copies of official transcript of college records or certificates of course completion will be considered as satisfactory evidence for education requirements.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-060 Alternate to classroom hours, requirement preexamination. ~~((Achievement of))~~ An applicant may receive education credit by achieving a passing score on an examination that is identical to that administered upon completion of an educational offering approved by the director ~~((and offered by a state approved provider))~~. This refers to those instances where the examination is challenged without attendance at the offering. Credit for the examination must be obtained by July 1, 1990.

NEW SECTION

WAC 308-125-065 Education/experience credit for teachers of approved real estate appraisal courses. (1) An applicant may receive education credit for teaching an approved real estate appraisal course. One hour of education credit for each hour of teaching an approved real estate appraisal course shall be given.

(2) An applicant may receive experience credit for teaching an approved real estate appraisal course. One hour of experience credit for each hour of teaching an approved real estate appraisal course shall be given.

(3) Once an applicant has received credit for teaching an approved real estate appraisal course, an applicant shall not receive credit for teaching that course or any substantially similar course on any subsequent occasion.

(4) Credit for teaching an approved real estate appraisal course may be used to satisfy education or experience credit, but shall not be used to satisfy both.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-070 Experience requirements. (1) A minimum of two years (twenty-four months) full-time experience is required. To attain the requisite experience an applicant may accumulate hours worked during the preceding five years; however, no more than fifteen hundred hours may be credited in any twelve-month period.

(2) ~~((The))~~ Any work product claimed for experience credit ~~((must be in conformity with))~~ dated January 1, 1990, and later shall conform to the Uniform Standards of Professional Appraisal Practice ~~((or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared)).~~

(3) Any work product claimed for experience credit dated prior to January 1, 1990, shall conform to the following standards:

- (a) Reports shall be in writing.
- (b) Reports shall contain the legal address of the subject property.
- (c) Reports shall state the effective date of the appraisal.
- (d) Reports shall contain a definition of value to be estimated.
- (e) Reports shall contain a certification signed by the appraiser.
- (f) Reports shall contain a description of the site, land, or buildings as applicable.
- (g) Reports shall address all three approaches to value by either utilization of the approach or indication that the approach is not applicable or inappropriate to the specific property.
- (h) Reports shall include adjustments and the value of the direct sales for the direct sales approach, which either sets forth the reasoning for value or states that the value is evident in ancillary supporting documentation or the report.
- (i) Reports shall include analysis of market rents, expenses, vacancy rates, and capitalization rates when the income approach is used.
- (j) Reports shall include analysis of building costs and site value when the cost approach is used.
- (k) Reports shall include reasoning and supporting documentation for the final value estimate.
- (l) Reports shall be signed and dated by the appraiser.

(4) An appraiser applying for certification must verify his/her completion of the required experience via affidavit, under oath subject to penalty of perjury on a form provided by the department.

To demonstrate experience the department may require submission of a log which details hours claimed for experience credit. The department may also require an affidavit from an employer concerning the applicant's length of experience.

~~((4))~~ (5) An appraiser performing appraisal work enabling the appraiser to apply for appraisal experience on an hourly basis, includes, but is not limited to, the following:

Fee and staff appraisal, ad valorem tax appraisal, review appraisal, appraisal analyst, real estate counseling, highest and best use analysis, feasibility analysis/study, market analysis/ study, teacher of appraisal courses.

~~((5))~~ (6) The department shall not grant to state-licensed or state-certified applicants experience credits for

appraisal experience that exceeds the following hourly allotments for each appraisal:

<u>(a) Residential (single family)</u>	<u>12 hours</u>
<u>(b) Residential 2-4 family</u>	<u>20 hours</u>
<u>(c) Single building lot</u>	<u>10 hours</u>
<u>(d) Large land tract (not subdivided)</u>	<u>10 hours</u>
<u>(e) Appraisal reviews</u>	<u>3 hours</u>
<u>(f) Commercial/industrial land</u>	<u>24 hours</u>
<u>(g) Commercial/industrial</u>	<u>80 hours</u>
<u>(h) Feasibility study</u>	<u>80 hours</u>
<u>(i) Market analysis/counseling</u>	<u>40 hours</u>
<u>(j) Cash flow analysis</u>	<u>40 hours</u>
<u>(k) Investment analysis</u>	<u>40 hours</u>
<u>(l) Renew commercial appraisal</u>	<u>8 hours</u>

(7) The department reserves the right to contact an employer for confirmation of experience claimed. This will require an employer to confirm via affidavit the experience of an applicant.

~~((6))~~ (8) The department may request submission of written reports or file memoranda claimed by the applicant in the applicant's application for experience credit.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-085 Temporary practice. (1) A real estate appraiser from another state who is licensed or certified by another state may apply for registration to receive temporary licensing or certification in Washington by paying a fee and filing a notarized application with the department on a form provided by the department.

(2) Licensing and certification privileges granted under the provisions of this section shall expire ninety days from issuance. Licensing or certification shall not be renewed, nor shall an applicant receive more than two registrations within any twelve-month period.

(3) Persons granted temporary licensing or certification privileges under this section shall not advertise or otherwise hold themselves out as being licensed or certified by the state of Washington.

(4) Persons granted temporary licensure or certification are subject to all provisions under this chapter. A temporary permit issued under this section allows an appraiser to perform independent appraisal services required by a contract for appraisal services submitted to the department with the application for temporary permit.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-090 Continuing education required.

(1) As a prerequisite to renewal of certification ~~((as a state-certified real estate appraiser))~~ or licensure, the holder of a certificate or license shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification or licensure shall be the completion by the applicant of twenty classroom hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the ~~((two-year period))~~ term of certification or licensure immediately preceding renewal.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of four hours in length and be directly related to real estate appraising.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours.

(5) The requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials.

(6) Courses or seminars taken to satisfy the continuing education requirement for general real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations.
- (c) Business courses related to practice of real estate.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law.
- (l) Real estate litigation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) ~~((Real estate feasibility and marketability studies.~~
- ~~(q))~~ Such other presentations approved by the director.

(7) Courses or seminars taken to satisfy the continuing education requirement for residential real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Business courses related to practice of real estate.
- (c) Construction estimation.
- (d) Ethics and standards of professional practice.
- (e) Land use planning, zoning, taxation.
- (f) Property development.
- (g) Real estate financing and investment.
- (h) Real estate law.
- (i) Real estate related computer applications.
- (j) Real estate securities and syndication.
- (k) Real property exchange.
- (l) Real estate feasibility and marketability studies.
- (m) Such other presentations approved by the director.
- (n) Real estate securities and syndication.
- (o) Real estate property exchange.
- (p) Such other presentations approved by the director.

(8) Courses or seminars taken to satisfy the continuing education requirement for licensed real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitration.
- (c) Business courses related to practice of real estate appraisal.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.

(f) Land use planning, zoning, and taxation.

(g) Management, leasing brokerage, timesharing.

(h) Property development.

(i) Real estate appraisal (valuations/evaluations).

(j) Real estate law.

(k) Real estate litigation.

(l) Real estate financing and investment.

(m) Real estate appraisal related computer applications.

(n) Real estate securities and syndication.

(o) Real property exchange.

(p) Such other presentations approved by the director.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-100 Course approval requirements.

(1) For purpose of this section prior to July 1, 1992, the director will approve the following courses required prerequisite to sitting for the examination: *Provided*, That courses must satisfy the requirements of WAC 308-125-050.

(a) Courses offered at college or universities, vocational-technical schools, community colleges, and other state or federal agencies will be accepted by the director;

(b) Courses offered by other providers such as real estate appraisal or real estate organizations or proprietary schools must be reviewed and approved by the director.

(2) For purposes of this section, after July 1, 1992, the director will approve the following courses required prerequisite to sitting for the examination and continuing education: *Provided*, That courses must satisfy the requirements of WAC 308-125-030, 308-125-040, 308-125-045, 308-125-050, and 308-125-090:

(a) Courses taken at colleges or universities, vocational-technical schools, community colleges, and state or federal agencies will be accepted by the director;

(b) Courses offered by other providers such as real estate appraisal or real estate organizations or proprietary schools must be reviewed and approved by the director: *Provided*, That all courses offered by providers (~~((a))~~) under this ((~~subdivision (b))~~) subsection after July 1, 1992, must be preapproved by the director in order to qualify.

(3) Copies of official transcripts of college records or certificates of completion will be considered as satisfactory evidence for education requirements.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-110 Address change. It is the responsibility of each applicant state-licensed and certified real estate appraiser to notify the department of licensing, real estate appraiser program unit, of a change of business address. Change of address notification shall be made within ten days of the change of address.

AMENDATORY SECTION (Amending WSR 92-18-018, filed 8/24/92, effective 9/24/92)

WAC 308-125-130 Application, certification, licensure, and reexamination. (1) An applicant who has satisfied the prerequisite to sit for the licensure or certification examination must complete the examination within six months of approval date by the department.

(2) Any applicant who has passed the licensure or certification must become licensed or certified within six months from the date of such examination. Failure to comply with this provision will necessitate the submission of a new application, application fee, and the taking and passing of another examination prior to licensure or certification.

(3) An applicant who has failed the examination, or failed to appear for a scheduled examination, may apply for reexamination provided the required reexamination fee is submitted. The examination approval notice shall be valid for reexamination for a period of no more than six months after date of issuance.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-140 Passing exam score. A minimum scaled score of seventy is required to pass the ((state-certified)) real estate appraiser examination.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-180 Reciprocity. A person licensed or certified as a real estate appraiser under the rules or laws of another state may obtain certification in the state of Washington when the following condition is met:

The state in which the appraiser is licensed or certified has an appraiser licensure or certification program which meets federal guidelines and the state has a written reciprocal agreement with the state of Washington.

A person seeking licensure or certification under this section must provide a notarized statement from the state in which the person is licensed or certified establishing licensure or certification.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-190 Examination required—Scope. The director shall approve an examination for licensure or certification of real estate appraisers. This examination may be prepared and administered within a state agency, or the director may request bids for contracts to prepare and administer the exam. Such requests for proposals shall be done in accordance with the state law.

(1) The director will determine the scope of the examination and provide information concerning the scope of the examination to an individual upon request.

(2) If the director determines to seek proposals for testing services, the director will establish criteria for evaluating the proposals.

AMENDATORY SECTION (Amending WSR 91-04-074, filed 2/5/91, effective 3/8/91)

WAC 308-125-210 Required records—Accessibility of records to the department of licensing. All ((certified)) appraisers certified or licensed under chapter 18.140 RCW must retain records required by the Uniform Standards of Professional Appraisal Practice for a minimum of five years. Such records will be subject to random audit by the depart-

ment without notice and must be readily available for inspection by a representative of the department.

NEW SECTION

WAC 308-125-225 Meetings—Notice. The real estate appraiser advisory committee meets at the call of the director. Individuals desiring notice of the date, time, location, and agenda of the meetings must make a written request to the real estate appraiser program.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-125-035	State-certified residential classification.
WAC 308-125-160	Waiver under RCW 18.140.080.

WSR 93-12-128
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed June 2, 1993, 10:35 a.m.]

Original Notice.

Title of Rule: Restricted use pesticides in chapter 16-219 WAC.

Purpose: To further restrict the use of ziram and phosdrin.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: Chapters 17.21 and 15.58 RCW.

Summary: Proposed restrictions on all dry wettable formulations to protect unprotected farmworkers; and additional restrictions not covered on the label to protect pesticide applicators and workers on the use of phosdrin.

Name of Agency Personnel Responsible for Drafting and Enforcement: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, (206) 902-2040; and Implementation: William Brookreson, P.O. Box 42589, Olympia, (206) 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Restrictions on phosdrin, due to the loss of pesticide used to control aphids in an orchard environment, a situation now exists which will prompt the use of phosdrin, a highly toxic pesticide. Existing product label requirements do not provide adequate protection for applicators and other workers; and restrictions on ziram, requested by PIRT panel based on a report and investigation of skin rashes experienced by workers exposed to ziram while picking Bosc pears. Workers must wear protective clothing when entering a field treated by ziram.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Yakima County Courthouse, Room 231 and 232, 233 Courthouse, Yakima, WA 98901, on July 14, 1993, at 1:00 p.m.; and at the Wenatchee Gas Company, 614 North Mission, Wenatchee, WA, on July 15, 1993, at 1:00 p.m.

Submit Written Comments to: Cliff Weed, Program Manager, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, by July 15, 1993.

Date of Intended Adoption: July 23, 1993.

June 2, 1993
William E. Brookreson
Assistant Director

**Chapter 16-219 WAC
Restricted Use Pesticides**

WAC

- 16-219-010 Ziram—Bosc pears.
- 16-219-015 Restricted use pesticides—Mevinphos (Phosdrin).
- 16-219-020 Application requirements—Mevinphos (Phosdrin).
- 16-219-025 Restricted entry interval—Posting—Mevinphos (Phosdrin).
- 16-219-030 Training—Mevinphos (Phosdrin).

NEW SECTION

WAC 16-219-010 Ziram—Bosc pears. All dry formulations (such as wettable powders or water dispersible granules) of ziram labeled for use on pears are hereby declared state restricted use pesticides because of dermal effects to persons exposed while working in Bosc pear orchards.

(1) Growers shall observe the Environmental Protection Agency restricted entry interval or "re-entry interval" label requirements following any treatment with dry wettable formulations of ziram before entering or allowing persons to enter pear orchards without personal protective clothing.

(2) Any entry during the restricted entry interval shall follow the Environmental Protection Agency regulations that became effective October 20, 1992, regarding handler, farm worker safety, and early-entry handler requirements.

(3) After the restricted entry interval has passed, growers shall observe an additional period of time totalling fourteen days after an application before entering or allowing workers to enter Bosc pear orchards without personal protective clothing as defined below.

(4) For the purposes of this section, minimum personal protective clothing shall consist of: A long sleeved shirt; long-legged pants; socks; and chemical resistant gloves.

NEW SECTION

WAC 16-219-015 Restricted use pesticides—Mevinphos (Phosdrin). For the purposes of WAC 16-219-010 through 16-219-020, all formulations of mevinphos (Phosdrin) are declared to be restricted use pesticides due to its acute toxicity. If any restriction in WAC 16-219-010 through 16-219-020 is in conflict with restrictions on the pesticide label, the most restrictive statement will apply.

NEW SECTION

WAC 16-219-020 Application requirements—Mevinphos (Phosdrin). The following restrictions apply to any application of mevinphos (Phosdrin) to pears or apples:

- (1) A maximum of one pound active ingredient may be applied per acre per application.
- (2) A minimum of seven days between applications shall be observed.
- (3) Do not apply within ninety-six hours of harvest.
- (4) An observer shall be present during all mixing and loading activities in order to furnish assistance in the event of an accident. The observer shall not be involved in the mixing or loading operation.
- (5) Do not apply within one hundred feet of any inhabited building or public road.
- (6) Do not apply when wind speeds exceed ten miles per hour.
- (7) Do not apply when air temperature exceeds 80 degrees Fahrenheit.
- (8) Do not apply with hand equipment.
- (9) Human flaggers are prohibited during aerial application.
- (10) The pilot making the application may not assist in the mixing and loading operation, but may act as the observer as required in subsection (4) of this section.

NEW SECTION

WAC 16-219-025 Restricted entry interval—Posting—Mevinphos (Phosdrin). (1) Entry into a pear or apple orchard treated with mevinphos (Phosdrin) is prohibited for ninety-six hours after application: PROVIDED, That entry into the treated area may occur within the ninety-six hour interval if the person is wearing all the protective clothing required on the pesticide label for an applicator.

(2) Any time mevinphos (Phosdrin) is applied to pears or apples, the area being treated shall be posted with warning signs.

NEW SECTION

WAC 16-219-030 Training—Mevinphos (Phosdrin). (1) Any company registering any formulation of mevinphos (Phosdrin) for use on apples or pears in Washington shall be responsible for ensuring that appropriate training in the safe use of mevinphos (Phosdrin), is made available. The training shall include, but not be limited to the following information: Storage, handling, Disposal, enclosed cabs, closed mixing/loading systems, poisoning symptoms/first aid, personal protective equipment, reentry and posting.

**WSR 93-12-129
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed June 2, 1993, 10:37 a.m.]**

Original Notice.
Title of Rule: Restrictions on the use of microencapsulated methyl parathion in chapter 16-230 WAC.
Purpose: Restrictions on the use of microencapsulated methyl parathion to protect honey bees.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: Chapters 17.21 and 15.58 RCW.

Summary: These rules place restrictions at times when there are blossoming plants.

Reasons Supporting Proposal: There were numerous bee kills involving microencapsulated methyl parathion being applied to or drifting on to blossoming plants in 1992. It is anticipated it will be widely used again.

Name of Agency Personnel Responsible for Drafting and Enforcement: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, 902-2040; and Implementation: William Brookreson, Assistant Director, P.O. Box 42589, Olympia, 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are being proposed to further restrict the use of microencapsulated methyl parathion when crops or weeds are blossoming to protect bees.

Proposal Changes the Following Existing Rules: Microencapsulated methyl parathion cannot be applied when there are five or more blooms per square yard on the average in a given field; if there are one or more blooms per tree or vine in an orchard or vineyard, or if there are five or more open weed blooms per square yard; restrict the use of microencapsulated methyl parathion until 50 days after bloom of red delicious apples in all fruit-growing districts of Yakima and Benton counties and 30 days after bloom of red delicious apples in all other fruit-growing districts; and written recommendation from a licensed pest control consultant is required.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Yakima County Courthouse, Room 231 and 232, 233 Courthouse, Yakima, WA 98901, on July 14, 1993, at 7:00 p.m.; and at the Wenatchee Gas Company, 614 North Mission, Wenatchee, WA, on July 15, 1993, at 7:00 p.m.

Submit Written Comments to: Cliff Weed, Program Manager, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, by July 15, 1993.

Date of Intended Adoption: July 23, 1993.

June 2, 1993

William E. Brookreson
Assistant Director

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-250 Microencapsulated methyl parathion—Area under order. ~~((This order will))~~ WAC 16-230-260 through 16-230-290 shall be in effect in all counties of the state of Washington.

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-260 Microencapsulated methyl parathion—Definitions. (1) "Blossoming ~~((erops))~~ plants" as used in ~~((this order))~~ WAC 16-230-270 through 16-230-290 shall mean:

(a) When there are five or more blooms per square yard on the average in a given field~~((;))~~; or

(b) When there are one or more open blooms per tree or vine in an orchard or vineyard ~~((;and))~~; or

(c) When there are five or more open weed blooms per square yard on the average for the area being measured for ground cover ~~((erops))~~ in orchards or vineyards, fence lines, ditch banks, or field, vineyard or orchard edges: PROVIDED, That ~~((white blossomed pea plants and second bloom of pears shall be exempt from this definition))~~ this definition shall not apply to blossoming plants that are not attractive to bees such as barley, lentils, white blossomed peas, second bloom of pears, potatoes, and wheat.

(2) "Pollen shedding corn" shall mean that state of growth when ~~((10))~~ ten percent or more of the corn plants in any one quarter portion of that field are showing spike anthers.

(3) "Properly marked honey bee apiaries" shall mean apiaries marked in accordance with RCW 15.60.030 and rules adopted thereunder. See WAC 16-602-040. ~~((as follows: "Each person owning or having bees in his possession shall register with the director the location of the bee yard, name, address, and phone number of the owner, and post at the bee yard a registration number as provided for herein, on or before April 1st each year. The director shall issue to each apiarist owning or operating more than twenty-five colonies in the state who is registered with the department a registration number, transferable, which shall be posted conspicuously at the entrance of each apiary at all times, not more than one hundred fifty feet from the bees. Bees placed in orchards for pollination shall be exempt from posting during placement."))~~

(4) "Full bloom" shall be ~~((these dates as established by the state department of agriculture plant industry division for full bloom of red delicious apples))~~ mean when three are three open blooms per spur cluster on the north side of an apple tree or when eighty percent of the king blossoms are open.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1595, filed 3/16/79)

WAC 16-230-270 Microencapsulated methyl parathion—Restrictions~~((—Exemptions))~~. (1) Microencapsulated methyl parathion is hereby declared to be a restricted use pesticide and the use or application of the formulation, either directly or through drift, shall be prohibited on all blossoming ~~((erops))~~ plants and on pollen shedding corn~~((;—~~ PROVIDED, That (1) On or after October 15 through May 15 of the following year, applications of microencapsulated methyl parathion shall be allowed (using label restrictions)

on winter wheat for aphid control in the wheat growing areas of Eastern Washington.

~~(2) The application of microencapsulated methyl parathion shall be allowed (using label restrictions) in the Palouse area of Spokane or Whitman counties. This area shall be bounded on the north by an east-west line along longitude 47 30', in the southern portion of Spokane County, to the southern boundary of Whitman County. Applications of microencapsulated methyl parathion on white blooming peas in this area shall be prohibited within 1/2 mile of the breaks of the Snake River Canyon).~~

~~((3)) (2) Applications (of microencapsulated formulations of methyl parathion shall be prohibited on orchards up to thirty days after full bloom of each year in the area under order.~~

~~(4) The use)) of microencapsulated methyl parathion shall be ((allowed, (using label restrictions) during the period starting)) prohibited until thirty days after full bloom ((to sixty days after full bloom)) in all ((orchards within designated areas in the Wenatchee River Valley area from the mouth of the Wenatchee River through Leavenworth, excluding Mission Creek and Brender canyons; Entiat proper and the Entiat Valley area from the mouth of the Entiat River through Ardenvoir; and the Howard Flats area and the Chelan Manson area from the mouth of the Chelan River to the town of Lake Chelan on the south side of Lake Chelan and to Antilon Creek on the north side of Lake Chelan)) fruit growing districts: PROVIDED, That applications of microencapsulated methyl parathion shall be further prohibited on orchards until fifty days after full bloom of red delicious apples in each year in Yakima and Benton Counties.~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 16-230-281 Microencapsulated methyl parathion—Emergency clause—Permits. (1) In the event of an emergency, as declared by the director, the department may issue permits for the use of microencapsulated methyl parathion that is otherwise prohibited in WAC 16-230-270. An emergency under this section may be declared if the director determines the risk and amount of economic harm to any agricultural crop substantially outweighs the risk and amount of damage likely to occur if a permit is issued.

(2) Application for a permit may be made by mail or in person to the Washington State Department of Agriculture, Pesticide Management Division, 2015 S. 1st Street, Yakima, WA 98903-2231. Applications may also be by facsimile ((509) 575-2210). Permits will not be granted by telephone.

(3) Any permit issued shall be subject to terms and conditions as prescribed by the director to prevent damage to apiaries. Conditions may include but not be limited to on-site monitoring by the department. A representative of the department may deny or revoke a permit at any time if the representative determines that the situation at the application site creates an unreasonable risk. Any denial or revocation of a permit is subject to the provisions outlined in RCW 34.05.479.

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-290 Microencapsulated methyl parathion—Distribution. (1) ~~Microencapsulated methyl parathion shall not be distributed ((only by licensed pesticide dealers to certified applicators or their authorized representative. Microencapsulated methyl parathion shall be applied only by certified applicators or by persons under the direct supervision of a certified applicator)) unless the purchaser has obtained a written recommendation: PROVIDED, That this shall not apply to applications performed by a licensed commercial applicator or public operator.~~

~~(2) A written recommendation shall be prepared by a licensed commercial pest control consultant, or public pest control consultant, and shall include the following information:~~

- ~~(a) Customer name;~~
- ~~(b) Crop or site to be treated;~~
- ~~(c) Number of acres to be treated;~~
- ~~(d) Legal description (to the nearest quarter/quarter section) or other clearly identifiable description of physical location;~~
- ~~(d) Tentative date of application;~~
- ~~(f) Pest(s) to be controlled;~~
- ~~(g) Rate per acre and dilution of microencapsulated methyl parathion to be used;~~
- ~~(g) Special precautions to be followed (e.g., bloom removal, drift control); and~~
- ~~(i) Name and license number of the person making the recommendation.~~

~~(3) Pesticide dealers shall keep a copy of the written recommendation on file for a period of three years from the date of distribution. Written recommendations shall be available to the director immediately upon request.~~

~~(4) Pesticide dealers shall provide a copy of the microencapsulated methyl parathion rules to the purchaser at the time of distribution.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-230-280 Six-mile radius.
- WAC 16-230-300 Supersedure.

WSR 93-12-132
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY
 [Filed June 2, 1993, 10:44 a.m.]

Original Notice.

Title of Rule: Amending Regulation I - Sections 3.11, 5.07, 5.11, 6.04, 6.07, 6.10; and repealing Regulation I - Section 5.10.

Purpose: To adjust maximum civil penalty amount to account for inflation; to adjust the fees for the registration and operating permit program and notice of construction program to cover operating costs; to repeal the surcharge for

mandatory training programs and move to the registration and operating permit fee schedule; and to improve legibility.

Other Identifying Information: Section 3 pertains to civil penalties; Section 5 pertains to registration and operating permit fees; Section 6 pertains to notice of construction review fees.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.151, [70.94.]152, [70.94.]161, and [70.94.]431.

Summary: Maximum civil penalty will increase 3.5%; registration and operating permit and notice of construction program fees will be adjusted to cover costs; and technical amendments will help clarification.

Reasons Supporting Proposal: Penalties need to reflect inflation; fees need to cover the cost of the registration and operating permit and notice of construction programs; and technical amendments are needed to help clarify rules.

Name of Agency Personnel Responsible for Drafting and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, 98101, 689-4053; and Implementation: John Anderson, 110 Union Street, #500, Seattle, 98101, 689-4051.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal increases maximum civil penalty amounts, registration and operating permit program fees, and notice of construction fees; and will improve legibility.

Proposal Changes the Following Existing Rules: The maximum civil penalty amount will increase. The registration and operating permit fees will increase. The surcharge for mandatory training programs will move to the registration and operating permit fee schedule. The notice of construction program fees will increase and the extension option is repealed. Technical amendments will improve legibility.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on July 8, 1993, at 9:00 a.m.

Submit Written Comments to: Anita Frankel, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA, 98101, by June 28, 1993.

Date of Intended Adoption: July 8, 1993.

June 1, 1993

James L. Nolan

Director - Compliance

AMENDATORY SECTION

REGULATION I SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an

amount not to exceed (~~(\$10,300.00)~~) \$10,660.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Air Pollution Control Agency shall be liable for a civil penalty of not more than (~~(\$10,300.00)~~) \$10,660.00 for each day of continued non-compliance.

(c) Within 15 days after receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the appealing party;

(2) A copy of the Notice and Order of Civil Penalty appealed from;

(3) A short and plain statement showing the grounds upon which the appealing party considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(d) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition on the application for relief from penalty.

(e) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(f) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(g) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest

shall not begin to accrue until the 31st day following final resolution of the appeal.

(h) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

REGULATION I SECTION 5.07 ((FEES—REGISTRATION PROGRAM)) REGISTRATION AND OPERATING PERMIT FEES

(a) The Agency shall levy annual ~~((registration))~~ fees as set forth in ~~((Table 5-B))~~ the 1994 Registration and Operating Permit Fee Schedule for services provided in administering the registration or operating permit programs. Fees received under the registration or operating permit programs shall not exceed the cost of administering these ~~((registration))~~ programs.

(b) Upon assessment by the Agency, registration or operating permit fees are due and payable within 30 days. ~~((and))~~ They shall be deemed delinquent if not fully paid within ~~((60))~~ 90 days, and shall be subject to an additional fee equal to 3 times the original fee.

(((TABLE 5-B))) 1994 REGISTRATION AND OPERATING PERMIT FEE SCHEDULE

(1) For all facilities, a fee of ~~((65.00))~~ \$85.00 per facility except \$1,200.00 per facility for those subject to (4) below; and

(2) For all facilities:

(i) \$35.00 for each item of air contaminant generating equipment; and

(ii) ~~((35.00))~~ \$80.00 for each item of air contaminant control equipment ~~((including continuous emission monitors)); and~~

~~((iii))~~ \$5.00 for each Stage 2 gasoline dispensing nozzle; ~~and))~~

~~((iii))~~ \$500.00 for each continuous emission monitor required under Article 12 of Regulation I; and

(iv) \$500.00 for each incinerator; and

(v) \$500.00 for each landfill; and

(3) For all facilities except those subject to (4) below, ~~((an 18.00))~~ a \$20.00 emission fee for each item of air contaminant generating equipment; and

(4) For only those facilities ~~((for))~~ which ~~((the Agency has recorded total))~~ have permitted emissions or actual annual emissions of 25 tons or more of any of the following: PM₁₀, sulfur oxides, nitrogen oxides, or carbon monoxide; or annual emissions of 10 tons or more of toxic air contaminants or volatile organic compounds, including any negligibly reactive compound:

(i) ~~((18.00))~~ \$20.00 per ton for PM₁₀, sulfur oxides, nitrogen oxides, or volatile organic compounds, including any negligibly reactive compound; and

(ii) ~~((6.00))~~ \$7.00 per ton for carbon monoxide or toxic air contaminants ~~((; and~~

~~((iii))~~ \$100.00 for each emission segment; and

~~((iv))~~ \$100.00 for each emission point.)

(5) The fees required by this section are for the calendar year 1994 and shall be based on Agency files showing

equipment in place or permitted as of September 1, 1993; and either permitted emissions or actual emissions during calendar year 1992, whichever is greater. ~~((January 1 of the current reporting year; and materials, processes, and emission points and segments in use between January 1 and December 31 of the previous year. Items registered under Section 5.07 (b)(2) shall be reported as equipment. Items registered under Section 5.07 (b)(4) shall be reported as materials, processes, and emission points and segments.))~~

REPEALER

REGULATION I SECTION 5.10 SURCHARGE FOR MANDATORY TRAINING PROGRAMS

AMENDATORY SECTION

REGULATION I SECTION 5.11 1994 SURCHARGE FOR BLENDERS OF OXYGENATED GASOLINE

(a) The Agency shall levy the following registration surcharges to defray the costs of administering the oxygenated gasoline blender registration and field compliance program mandated by WAC 173-492.

November 1, 1992 to March 1, 1993 Average Monthly Sales:

(gallons)	
less than 100,000	\$ 500.00
100,000 or more but less than 1,000,000	\$ 1,000.00
1,000,000 or more but less than 15,000,000	\$10,000.00
15,000,000 or more	\$25,000.00

(b) Upon assessment by the Agency, this registration surcharge is due and payable within 30 days. ~~((and))~~ It shall be deemed delinquent if not fully paid within ~~((60))~~ 90 days and shall be subject to an additional fee equal to 3 times the original fee.

AMENDATORY SECTION

REGULATION I SECTION 6.04 NOTICE OF CONSTRUCTION REVIEW ((FILING)) FEES

A Notice of Construction and Application for Approval is incomplete until the Agency has received a ~~((filing fee of \$50.00 and))~~ plan examination fee ~~((s))~~ as shown below:

Fuel Burning Equipment:

(rated heat input - million Btu/hr)

less than ((20.0)) 10.0	\$ 300.00
((20.0 or more but less than 50.0))	\$ 400.00)
((50.0)) 10.0 or more but less than 100.0	((500.00)) \$ 1,000.00
100.0 or more but less than 250.0	((800.00)) \$10,000.00
250.0 or more ((but less than 500.0))	\$ 1,000.00) \$20,000.00
((500.0 or more))	\$ 1,500.00)

Control Equipment or Equipment Used in a Manufacturing Process: (acfm)

less than ((2,000)) 10,000	((100.00)) \$ 300.00
((2,000 or more but less than 5,000))	\$ 200.00)
((5,000 or more but less than 10,000))	\$ 300.00)
((10,000 or more but less than 20,000))	\$ 400.00)
((20,000)) 10,000 or more but less than 100,000	((500.00)) \$ 1,000.00
100,000 or more ((but less than 250,000))	\$ 800.00) \$ 5,000.00
((250,000 or more))	\$ 1,000.00)

Refuse Burning Equipment: (rated capacity)		
12 tons per day or less ((without hydrochloric acid control equipment \$ 200.00))		<u>\$ 5,000.00</u>
((12 tons per day or less with hydrochloric acid control equipment \$ 1,000.00))		
greater than 12 tons per day but less than 250 tons per day	((\$ 2,000.00))	<u>\$20,000.00</u>
250 tons per day or greater	((\$ 5,000.00))	<u>\$50,000.00</u>
Storage Tanks: (gallons)		
less than ((4,000)) <u>20,000</u>	((\$ 80.00))	<u>\$ 200.00</u>
((4,000 or more, but less than 20,000 \$ 160.00))		
20,000 or more ((, but less than 40,000 \$ 200.00))		<u>\$ 500.00</u>
((40,000 or more, but less than 1,000,000 \$ 300.00))		
((More than 1,000,000 \$ 400.00))		
Gasoline Station(±)		<u>\$ 200.00</u>
((Stage 1 \$ 80.00))		
((Stage 2 \$ 80.00))		
Dry Cleaner		<u>\$ 200.00</u>
Other (not classified above)		<u>\$ 200.00</u>
Additional Charges:		
Air Toxics Screening [see Regulation III, Section 2.03(b)]		<u>\$ 200.00</u>
Exceedance of Acceptable Source Impact Level [see Regulation III, Section 2.03(b)]	((\$ 200.00))	<u>\$ 5,000.00</u>
Major Source or Major Modification [see Regulation I, Section 6.07(d)]	((\$ 1,000.00))	<u>\$ 5,000.00</u>
Opacity/Grain Loading Correlation [see Regulation I, Section 9.09(e)]	((\$ 1,000.00))	<u>\$ 5,000.00</u>
Allowable Emissions		<u>\$ 20.00/ton</u>
((Other (not classified above) \$ 100.00))		

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

AMENDATORY SECTION

REGULATION I SECTION 6.07 ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION

(a) Within 30 days of receipt of a complete Notice of Construction and Application for Approval, or 30 days after the close of the public comment period if subject to the public notice requirements of Section 6.06, the Board or Control Officer shall issue an Order of Approval or an Order to Prevent Construction.

(b) An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with Regulations I, II, and III.

(c) No Order of Approval shall be issued unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;

(2) The source meets the requirements of all applicable emission standards including New Source Performance Standards and National Emission Standards for Hazardous Air

Pollutants promulgated by the United States Environmental Protection Agency;

(3) Best available control technology is employed for the construction, installation, or establishment of new sources and the modification of existing sources; and

(4) Reasonably available control technology is employed for the replacement of existing control equipment.

(d) No Order of Approval shall be issued for a new major source or major modification (as defined in Section 1.07 of this Regulation) in a nonattainment area unless the Notice of Construction and Application for Approval also demonstrates to the Board or Control Officer that:

(1) For those air contaminants for which the area is designated nonattainment, lowest achievable emission rate is employed for each new source at a new major source, and each new or modified source involved in a major modification;

(2) All existing major sources owned or operated by the applicant in the state of Washington are in compliance with all applicable emission standards under the federal Clean Air Act or are on an approved compliance schedule;

(3) Offsets in the form of emission reduction credits banked pursuant to Section 6.08 and in an amount greater than or equal to 1.10 times the proposed total allowable emissions from the new major source, or the increase from current actual to the proposed total allowable emissions for a major modification, have been obtained from sources in the same nonattainment area and occur by the time the new major source or major modification begins operation; and

(4) The benefits of the proposed new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (This demonstration, which shall include an analysis of alternative sites, sizes, production processes, and environmental control techniques, may be in the form of an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act.)

(e) An Order of Approval shall expire unless construction has commenced within 24 months of the date of its issuance or if construction is discontinued for a period of more than 24 months. ~~((Upon written request by the applicant or owner, the Control Officer may grant an extension of the Order of Approval provided:~~

~~(1) The applicant or owner pays a filing fee of \$50.00 and a plan examination fee of 25% of the fee contained in Section 6.04; and~~

~~(2) The proposed source still meets the requirements of this section.))~~

(f) An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of Regulations I, II, and III that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the owner or applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The Board or Control Officer shall consider the petition, and shall within 30 days give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.

AMENDATORY SECTION

REGULATION I SECTION 6.10 WORK DONE WITHOUT AN APPROVAL

Where work for which a Notice of Construction is required is commenced or performed prior to making application and receiving approval, the Control Officer may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Section 6.04, shall be assessed in an amount equal to 3 times the plan examination (~~and inspection~~) fees of Section 6.04. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

**WSR 93-12-134
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**
[Filed June 2, 1993, 11:12 a.m.]

Original Notice.

Title of Rule: Hops—Certification analyses—Fees.

Purpose: Amend WAC 16-218-001, 16-218-010, 16-218-02001 and add new section WAC 16-218-030 to increase fees for certification and analyses required for hops, hop extract, hop pellets and/or hop powder; and establish a schedule of fees for other certificates as requested/required by the industry.

Statutory Authority for Adoption: RCW 22.09.830(2).

Statute Being Implemented: Chapter 22.09 RCW.

Summary: The hop industry requires certification and analyses of their product; this amendment to chapter 16-218 WAC establishes the fees for the required certification, analysis, etc.

Reasons Supporting Proposal: The Department of Agriculture must maintain a fee schedule to operate the program as required by statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Toohey, Department of Agriculture, Olympia, Washington, 902-1907.

Name of Proponent: Washington State Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Department of Agriculture must increase the fees and establish certificate fees to carry-out the functions of the program required in statute.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to set the schedule of fees for the necessary chemical analyses and certification required for hops, hop extract, hop pellets and/or hop powder; and to establish fees for other certificates required by the hop industry for their product.

Proposal Changes the Following Existing Rules: The proposal increases the fee schedule.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Agricultural Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903, on July 13, 1993, at 10:00 a.m.

Submit Written Comments to: Department of Agriculture, P.O. Box 52460 [42560], Olympia, WA 98504-2560, Attn: Mary Toohey, by July 12, 1993.

Date of Intended Adoption: July 16, 1993.

June 2, 1993

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending Order 1156, filed 7/1/70)

WAC 16-218-001 Promulgation. I, (~~Donald W. Mees~~) Peter J. Goldmark, director of agriculture of the state of Washington, by virtue of the authority vested in me under chapter 22.09 RCW, (~~after due notice as provided under chapters 42.32 and 34.04 RCW and a public hearing held in Yakima, Washington on June 24, 1970, do hereby~~) promulgate the following regulations relating to schedule of fees for the certification analyses of hops.

AMENDATORY SECTION (Amending Order 1905, filed 8/15/86)

WAC 16-218-010 Schedule of fees for physical grading. The schedule of fees, payable to the department for certification of hops pursuant to the standards established by the Federal Grain Inspection Service of the United States Department of Agriculture shall be as follows:

(1) Lot inspection. One dollar and (~~thirteen~~) twenty-five cents per bale in each lot, minimum charge shall be thirty dollars.

(2) Sample inspection. Thirty-five dollars per unofficial sample submitted.

(3) Supplemental certificates. Five dollars per certificate.

(4) Appeal inspection. Charges for appeal inspections shall be made by the Federal Grain Inspection Service, Portland, Oregon, and payment for appeal inspections shall be made to them.

(5) (~~Retyping certificates. A charge of five dollars shall be made for retyping certificates if through no fault of the inspection service the information is submitted incorrectly.~~)

(~~6~~) Extra copies. A charge of two dollars per set shall be made for typing extra copies of a certificate when requested by the original applicant or other financially interested party.

(~~7~~) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

AMENDATORY SECTION (Amending Order 1905, filed 8/15/86)

WAC 16-218-02001 Schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder. The following is the schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder:

(1) Official samples of hops drawn by department personnel shall be composited either from the cores drawn for grade analysis, or from cores specifically drawn on a schedule for brewing value only. Charges for analysis are: Thirty-five cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric, and ASBC or EBC conductometric methods. An official brewing value certificate shall be used.

(2) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

(3) The following fees shall be charged by the department for samples submitted to the chemical and hop laboratory for analysis:

(a) ASBC spectro	(\$25.00)	\$30.00
(b) ASBC conducto		\$30.00
(c) EBC conducto		\$30.00
(d) EBC conducto (Wollmer, Zurich, Mebak, Verzele, Ganzlin and hard and/or soft resins)	(\$45.00)	\$60.00
(e) Spectro of tannins, Wollmer, etc.	(\$45.00)	\$55.00
(f) Methylene chloride	(\$75.00)	\$80.00
(g) Tannin	(\$30.00)	\$55.00
(h) Ash	(\$15.00)	\$20.00
(i) SO ₂		\$25.00
(j) H ₂ O		\$10.00
(k) HPLC		\$100.00
(l) Oil		\$25.00
(m) Wort test, particle size		\$10.00

(4) A fee shall be charged by the department for any other analysis not listed in this section such as (~~oil analysis~~) isoconversion products from alpha and beta resins(~~g~~) and possible adulterants such as residues. Fees shall be based on labor costs, laboratory equipment costs, chemical and material costs, administrative and overhead costs.

NEW SECTION

WAC 16-218-030 Schedule of fees for certificates.

The fees for issuance of certificates relating to hops or hop products shall be:

- (1) State phytosanitary certificates \$25.00

- (2) Other certificates attesting to origin, compliance with standards of other states or nations or specifications of contracts, or conditions of production or processing \$20.00

**WSR 93-12-135
PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**
[Filed June 2, 1993, 11:22 a.m.]

Original Notice.

Title of Rule: WAC 326-02-031 Office of Minority and Women's Business Enterprises account—Created—Purpose; 326-02-032 Certification fee; 326-02-033 State agency and educational institution fee; and 326-02-034 Political subdivision fees.

Purpose: To implement chapter 195, Laws of 1993, converting agency funding from general fund to revolving fund.

Statutory Authority for Adoption: Chapter 195, Laws of 1993.

Statute Being Implemented: Chapter 39.19 RCW.

Summary: Distributes the cost of the administration of this program among the users.

Reasons Supporting Proposal: Legislative mandate.

Name of Agency Personnel Responsible for Drafting: Milly La Palm, 406 South Water, Olympia, WA, 586-6767; Implementation and Enforcement: James A. Medina, 406 South Water, Olympia, WA, 753-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides a process for the collection of revenue from businesses that apply for certification and recertification; political subdivisions; and state agencies and educational institutions to defray costs for the minority, women and socially and economically disadvantaged business enterprise (MWDBE) program administration. Anticipated effect would be more equitable cost sharing among users.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, Department of Social and Health Services, Twelfth and Franklin Streets, Olympia, WA 98504, on July 6, 1993, at 1:30 p.m.

Submit Written Comments to: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-1160.

Date of Intended Adoption: July 13, 1993.

June 2, 1993
James A. Medina
Director

**Chapter 326-02 WAC
GENERAL PROVISIONS**

NEW SECTION

WAC 326-02-031 Office of minority and women's business enterprises account-Created-Purpose. The Office of Minority and Women's Business Enterprises account is created in the custody of the State Treasurer for the purpose of defraying costs of the office in administering Chapter 39.19 RCW. Only the director or the director's designee may authorize expenditures from the account. Money in the account may be spent only after appropriation. The revolving fund account is subject to the allotment procedures provided under Chapter 43.88 RCW. The director of the Office of Financial Management shall prescribe appropriate accounting procedures to accurately record payments to the fund from businesses, state agencies and educational institutions, and political subdivisions and expenditures from the fund.

NEW SECTION

WAC 326-02-032 Certification fee. The office shall charge businesses a twenty dollar processing fee for certification and recertification applications. Businesses must submit the fee with all applications for certification or recertification received in the office on or after July 1, 1993, before processing will occur.

NEW SECTION

WAC 326-02-033 State agency and educational institution fees. The office shall charge a fee to each state agency and educational institution to assist in the support of the state's Minority and Women's Business Enterprise program. The fee will be apportioned according to the state agency and educational institution's expenditure level of funds which are subject to Chapter 39.19 RCW and Title 326 WAC.

State agency and educational institution's charges that are five-hundred dollars or less will be billed once in a biennium. Charges over five hundred dollars will be billed at least yearly to limit administrative expenditures. The office will submit invoices to state agencies and educational institutions and payments will be due on or before July 15 unless, the state agency or educational institution is billed more frequently than yearly.

NEW SECTION

WAC 326-02-034 Political subdivision fees. The office is the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises and women's business enterprises throughout the state of Washington. Certification by the office allows these firms to participate in programs administered by the state and political subdivisions.

The office shall charge a fee to Washington political subdivisions for a portion of the office's certification program, to be prorated on the relative benefit to the political subdivision. The determination of the specific fee for a political subdivision will be based upon the number of certification and recertification applicants who indicate on

their applications an intent to do business with that political subdivision.

The calculation of the first payment amount, due July 31, 1993, is based upon the number of certification and recertification applications received from November 1992 to June 30, 1993. Payments are due to the office within thirty calendar days after the receipt of the invoice. The office will calculate the fee and bill each political subdivision on a quarterly basis.

WSR 93-12-001
PERMANENT RULES
FOREST PRACTICES BOARD
 [Filed May 19, 1993, 1:45 p.m.]

Date of Adoption: May 12, 1993.

Purpose: To modify forest practices rules, in order to protect public resources while maintaining a viable timber industry. WAC 222-16-080 is amended to sunset the rule in February 1994. A new section is added to WAC 222-50-020, other agency requirements. All other changes are nonsubstantial, editorial corrections.

Citation of Existing Rules Affected by this Order: Amending Title 222 WAC, WAC 222-08-040, 222-10-110, 222-12-020, 222-12-050, 222-16-010, 222-16-050, 222-16-070, 222-16-080, 222-20-010, 222-24-010, 222-24-050, 222-30-020, 222-30-040, 222-34-040, 222-38-020, 222-38-030, 222-46-020, and 222-50-020.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 RCW.

Pursuant to notice filed as WSR 93-05-010 on February 8, 1993.

Effective Date of Rule: Thirty-one days after filing.
 May 18, 1993
 Jennifer M. Belcher
 Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-08-040 Regular meetings. Regular meetings of the forest practices board shall be held quarterly on the second Wednesday of February, May, August and November, at a location to be designated by the forest practices board. Any person may obtain information as to said location and meeting time by contacting the Department of Natural Resources, Forest Practices Division (~~(of Forest Regulation and Assistance)~~), Olympia, Washington 98504-7012. A schedule of meetings will be published in the Washington Register in January of each year.

AMENDATORY SECTION (Amending Order 429, Resolution No. 8-8-84, filed 8/29/84, effective 10/1/84)

WAC 222-10-110 Board's SEPA public information center. There is hereby established in the (~~(Public Lands)~~) Natural Resources Building, (~~(2nd)~~) 4th Floor, Olympia, Washington, the location of the board's SEPA public records in accordance with chapter 42.17 RCW.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-020 Regulation sections. These regulations are organized as follows:

- ~~((Section I — Practices and procedures;~~
- ~~Section II — Policy and organization;~~
- ~~Section III — Definitions;~~
- ~~Section IV — Application and notification procedures;~~
- ~~Section V — Road construction and maintenance;~~
- ~~Section VI — Timber harvesting;~~

- ~~Section VII — Reforestation;~~
- ~~Section VIII — Forest chemicals;~~
- ~~Section IX — Supplemental directives;~~
- ~~Section X — Enforcement;~~
- ~~Section XI — Relationship to other laws and regulations-))~~

Chapter 222-08 WAC Practices and procedures.
Chapter 222-10 WAC State Environmental Policy Act Guidelines.

Chapter 222-12 WAC Policy and organization.
Chapter 222-16 WAC Definitions.
Chapter 222-20 WAC Application and notification procedures.

Chapter 222-22 WAC Watershed analysis.
Chapter 222-24 WAC Road construction and maintenance.

Chapter 222-30 WAC Timber harvesting.
Chapter 222-34 WAC Reforestation.
Chapter 222-38 WAC Forest chemicals.
Chapter 222-42 WAC Supplemental directives.
Chapter 222-46 WAC Enforcement.
Chapter 222-50 WAC Relationship to other laws and regulations.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-050 Notices to comply—Stop work orders. (1) **Violations.** When a forest practice has been completed, the department may issue a notice to comply requiring the operator or landowner to correct or compensate for damage to public resources where there was:

- (a) A violation of the act, or these rules and regulations, or
- (b) A deviation from the approved application, or
- (c) A (~~(willful)~~) willful or negligent disregard for potential damage to a public resource.

(2) **Other required action.** When a forest practice has not yet been completed, the department may issue either a notice to comply to the operator and/or landowner, or a stop work order to the operator, requiring him/her to prevent potential or continuing damage to a public resource where:

- (a) The need for additional actions or restrictions has become evident, and
- (b) The department determines that a specific course of action is needed to prevent potential or continuing damage to public resources, and
- (c) The damage would result or is resulting from the forest practices activities, whether or not the activities involve any violation, unauthorized deviation or negligence.

(3) **No notice to comply** shall be issued to require a person to prevent, correct, or compensate for any damage to public resources which occurs more than 1 year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations: *Provided*, That this provision shall not relieve the forest landowner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing road maintenance.

PERMANENT

(4) **No notice to comply** to recover money damages shall be issued more than 2 years after the date the damage involved occurs.

(5) **In emergency action**, where the department requires the operator or landowner to do immediate work in the bed of the stream the department shall first seek approval from the departments of fisheries and ((game)) wildlife.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce and may be associated with open water.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or
Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products(-);

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to

permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

~~("Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).)~~

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-16-050 Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) "**Class IV - special.**" Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as:

(i) Critical wildlife habitat (state) of threatened or endangered species; or

(ii) Critical habitat (federal) of threatened or endangered species except those excluded by the board under WAC 222-16-080(3).

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the

boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

*(d) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on slide prone areas as defined in WAC 222-24-020(6) and field verified by the department, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, when such slide prone areas occur on an uninterrupted slope above water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or capital improvement of the state or its political subdivisions where there is potential for a substantial debris flow or mass failure to cause significant impact to public resources.

*(e) Timber harvest in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, on slide prone areas, field verified by the department, where soils, geologic structure, and local hydrology indicate that canopy removal has the potential for increasing slope instability, when such areas occur on an uninterrupted slope above any water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or a capital improvement of the state or its political subdivisions where there is a potential for a substantial debris flow or mass failure to cause significant impact to public resources.

(f) Timber harvest, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation, as high avalanche hazard.

(g) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

*(h) Forest practices subject to a watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

*(i) Filling or draining of more than 0.5 acre of a wetland.

(2) "**Class IV - general.**" Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the

department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

* (b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

* (c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

* (d) Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or Type 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

* (e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

* (f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

* (n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type 1 Water, the riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water, a wetland management zone or within a wetland.

* (o) Ground application of chemicals. (See WAC 222-38-020 and 222-38-030.)

* (p) Aerial application of chemicals (except insecticides) when applied to not more than 40 contiguous acres if the

application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type 1 Water or the riparian management zone of a Type 2 or 3 Water, or within the ordinary high-water mark of a Type 4 Water or flowing Type 5 Water, and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. ((An)) A hydraulics project approval from the Washington department of wildlife or the Washington department of fisheries may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: *Provided*, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal.

* (c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

* (d) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-

water mark of a Type 4 Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

Salvage of logging residue.

*(e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III" forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

*(b) Those within the shorelines of the state other than those in a Class I forest practice.

*(c) Aerial application of insecticides, except where classified as a Class IV forest practice.

*(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

*(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

*(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

*(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

*(n) Any filling of wetlands, except where classified as Class IV forest practices.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-16-070 Pesticide uses with the potential for a substantial impact on the environment. *To identify forest practices involving pesticide uses that have the potential for a substantial impact on the environment, the department shall apply the process prescribed in this section. See WAC 222-16-050 (1)(a).

(1) Pesticide list - The department shall maintain a list of all pesticides registered under chapter 15.58 RCW for use in forest practices. The department shall conduct, in consultation with the departments of ecology, health, agriculture, and wildlife, an annual review of the list for the purpose of including new pesticides and/or removing those pesticides which have been prohibited from use. The list shall be available to the public at each of the department's offices. A list of the department's offices and their addresses appears at WAC 332-10-030. In preparing the pesticide list, the department shall include information on the following characteristics:

(a) Active ingredients, name brand or trade mark, labeled uses, pesticide type, EPA-registration number;

(b) Toxicity of the pesticide based on the Environmental Protection Agency (EPA) label warning under 40 C.F.R. 156.10 (h)(1), listed as "caution," "warning," "danger," or "danger - poison" except as modified to consider aquatic or mammalian toxicity; and

(c) Whether the pesticide is a state restricted use pesticide for the protection of ground water under WAC 16-228-164(1).

(2) Key for evaluating applications. To determine whether aerial application of a pesticide has the potential for a substantial impact on the environment, the department shall apply the following analysis:

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALY APPLIED CHEMICALS

Question	Question	Resp	Action
1 (a)	Is the pesticide on the pesticide list (WAC 222-16-070(1))?	Yes No	go to 2 go to 1(b)
1 (b)	Is the pesticide being used under a Dept of Agriculture Experimental Use Permit (WAC 16-228-125)?	Yes No	Class III Class IV Sp
2	Is the toxicity rating for the pesticide to be used "Danger -Poison" as designated in the pesticide list (WAC 222-16-070(1)(b))?	Yes No	Class IV Sp go to 3(a)
3 (a)	Is <i>Bacillus thuringiensis</i> (BT) the only pesticide being used on this application?	Yes No	go to 3(b) go to 4(a)
3 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical wildlife habitat (State) of a species within the application area that is susceptible to the BT strain being used?	Yes No	Class IV Sp Class III
4 (a)	Is this operation occurring over ground water with a high susceptibility to contamination as specified in EPA 910/ 9-87-189 or in documentation provided by the department of ecology?	Yes No	go to 4(b) go to 5(a)
4 (b)	Is this pesticide a state restricted use pesticide for the protection of ground water under WAC 16-228-164 (1)	Yes No	Class IV Sp go to 5(a)
5 (a)	Is the operation adjacent (within 100 ft.) of surface water?	Yes No	go to 5(b) go to 5(e)
5 (b)	Determine the toxicity rating from the pesticide list: * Is the toxicity rating "Caution" or "Warning"? * Is the toxicity rating "Danger"?	Yes Yes	go to 5(c) go to 5(d)
5 (c)	Is there a Group A or B water surface water system (WAC 246-290-020) intake OR a fish hatchery intake within one half mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (d)	Is there a Group A or B water surface system intake OR a fish hatchery intake within 1 mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (e)	Is the operation within 200 feet of the intake of a Group A or B spring water system?	Yes No	Class IV Sp go to 5(f)
5 (f)	Is the operation applying a pesticide in a Type A or B wetland?	Yes No	Class IV Sp go to 6(a)
6 (a)	Does any portion of the planned operation cover 240 or more contiguous acres? Pesticide treatment units will be considered contiguous if they are separated by less than 300 feet or treatment dates of adjacent units are less than 90 days apart.	Yes No	Class IV Sp go to 6(b)
6 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical wildlife habitat (State) of a species within the application area.	Yes No	Class IV Sp go to 6(c)
6 (c)	If there is a special concern identified for this pesticide in the Board manual, does it apply to this application?	Yes No	Class IV Sp Class III

(3) Special concerns (see WAC 222-16-070 (2)6(c) shall be evaluated by the department of agriculture. Information regarding special concerns shall be presented to the board for review. Approved special concerns shall be included in the board's manual. Special concerns shall include situations where use of pesticides has the potential for a substantial impact on the environment, beyond those covered specifically in the key in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates

of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - (~~Effective December 1, 1992,~~) harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife. (~~Prior to the above effective date, the department shall determine what constitutes critical wildlife habitat (state) for spotted owls in consultation with the department of wildlife. The department's determination shall be limited to harvesting, road construction, or aerial application of pesticides, on lands known to contain the nest or breeding grounds of Status 1, 2, or 3 spotted owls, documented by the department of wildlife.~~)

This rule is intended to be interim and (~~shall be changed as necessary upon~~) will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

AMENDATORY SECTION (Amending WSR 91-23-052, filed 11/15/91, effective 12/16/91)

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **The department shall** prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) **Applications and notifications** for operations not converting to another use shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)). Where the application is not signed by the landowner, the department

shall, provided all the other requirements contained in chapter 222-20 WAC are met, approve the application without the signature of the landowner if:

(a) The operator or timber owner provides legal evidence of timber rights, ownership, or other legal rights;

(b) The timber owner or operator posts a bond, in an amount determined by and a form acceptable to the department, securing compliance with the requirements of the forest practices regulations; and

(c) The operator or timber owner provides evidence of reasonably advance notification to the landowner of the proposed forest practice and that the landowner has been requested to sign the application, a copy of which has been made available to the landowner: *Provided*, That in lieu of such evidence the applicant may submit a sworn statement indicating inability to locate the landowner after a reasonable good faith attempt to locate and notify the landowner of the proposed forest practice.

(4) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(5) **Transfer of the approved application or notification** to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices regulations as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(6) **Applications and notifications** must be delivered to the department at the appropriate region office. Delivery should be in person or by registered or certified mail.

(7) **Applications and notifications** shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. An environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications. A local government entity clearing and/or grading permit is necessary information for all Class IV applications on lands that will be converted to a use other than commercial timber production or on lands which have been platted after January 1, 1960, if the local government entity has jurisdiction and has an ordinance requiring such permit. If a notification or application is delivered in person

to the department by the operator or the operator's authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-24-050 Road maintenance. *(1) **Road maintenance and abandonment plan.**

(a) The landowner when notified by the department shall submit a plan for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources. The plan is subject to annual review and shall include:

(i) Ownership maps showing the road or road system;

(ii) Road status, whether active, inactive, abandoned or planned for abandonment;

(iii) Maintenance schedule and priorities for the year; and

(iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

(b) The plan shall be submitted to the department region office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

(c) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

(d) Such plans shall also be reviewed with departments of ecology, fisheries and wildlife and affected Indian tribes, any of whom may request an informal conference with the landowner.

* (2) **Active roads.** An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

* (3) **Inactive roads.** An inactive road is a forest road on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion or interrupt water movement within wetlands; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts

which he/she knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he/she fails to make repairs as directed by a notice to comply.

***(4) Additional culverts/maintenance.** If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

***(5) Abandoned roads.** An abandoned road is a forest road which the forest landowner has abandoned in accordance with procedures of (a) through (e) of this subsection. Roads are exempt from maintenance only after (e) of this subsection is completed:

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands; and

(b) Ditches are left in a suitable condition to reduce erosion; and

(c) The road is blocked so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) Bridges, culverts, and fills on all waters are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

***(6) Brush control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. Refer to WAC 222-38-020 for additional information.

***(7) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.95I.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.

AMENDATORY SECTION (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

WAC 222-30-020 Harvest unit planning and design.

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

***(2) Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

***(3) Western Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than 25 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

WATER TYPE/AVERAGE WIDTH	RMZ MAXIMUM WIDTH	RATIO OF CONIFER TO DECIDUOUS/ MINIMUM SIZE LEAVE TREES	# TREES/1000 FT. EACH SIDE	
			GRAVEL/ COBBLE <10" DIAMETER	BOULDER/ BEDROCK
1 & 2 Water 75' & over	100'	representative of stand	50 trees	25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees	50 trees

PERMANENT

3 Water 50' 5' & over	2 to 1/ 12" or next largest available	75 trees	25 trees
3 Water 25' less than 5'	1 to 1/ 6" or next largest available	25 trees	25 trees

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave #of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

WATER TYPE/ AVERAGE WIDTH	RMZ MAXIMUM WIDTH	RATIO OF CONIFER TO DECIDUOUS/ MINIMUM SIZE LEAVE TREES	# TREES/1000 FT. EACH SIDE	
			GRAVEL/ COBBLE <10" DIAMETER	BOULDER/ BEDROCK
1 & 2 Water 75' & over	100'	representative of stand	50 trees	25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees	50 trees
3 Water 50' 5' & over	50'	2 to 1/ 12" or next largest available	75 trees	25 trees
3 Water 25' less than 5'	25'	1 to 1/ 6" or next largest available	25 trees	25 trees

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is a clearcutting of 30 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

***(4) Eastern Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to

upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010(~~((33))~~) "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 30 feet to a maximum of 50 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 50 feet in width on each side of the stream with a minimum width of 30 feet and a maximum of 300 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 16 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 3 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

PERMANENT

PERMANENT

(iii) Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 135 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 75 trees/acre 4 inches dbh or larger.

Note: (See the Forest Practices Board Manual for assistance in calculating trees/acre and average RMZ widths.)

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and either the harvest unit is a clearcutting of 30 acres or less or the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010(((33))) "Partial cutting.")

* (5) Riparian leave tree areas. The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.

(6) **Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(d) Approximate determination of the boundaries of forested wetlands greater than 5 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(e) The department shall consult with the department of wildlife, the department of fisheries, and affected Indian

tribes about site specific impacts of forest practices on wetland-sensitive species in forested wetlands.

(7) **Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

* (a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

WETLAND MANAGEMENT ZONE WIDTHS

Wetland Type	Acres of Nonforested Wetland	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A	Greater than 5	200 feet	100 feet	50 feet
A	0.5 to 5	100 feet	50 feet	25 feet
A Bog/Fen	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ Required		

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

* (e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

* (f) When 10% or more of a harvest unit lies within any combination of a wetland management zone or a riparian management zone of Type 1, 2, or 3 Waters and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

* (8) **Nonforested wetlands (Type A or B).** Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or

forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of wildlife to identify critical wildlife habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(b) In Eastern Washington, for 5 years from the effective date of this subsection where over-story harvest of seed trees left for purpose of reforestation are proposed and less than 10 trees per acre will be harvested within the 5-year

period, 50% of the green recruitment trees otherwise required in this subsection may be left.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-040 Shade requirements to maintain stream temperature. *(1) Determination of adequate shade. The temperature prediction method in subsections (2) and (3) of this section shall be used to determine appropriate shade levels for flowing Type 1, 2, and 3 Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

*(2) Temperature prediction method. In addition to the riparian management zone requirements, leave trees shall be

retained in riparian management zones on flowing Type 1, 2, and 3 Waters as provided by the method described in the board manual which includes the following considerations:

- (a) Minimum shade retention requirements; and
- (b) Regional water temperature characteristics; and
- (c) Elevation; and
- (d) Temperature criteria defined for stream classes in chapter 173-201A WAC (~~(173-203-030)~~).

*** (3) Leave tree requirements for shade.** The method described in subsection (2) of this section shall be used to establish the minimum shade cover based on site specific characteristics. When site specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(4) Waivers. The department may waive or modify the shade requirements where:

- (a) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or
- (b) The applicant provides alternative means of stream temperature control satisfactory to the department; or
- (c) The temperature method indicates that additional shade will not affect stream temperature.

AMENDATORY SECTION (Amending WSR 92-20-021, filed 9/28/92, effective 10/29/92)

WAC 222-34-040 Site preparation and rehabilitation. *** (1) Heavy equipment.** Heavy equipment shall not be used in connection with site preparation or rehabilitation work:

(a) When, because of soil moisture conditions or the type of soils, undue compaction or unnecessary damage to soil productivity would occur or erosion would result in damage to water quality; or

(b) Within riparian management zones (~~(1-1)~~)₂ Type A and B Wetlands, wetland management zones (~~(1-1)~~)₂ or within 10 feet of the ordinary high-water mark of Type 4 and 5 Waters on slopes of 30 percent or less. On slopes greater than 30 percent heavy equipment shall not operate within 50 feet of Type 1 through 5 Waters unless a site specific plan has been approved by the department.

*** (2) Surface water drainage.** Where site preparation or rehabilitation involves contouring or terracing of slopes, drainage ditches, or similar work:

(a) The gradient of ditches or other artificial water courses in erodible soils shall not cause significant stream, lake, pond, or wetland siltation.

(b) Ditches and other artificial water courses shall not discharge onto any road, landing or fill.

(c) Ditches and other artificial water courses shall not be constructed to discharge onto the property of other parties without their consent.

*** (3) Stream channel alignment.** Where work involves deepening, widening, straightening or relocating the channel; or bulkheading, riprapping or otherwise stabilizing the banks of a Type 1, 2 or 3 Water, the work shall be done only:

(a) After consultation with any party having an appropriation permit or registered right to appropriate waters from the affected stream segment in cases of streams used for domestic water supplies.

(b) Where no significant adverse (~~(affects)~~) effects on either the peak or minimum water levels or flows downstream can be expected.

(c) In a manner not expected to result in long-term damage to public resources or to adjacent or downstream property.

(NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-38-020 Handling, storage, and application of pesticides. *** (1) No pesticide leakage, contamination, pollution.**

~~((a))~~ Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

*** (2) Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

*** (3) Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*** (4) Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*** (5) Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

***(6) Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

***(7) Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

***(8) Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

***(9) Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

***(10) Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

***(11) Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-38-030 Handling, storage, and application of fertilizers. ***(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

***(2) Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(3) Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(4) Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot (~~and~~) with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

***(5) Ground and hand application of fertilizers.** Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

***(6) Reporting of fertilizer spills.** All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

AMENDATORY SECTION (Amending WSR 91-23-052, filed 11/15/91, effective 12/16/91)

WAC 222-46-020 Informal conferences. (1) **Opportunity mandatory.** The department shall afford the operator or his/her representative reasonable opportunities to discuss proposed enforcement actions at an informal conference prior to taking further enforcement action, unless the department determines that there may be imminent damages to the public resource. Informal conferences may be used at any

stage in enforcement proceedings, except that the department may refuse to conduct informal conferences with respect to any matter then pending before the appeals board or a court.

(2) **Reports required.** Department personnel in attendance at informal conferences shall keep written notes of the date and place of the conference, the persons in attendance, the subject matter discussed, and any decisions reached with respect to further enforcement action.

(3) **Records available.** Copies of written notes shall be sent to each participant in the conference, be kept in the department files until one year after final action on the application involved, and be open to public inspection.

(4) **Local government entity conditions.** If the proposed enforcement actions involve conditions imposed pursuant to WAC 222-20-040(3), then the local government entity shall be involved in the informal conference.

AMENDATORY SECTION (Amending Order 551, Resolution No. 88-1, filed 9/21/88, effective 11/1/88)

WAC 222-50-020 Other agency requirements. (1) Many other laws and regulations apply to the conduct of forest practices. Other agencies administer some of these other regulatory programs. Permits may be required by such agencies prior to the conduct of certain forest practices. The department will maintain a list for distribution of state, regional and local regulatory programs that apply to forest practice operations. Affected parties are urged to consult with the specified agencies and independent experts with respect to the regulatory requirements shown on the list.

(2) **Hydraulics project approval law, RCW 75.20.100.** A hydraulics project approval must be obtained from the department of fisheries and the department of wildlife prior to constructing any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds. See RCW 75.20.100 and WAC 232-14-010.

(3) **Compliance with the Shoreline Management Act,** chapter 90.58 RCW, is required. The Shoreline Management Act is implemented by the department of ecology and the applicable local governmental entity. A substantial development permit must be obtained prior to conducting forest practices which are "substantial developments" within the "shoreline" area as those terms are defined by the Shoreline Management Act.

(4) Nothing in these regulations is intended to interfere with any authority of the department of wildlife to protect wildlife under any other statutes or regulations, or under any agreements with landowners.

(5) Federal Endangered Species Act, 16 U.S.C. 1531 et seq., and other federal laws. The federal Endangered Species Act and other federal laws may impose certain obligations on persons conducting forest practices. Compliance with the Forest Practices Act or these rules does not ensure compliance with the Endangered Species Act or other federal laws.

WSR 93-12-005
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Dental Examiners)

[Order 363B—Filed May 19, 1993, 4:05 p.m.]

Date of Adoption: April 30, 1993.

Purpose: To clarify existing rules for licensing without examination program.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-818-130.

Statutory Authority for Adoption: RCW 18.32.035.

Pursuant to notice filed as WSR 93-07-107 on March 23, 1993.

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

April 30, 1993

David W. Hanson, DDS
Chairperson

AMENDATORY SECTION (Amending Order 228B, filed 12/19/91, effective 1/19/92)

WAC 246-818-130 Licensure without examination for dentists—Application procedure. The applicant is responsible for obtaining and furnishing to the Washington board of dental examiners all materials required by the board to establish eligibility for a license without examination. Any fees for verification of requirements must be paid by the applicant.

A license issued based on the succeeding criteria, may be revoked upon evidence of misinformation or substantial omission.

The following must be submitted to the board:

(1) A completed application for licensure without examination to include the payment of the required application fee. The application must be signed and notarized. All information must be completed and received within 180 days of receipt of the initial application. Only completed applications will be reviewed by the board, or its designee(s). Completed applications will be acted on at the next scheduled board meeting (~~provided that the board may extend application reviews to the following meeting or meetings if required by the number of completed applications or the board's other business~~) or at other intervals determined by the board.

(2) A statement by the applicant as to whether he/she has been the subject of any disciplinary action in the state(s) of licensure and whether he/she has engaged in unprofessional conduct as defined in RCW 18.130.180.

(3) A statement by the applicant that he/she is not an impaired practitioner as defined in RCW 18.130.170.

(4) A certification by the state board(s) of dentistry (or equivalent authority) that, based on successful completion of an examination, the applicant was issued a license, registration, certificate or privilege to practice dentistry, without restrictions, and whether he/she has been the subject of final or pending disciplinary action.

(5) Documentation to substantiate that standards defined in WAC 246-818-140 have been met.

(6) A certification from each state or jurisdiction where the applicant holds or has held a license to practice dentistry and whether he/she has been the subject of final or pending disciplinary action.

(7) An official dental school transcript showing the degree and date of graduation. This transcript shall be mailed from the school directly to the board.

(8) The national board scores certified by the Joint Commission on National Dental Examinations.

(9) A current 2" x 2" photograph (~~duly identified and attested~~) signed and dated.

(10) Proof of completion of AIDS education as required by WAC 246-818-080.

(11) Proof that the applicant is currently engaged in the practice of clinical, direct patient care dentistry, in another state, and has been (~~for at least~~) practicing for a minimum of five years within the seven years immediately preceding application, as demonstrated by the following information:

(a) Address of practice location(s);

(b) Length of time at the location(s);

(c) Certification of a minimum of twenty hours per week in clinical dental practice (~~as defined by RCW 18.32.020~~);

(d) A letter from all malpractice insurance carrier(s) (and) defining years when insured and any claims history;

(e) Federal or state tax numbers;

(f) DEA numbers if any; (~~and~~)

(g) ~~A copy of the applicant's current dental license.~~)

Dentists serving in the United States federal services as described in RCW 18.32.030(2), for the period of such service, need not provide (a) through (f) of this subsection, but must provide documentation from their commanding officer regarding length of service, duties and responsibilities (~~and a copy of their current license~~) including any adverse actions or restrictions. Such dental service, including service within the state of Washington, shall be credited toward the dental practice requirement.

Dentists employed by a (~~teaching institution;~~) dental school approved by the board for the period of such dental practice, need not provide (a) through (f) of this subsection, but must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment and their duties and responsibilities, (~~and a copy of their current license~~) and any adverse actions or restrictions. Such dental practice, including practice within the state of Washington, shall be credited toward the dental practice requirement. Dental practice within a residency program shall be credited toward the dental practice requirement.

WSR 93-12-007

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed May 19, 1993, 4:10 p.m.]

Purpose: Amending chapter 132H-116 WAC, Parking and traffic rules, rules covering parking on campus and driving regulations.

Citation of Existing Rules Affected by this Order: Amending chapter 132H-116 WAC.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-08-067 on April 5, 1993.

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

May 18, 1993

Elise J. Erickson

Secretary, Board of Trustees

AMENDATORY SECTION (Amending Order [115, Resolution No.] 206, filed 8/17/92, [6/17/92])

WAC 132H-116-315 Definitions. For the purpose(~~d~~) of this chapter, the following terms and definitions shall apply:

(1) Board: The board of trustees of Community College District VIII, State of Washington.

(2) Campus: Any or all real property owned, operated, controlled, or maintained by Community College District VIII, State of Washington.

(3) Car pool: Any group of three to five faculty, staff, or students who commute to the college in the same vehicle.

(4) College: Bellevue Community College, or any additional community college hereafter established with Community College District VIII, State of Washington, and collectively, those responsible for its control and operations.

(5) Faculty members: Any employee of Community College District VIII who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, including administrative appointment (~~certified to teach in a community college in the State of Washington~~).

(6) Foot (~~(P)~~)propelled device: Wheeled devices including but not limited to skateboards roller skates, roller blades, etc. designed or used for recreation and/or transportation purposes.

(7) Security Officers: Employees of the college accountable to the Dean of (~~Administration~~) Administrative Services and responsible for campus security, safety, and parking and traffic control.

(8) Staff: The administrative and classified members employed by the college.

(9) Student: Any person enrolled in the college.

(10) Vehicle: An automobile, truck, motorcycle, scooter or bicycle, both engine-powered and non-engine-powered.

(11) Visitor(s): Person(s) who come on to campus as guest(s), and person(s) who lawfully visit the campus for purposes in keeping with the college's role as an institution of higher learning in the State of Washington and are neither employees nor registered students of the institution.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-12-008

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed May 19, 1993, 4:15 p.m.]

Purpose: Amending chapter 132H-120 WAC, The student code of Community College District VIII.

Citation of Existing Rules Affected by this Order:
Amending chapter 132H-120 WAC.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 28B.50.140.

Pursuant to notice filed as WSR 93-08-068 on April 5, 1993.

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

May 18, 1993

Elise J. Erickson

Secretary, Board of Trustees

AMENDATORY SECTION (Amending Order 116, [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-050 Student rights and freedoms.

The following enumerated rights and freedoms are guaranteed to each student within the limitations are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public. Students and other members of the college community shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operation of the college.

(b) Students have the right of "assembly" as defined in WAC 132H-120-030 upon college facilities that are generally available to the public: *Provided*, ((*)) That such assembly shall:

(i) Be conducted in an orderly manner; and

(ii) Not unreasonably interfere with vehicular or pedestrian traffic; or

(iii) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with the educational functions of the college; and

(iv) Not unreasonably interfere with college functions.

(v) Not cause damage or destruction to college property or private property on the college campus.

(c) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 26B.50.090 (3)(b).

(d) Students shall be protected from academic evaluation which is arbitrary, prejudiced or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(e) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and 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 student code is entitled, upon request, to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official proce-

dures printed and available in the dean of student service's office. All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. The college may restrict the distribution of any publications where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the director of student programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(4) Off campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the administrative office.

(5) Incidental sales. Students have the right to engage incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(6) Commercial activities. The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of student services for the benefit of the approved activity.

(7) Fund raising. Student have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of student services.

(8) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the dean of student services.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 116 [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principle actor or abettor: actor, aider, abettor or accomplice as defined in RCW 9A.08.020: (1) Materially and substantially interferes with the personal rights or privileges of others or the education process of the college:

(2) Violates any provisions of this chapter; or

(3) Commits any of the following acts which are hereby prohibited:

(a) Alcoholic Beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee. ((See WAC 132H-200-490)))

(b) Controlled Substances. Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in Chapter 69.50 RCW 101 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation "sale" shall include the statutory meaning defined in RCW 69.50.410 RCW 69.04.005 as now law or hereafter amended.

(c) Entering any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or Alteration of Records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal Assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the education and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious Mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to Follow Instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical Abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 - 050 or 28B.10.570 - 572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities of the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd Conduct. Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) False Alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or

other device established for the safety of individuals and/or college facilities.

(n) Cheating and Plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or of another as defined in RCW 9A.56.010 - 9A.56.050 and 9A.56.100 as now law or hereafter amended.

(q) Unauthorized Use of Property. Converting college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or any other smoking not complying with Chapter 70.160 RCW.

(t) False Complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 116 [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-220 Responsibility/college discipline committee. The dean of student programs and personnel services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean, who shall have the authority to administer the disciplinary action prescribed in this chapter and to convene the ((€))college ((D))discipline ((€))committee. The composition of the college discipline committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons:

(1) A faculty member appointed by the president of the college.

(2) A member of the faculty, appointed by the president of Bellevue Community College Association of Higher Education.

(3) Two representatives [selected] by the student services cabinet.

(4) Three students. The three students will be appointed by the ((P))president of the Associated Students of Bellevue Community College.

None of the above-named persons shall sit in any case in which he/she has a conflict of interest, is a complainant or witness, has a direct or personal interest, or has acted previously in an advisory capacity. Decisions in this regard, including the selection of alternates, shall be made by the college discipline committee as a whole.

The college discipline committee chair will be elected by the members of the college discipline committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending Order 116, [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-225 Disciplinary terms. The following definitions of disciplinary terms have been established to provide consistency in the application of penalties:

(1) **Disciplinary Warning:** Formal action censoring a student for violation of college rules or regulations or for failure to satisfy the college's expectations regarding conduct. Disciplinary warnings are always made in writing to the student by the dean of student services. A disciplinary warning indicates to the student that continuation of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

(2) ((**DISCIPLINARY PROBATION**)) **Disciplinary Probation:** Formal action placing conditions upon the student's continued attendance for violation of college rules or regulations or failure to satisfy the college's expectations regarding conduct. Disciplinary probation warns the student that any further misconduct will make him/her liable to suspension or expulsion from the college. Disciplinary probation may be for a specific term or for an indefinite period.

(3) **Suspension:** Formal action dismissing a student temporarily from the college for unacceptable conduct ((~~or~~)) or violation of college rules or regulations. Suspension may be for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated.

(4) **Summary Suspension:** Exclusion from college property and/or classes and other privileges or activities in accordance with WAC-132H-120-40((4))5.

(5) **Expulsion:** Students may be expelled only on the approval of the president of the college and on the recom-

mendation of the dean of student services or the college discipline committee. The notification expelling a student will indicate, in writing, the term of the expulsion and any conditions which must be met before readmission. There is no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(6) **Registration Denied:** Formal action refusing to allow a student to register for subsequent quarters, for violation of college rules or regulations, or failure to satisfy the college's expectations regarding conduct, or failure to fulfill obligations to the college.

Students may be denied registration only on the approval of the president and on the recommendation of the dean of student services or college discipline committee. The initiating authority, in his/her written notification to the student, will detail the reasons for the denial of registration and the conditions to be met before registration will be allowed. Registration may be denied for a fixed or indefinite period. Future registration will not be allowed until the initiating authority is satisfied that the conditions have been met.

(7) **Restitution:** Reimbursement for damage to or misappropriation of property. This may take the form of appropriate service or other compensation.

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

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 116, [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-245 Appeals of disciplinary action - generally. (1) Appeals contesting any disciplinary action may be made by the student(s) involved. Such appeals shall be made in the following order:

(a) Disciplinary action taken by the dean of student services or his or her designee(s) may be appealed to the discipline committee, which may, at the request of the dean, hear the case de novo.

(b) Disciplinary recommendations made by the discipline committee may be appealed by the student to the president of the college. The president shall review the record of the proceedings which give rise to the appeal, as well as the recommendations made by the dean and the discipline committee. The president's decision shall be final.

(2) any appeal by a student receiving a disciplinary sanction must meet the following conditions: (a) The appeal must be in writing and must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal; and (b) the appeal must be filed within twenty-one (21) calendar days from the date on which the student was notified that disciplinary action was being taken.

(3) All decisions shall be sent from the office of the dean to the president. Written decisions shall include the signature of the discipline committee chair. Copies shall be sent to the president of the college or his or her designee and the student involved in the proceeding.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 116 [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-300 Discipline committee procedure.

(1) The discipline committee shall conduct a hearing within twenty (20) calendar days after disciplinary action has been referred to the committee.

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person

(a) waives the opportunity for a brief adjudicative proceeding, or

(b) by his/her conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding, or

(c) is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) Written notice of the time and place of his hearing before the college discipline committee, shall be given to the student by personal service or certified mail not less than twenty (20) calendar days in advance of the hearing. The notice shall be issued by the ~~((D))~~ dean of ~~((S))~~ student ~~((S))~~ services and shall contain:

(a) A statement of the time, place and nature of the disciplinary proceedings;

(b) A statement of the charges including reference to the particular sections of the student code involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(4) The student shall be entitled to:

(a) hear and examine the evidence against him or her and be informed of the identity of its source; he shall be entitled to

(b) present evidence in his or her own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters.

(c) take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(5) The student shall have all authority possessed by the college to obtain information he/she specifically describes, in writing, and tenders to the dean of student services no later than three (3) days prior to the hearings, or request the presence of witnesses or the production of other evidence relevant to the issues of the hearings.

(6) The student shall have the right to dismiss a member of the college discipline committee on prejudicial grounds if notice is tendered in writing to the dean of student services at least three (3) days prior to the scheduled hearing.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney as his or her counsel, he or she must tender at least seven (7) calendar days' notice thereof to the dean of student services development).

(8) In all disciplinary proceedings the college may be represented by the dean of student services (dean for student services and development) or his or her designee who shall present the college's case to the college discipline committee. The dean of student services may elect to have the college represented by an assistant attorney general.

(9) An adequate record of the hearing shall be maintained and shall include:

(a) all documents, motions, and intermediate rulings;

(b) evidence received and considered;

(c) a statement of matters noticed; and

(d) questions and offers of proof, objections and rulings thereon.

(10) The chair of the college discipline committee shall preside at the disciplinary hearing and shall be considered the presiding officer.

(11) The dean of student services shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts and testimony presented to the college discipline committee during the course of the hearing.

(12) Hearings conducted by the college discipline committee generally will be held in closed session, provided that the accused student may request the hearing to be held in open session.

(13) If at any time during the conduct of a hearing visitors disrupt the proceedings, the chair of the committee may exclude such persons from the hearing room.

(14) Any student attending the college discipline committee hearing who continues to disrupt the proceedings after the chair of the committee has asked him or her to cease or to leave the hearing room ~~((-))~~ shall be subject to disciplinary action.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 116 [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-335 Final appeal. Any student who is aggrieved by the finding(s) or conclusions of an appeal to the discipline committee may appeal the same in writing to the president within twenty-one (21) days following notification to the student of the action taken by the committee. The president may, at his or her discretion, suspend the disciplinary actions imposed. In the consideration of such an appeal, the president shall base his or her findings and decision solely on the official written record of the case and on any reports or recommendations of the discipline committee and/or the dean who conducted the original hearing.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 116 [WSR 92-19-047], filed 9/10/92)

WAC 132H-120-475 Appeals from summary suspension hearing. (1) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the discipline committee. No such appeal shall be entertained, however, unless

(a) the student has first appeared at the student hearing in accordance with WAC 132H-120-430;

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

(c) ~~(2)~~ summary suspension or other disciplinary sanction has been upheld; and

(d) ~~(3)~~ the appeal conforms to the standards set forth in WAC-132H-120-245(2).

(2) The discipline committee shall, within five (5) working days, conduct a formal hearing in the manner described in WAC-132H-120-300.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 93-12-011
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Filed May 20, 1993, 12:42 p.m.]

Date of Adoption: May 18, 1993.

Purpose: Adoption of revised shoreline master program for the city of Seattle into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-2521 City of Seattle shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 93-05-043 on February 17, 1993.

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

May 18, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-48, filed 2/3/93, effective 3/6/93)

WAC 173-19-2521 Seattle, city of. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. Revision approved October 20, 1986. Revision approved February 11, 1987. Revision approved November 10, 1987. Revision approved October 2, 1990. Revision approved

Permanent

September 16, 1992. Revision approved February 2, 1993. Revision approved May 18, 1993.

WSR 93-12-013
PERMANENT RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL
[Filed May 20, 1993, 3:00 p.m.]

Date of Adoption: May 10, 1993.

Purpose: This proposal would establish the procedures for establishing applicant responsibility for council member salary and fringe benefits.

Statutory Authority for Adoption: RCW 80.50.040.

Pursuant to notice filed as WSR 93-07-094 on March 22, 1993.

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

May 10, 1993
Warren A. Bishop
Chair

NEW SECTION

WAC 463-30-055 Applicant funding of council members salaries and fringe benefits for extended adjudications. When more than ten days of adjudicative hearings will be necessary to review an application for site certification, it shall be the responsibility of the applicant for site certification to pay the normal salary and fringe benefits expenses of such members of the council for the period in excess of ten days that they spend in adjudicative hearings. For the purposes of this rule, time spent in preparation for adjudicative hearings shall not be considered. Such salary and fringe benefits expenses for designated council members shall be considered to be part of the council's normal expenses pursuant to RCW 80.50.071 (1)(b).

WSR 93-12-014
PERMANENT RULES
BOARD OF
BOILER RULES
[Filed May 21, 1993, 10:35 a.m.]

Date of Adoption: May 18, 1993.

Purpose: To comply with actions taken by the Board of Boiler Rules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-010 Definitions; 296-104-055 Examination fees; 296-104-200 Standards for new construction; 296-104-500 Nonnuclear repairs; 296-104-501 Nonnuclear alterations; and 296-104-700 Inspection fees—Certificate fees—Expenses.

Statutory Authority for Adoption: RCW 70.79.040.

Pursuant to notice filed as WSR 93-08-073 on April 6, 1993.

Changes Other than Editing from Proposed to Adopted Version: From actions at public hearing, WAC 296-104-500 Nonnuclear repairs, line 4 change "authorized" to "commissioned"; and WAC 296-104-501 Nonnuclear alterations, before sentence 3 add "Nonphysical alterations shall be

performed using procedures acceptable to the department." (clarification of wording).

Effective Date of Rule: Thirty-one days after filing.
May 18, 1993
Robert Reid
Chairman

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-010 Definitions. (1) "Director" shall mean the director of the department of labor and industries.

(2) "Board of boiler rules" shall mean the board created by law and empowered to make, alter, amend, and interpret rules and regulations for the safe and proper construction, installation, repair, and use of boilers and for the proper construction, installation, and repair of unfired pressure vessels in this state.

(3) "Chief inspector" shall mean the chief boiler inspector appointed under RCW 70.79.100.

(4) "Deputy inspector" shall mean a deputy inspector of boilers and unfired pressure vessels appointed by the chief boiler inspector of Washington under the provisions of RCW 70.79.120.

(5) "Special inspector" shall mean an inspector holding a Washington commission, who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers and unfired pressure vessels in this state, or who is continuously employed by any company operating unfired pressure vessels in this state for the purpose of making inspections of unfired pressure vessels used or to be used by such company.

(6) "Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

(7) "Certificate of competency" shall mean a certificate issued to a person who has passed an examination prescribed by the board of boiler rules.

(8) "Department" as used herein shall mean the department of labor and industries of the state of Washington.

(9) "Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

(10) "ASME Code" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments and interpretations thereto made and approved by the council of the society which have been regularly adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

(11) "Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

(12) "Approved" shall mean approved by the chief boiler inspector as evidenced by his issuance of an inspection certificate.

(13) "Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the ASME stamp.

(14) "Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear the ASME stamp.

(15) "Boiler" shall mean a closed vessel used for heating water or liquid or for generating steam or vapor by the direct application of heat.

(16) "Direct application of heat" shall mean the firing of any fuel, solid, liquid, or gaseous, including electrical elements of any description.

(17) "Power boiler" shall mean a boiler used to produce steam or vapor at a pressure exceeding 15 lbs. per square inch gage, or a boiler used for heating water or liquid to a pressure exceeding 160 psi. or to a temperature exceeding 250°F.

(18) "Low pressure heating boiler" shall mean a boiler operated at a pressure not exceeding 15 lbs. per square inch gage steam, or at a pressure not exceeding 160 lbs. per square inch and a temperature not exceeding 250°F. for water.

(19) "Hot water supply boiler" shall mean a low pressure boiler used to heat water to a temperature not exceeding 200°F.

(20) "Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

(21) "Unfired pressure vessel" shall mean a closed vessel in which pressure is obtained from an external source, or from an indirect application of heat, including steam or hot water coils, converters or heat exchangers.

(22) "Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reerected at the same location or at a new location without change of ownership.

(23) "Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

(24) "Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.

(25) "Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for inspection of the interior. An ultrasonic examination of unfired pressure vessels 36" diameter and under, shall constitute an internal inspection.

(26) "External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices.

(27) "Place of public assembly" or "assembly hall" shall mean a building or portion of a building used ~~((in whole or in part for occupation by))~~ for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, (hospitals, education, instruction,) entertainment, amusement, drinking, or dining or waiting transportation~~((, or child care centers.~~

~~Child care centers include those agencies which operate facilities for the care of thirteen children or more. No such~~

~~center shall be located in a private family residence. The substantive rules of this code shall apply to all child care centers operated in the state of Washington). This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.~~

(28) "Fusion welding" shall mean a process of welding metals in a molten, or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxy-acetylene or oxy-hydrogen flame or by the electric arc. Thermit welding shall be classified as fusion welding.

(29) "Major repair" shall mean one upon which the strength of a boiler or unfired pressure vessel depends.

(30) "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

(31) "Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

(32) "Automatic operation of a boiler" shall mean full control of feed water and fuel in order to maintain the pressure and temperature constant within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, or power failure.

(33) "Alteration" is a structural modification of, or a departure from an original design or existing construction.

(34) "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.

(35) "Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

AMENDATORY SECTION (Amending Order 82-36, filed 11/23/82, effective 1/1/83)

WAC 296-104-055 Examination fees. A fee of ~~((forty))~~ sixty dollars will be charged for each applicant taking the examination for a certificate of competency or any examination sponsored by the National Board of Boiler and Pressure Vessel Inspectors. If an applicant fails to pass the examination this fee shall be good for one year during which a reexamination may be taken. Checks for examination fees shall be made payable to the state treasurer.

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-200 Standards for new construction. The standards for new construction are the ~~((1989))~~ 1992 edition, with addenda, of ASME Boiler and Pressure Vessel Code, Sections I, III, IV, VIII, and X, the 1987 edition of ASME/ANSI PVHO-1 (Standard for Pressure Vessels for Human Occupancy). These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. Also, in circumstances such

as nuclear systems, the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-500 Nonnuclear repairs. Where a repair, involving welding to a pressure retaining part is performed, a report of welded repair, signed by the certificate holder and an ~~((authorized))~~ commissioned inspector shall be submitted to the ~~((jurisdiction))~~ department. Repairs to all boilers, pressure vessels, and their appurtenances shall conform to the rules contained in the ~~((1985))~~ 1992 National Board Inspection Code chapter III ~~((Furthermore, repairs shall be performed only by those holding an ASME Certificate of Authorization or a National Board "R" Certificate of Authorization)), including supplements 1, 2, 3, 4, and 6, except the following changes/authorizations are made:~~

(1) Owner-user special inspectors may only accept repairs on unfired pressure vessels operated by their respective companies per RCW 70.79.130.

(2) In addition to repair organizations holding a National Board "R" Certificate of Authorization, organizations holding an ASME Certificate of Authorization may make repairs provided repairs are covered in their Quality Control Manual. In all cases the material and workmanship shall comply with the rules contained in the appropriate sections of the ASME Code.

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-501 Nonnuclear alterations. ~~((Where alterations are accomplished, copies of all alteration reports such as reports of welded or rerated alterations, shall be sent to the department. Alterations to all boilers, pressure vessels, and their appurtenances shall conform to the rules contained in the 1985 National Board Inspection Code chapter III. Physical alterations shall only be performed by those parties with the appropriate ASME authorization.))~~ Physical alterations may not be performed by an "R" stamp holder. Physical alterations shall only be performed by those parties with the appropriate ASME Certificate of Authorization. Nonphysical alterations shall be performed using procedures acceptable to the department. Where alterations are accomplished, copies of all alteration reports, such as reports of welded or rerated alterations, shall be sent to the department. With the exceptions above, alterations to all boilers, pressure vessels, and their appurtenances shall conform to the rules contained in the 1992 National Board Inspection Code chapter III, including supplements 1, 2, 3, 4, and 6.

AMENDATORY SECTION (Amending Order 84-20, filed 10/5/84)

WAC 296-104-700 Inspection fees—Certificate fees—Expenses. The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	25.00	20.00
All other boilers less than 500 sq. ft.	30.00	20.00
500 sq. ft. to 2500 sq. ft.	50.00	25.00
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	20.00	10.00
Power boilers:	Internal	External
Less than 100 sq. ft.	25.00	20.00
100 sq. ft. to less than 500 sq. ft.	30.00	20.00
500 sq. ft. to 2500 sq. ft.	50.00	25.00
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	20.00	10.00
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		5.00
All other pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.	Internal	External
Less than 15 sq. ft.	20.00	15.00
15 sq. ft. to less than 50 sq. ft.	30.00	15.00
50 sq. ft. to 100 sq. ft.	35.00	20.00
For each additional 100 sq. ft. or any portion thereof	10.00	35.00
Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$15.00 per object.		
Nonnuclear shop inspections, field construction inspections, and special inspection services:		
For each hour or part of an hour up to 8 hours	30.00	
For each hour or part of an hour in excess of 8 hours	45.00	
Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:		
For each hour or part of an hour up to 8 hours	45.00	
For each hour or part of an hour in excess of 8 hours	70.00	
Nonnuclear triennial shop survey and audit:		
When state is authorized inspection agency:		
For each hour or part of an hour up to 8 hours	30.00	
For each hour or part of an hour in excess of 8 hours	45.00	
When insurance company is authorized inspection agency:		
For each hour or part of an hour up to 8 hours	45.00	
For each hour or part of an hour in excess of 8 hours	70.00	

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection,

audit, or survey. The department shall also charge ((~~20 cents per mile~~)) the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Reinspection fee: Same as the fee for the previous inspection during which discrepancies were reported. The fee will be charged only if the discrepancies are not corrected before the reinspection. The fee shall not exceed \$25.00. Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$300.00 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

**WSR 93-12-015
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 93-07—Filed May 21, 1993, 10:49 a.m.]

Date of Adoption: May 7, 1993.

Purpose: To repeal obsolete sections relating to allocation of early intervention moneys to school districts.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-250 through 392-140-267.

Statutory Authority for Adoption: RCW 28A.150.90 [28A.150.290].

Other Authority: RCW 28A.300.040.

Pursuant to notice filed as WSR 93-07-047 on March 15, 1993.

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

May 21, 1993

Judith A. Billings
Superintendent of
Public Instruction

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-140-250 Early intervention services allocation—Applicable provisions.
- WAC 392-140-252 Early intervention services allocation—Definition—Annual average full-time equivalent students.
- WAC 392-140-253 Early intervention services allocation—Definition—Kindergarten through sixth grade annual average full-time equivalent students.
- WAC 392-140-254 Early intervention services allocation—Definition—Form SPI 1195.

- WAC 392-140-255 Early intervention services allocation—Definition—Form SPI 1102E.
- WAC 392-140-256 Early intervention services allocation—Definition—Form SPI 1100E.
- WAC 392-140-257 Early intervention services allocation—Definition—Allowable expenditures for early intervention and prevention services.
- WAC 392-140-258 Early intervention services allocation—Definition—Eligible school district.
- WAC 392-140-259 Early intervention services allocation—Definition—Eligible enrollment served by the educational service district.
- WAC 392-140-265 Early intervention services allocation—Apportionment of moneys to school districts and educational service districts.
- WAC 392-140-266 Early intervention services allocation—Reporting requirements.
- WAC 392-140-267 Early intervention services allocation—Recovery of moneys.

WSR 93-12-016
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 93-08—Filed May 21, 1993, 10:50 a.m.]

Date of Adoption: May 7, 1993.

Purpose: To establish policies and procedures for implementation of RCW 28A.600.425 early prevention and intervention services for elementary level students, chapter 392-167A WAC.

Statutory Authority for Adoption: RCW 28A.600.425.

Pursuant to notice filed as WSR 93-07-048 on March 15, 1993.

Changes Other than Editing from Proposed to Adopted Version: The title, purpose, and other summary information for WSR 93-07-046 and 93-07-048 were inadvertently switched. Text of the proposed rule was published under WSR 93-07-048, the title and summary under WSR 93-07-046.

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

May 21, 1993
 Judith A. Billings
 Superintendent of
 Public Instruction

Chapter 392-167A WAC
SPECIAL SERVICES—FAIR START EARLY PRE-
VENTION AND INTERVENTION

NEW SECTION

WAC 392-167A-005 Authority. The authority for this chapter is RCW 28A.600.425 which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of the fair start program.

NEW SECTION

WAC 392-167A-010 Purpose. The purpose of this chapter is to establish policies and procedures for implementation of the fair start program consisting of early prevention and intervention services for elementary level students.

NEW SECTION

WAC 392-167A-015 Definition—Fair start program. As used in this chapter, the term "fair start program" means a district-wide program or plan of early detection, prevention, and intervention of learning, emotional, environmental, social, or physical problems of elementary students, that addresses student and family needs; the appropriate use and roles of child intervention specialists, including training and necessary supervision; interprofessional cooperation; and interagency, public and private, collaboration and coordination of the planning, delivery, and evaluation of programs and services.

NEW SECTION

WAC 392-167A-020 Definition—Child intervention specialists or community based human service provider. As used in this chapter, a "child intervention specialist" or "community based human service provider" means a person who provides early prevention and intervention services that include, but are not limited to, services provided by:

- (1) School counselors;
- (2) School psychologists;
- (3) School nurses;
- (4) School social workers;
- (5) Health care providers;
- (6) Licensed mental health professionals;
- (7) Child psychiatrists;
- (8) Social service caseworkers or social workers.

NEW SECTION

WAC 392-167A-025 Definition—Elementary level. As used in this chapter, "elementary level" means kindergarten through grade six, and may include preschool age children served by school districts.

NEW SECTION

WAC 392-167A-030 Definition—Early intervention services. As used in this chapter, "early intervention services" means services that are provided to address social and emotional factors that can affect student performance and behavior and that are provided as problems emerge.

NEW SECTION**WAC 391-167A-035 Definition—Prevention services.**

As used in this chapter, "prevention services" means services that are provided to address social, emotional factors that can affect students' performance and behavior and that are provided to elementary level students before problems occur.

NEW SECTION**WAC 392-167A-040 Definition—Supplant.**

As used in this chapter, the term "supplant" means the use of moneys made available under this chapter to replace moneys supporting an existing program or activity addressing early prevention and intervention programs. However, districts currently providing services for early prevention and intervention services that lose the source of funding for reasons beyond the control of the district may use fair start funding to continue or enhance the existing level of prevention and intervention service.

NEW SECTION**WAC 392-167A-045 Applications for funding—**

Qualified applicants. School districts which enroll more than one thousand full-time equivalent students may apply for fair start program funding individually or cooperatively with one or more other school districts. School districts which enroll less than one thousand full-time equivalent students shall first enter into a cooperative agreement with the appropriate educational service district which, in turn, may apply for fair start program funding. An application by or in behalf of a cooperative shall be submitted by the district which is primarily responsible for administering the cooperative, which shall be the appropriate educational service district in the case of cooperatives which include one or more school districts which enroll less than one thousand full-time equivalent students, and shall be signed by the superintendent of each cooperative member district.

NEW SECTION**WAC 392-167A-050 Applications for funding—**

Annual deadline and required contents. School districts and educational service districts shall annually submit applications for fair start program funding to the superintendent of public instruction on or before June 30 preceding the school year for which funding is sought. Applications shall contain the information required by WAC 392-167A-055 and the assurances required by WAC 392-167A-060.

NEW SECTION**WAC 392-167A-055 Applications for funding—**

Required information. Applications for fair start program funding shall include the following information:

(1) A comprehensive needs assessment which identifies the early prevention and intervention needs of the district or the districts in the case of cooperative programs;

(2) The goals of the school district or districts respecting prevention and early intervention services for elementary students;

(3) The district's or districts' plan, based on the goals, for providing prevention and early intervention services to students;

(4) Documentation such as meeting minutes that community-based public and/or private human service providers, district-level and building-level staff and administrators, and parents participated in developing the goals and plan;

(5) Documentation of one or more interagency agreements between school or educational service districts, and one or more public or private community based human service providers, to provide prevention and early intervention services to elementary level students;

(6) The district's or districts' procedures for notifying parents or guardians regarding the referral of students for prevention and intervention services, and of the duties or responsibilities of school districts, students and parents or guardians relating to the provision of prevention and early intervention services to students off school premises;

(7) A narrative description of the prevention and early intervention services for which fair start program funding is requested, including related multicultural in-service training as necessary or appropriate or other related in-service training;

(8) A proposed budget by object and activity for the expenditure of fair start program funds;

(9) A description of the method to be used to annually evaluate the effectiveness of the district's or districts' fair start program; and

(10) The educational service district application shall include a list of the school districts being served by the ESD.

NEW SECTION**WAC 392-167A-060 Applications for funding—**

Required assurances. Applications for fair start program funding shall include assurances that:

(1) To the greatest extent possible the district or districts delivery of prevention and early intervention services to elementary level students:

(a) Shall not duplicate any other program;

(b) Shall be consistent with the applicable children's mental health delivery system developed under chapter 71.36 RCW;

(c) Shall emphasize the most efficient and cost-effective use of fair start program moneys; and

(d) Shall be provided on a twelve-month basis.

(2) Priority for fair start program services shall be given to students in the greatest of need pursuant to criteria determining need established by the district or districts;

(3) Health care services funded with fair start program moneys shall be limited to services and information relating to nutrition and poor health;

(4) Fair start program funds shall not be used to supplant other funding used by the district or districts for prevention and early intervention program purposes;

(5) An annual evaluation of the effectiveness of a district's or districts' fair start program will be completed and provided to the superintendent of public instruction on or before October 15; and

(6) An annual end of the year report as provided at WAC 392-167A-085 will be completed and provided to the superintendent of public instruction on or before October 15.

NEW SECTION

WAC 392-167A-065 Applications for funding—Approval or disapproval. Applications for fair start program funding that meet the requirements of this chapter shall be approved by the superintendent of public instruction. All applicants for fair start program funding shall be annually notified of the approval or disapproval of their application.

NEW SECTION

WAC 392-167A-070 Apportionment of state moneys. State moneys for the fair start program shall be apportioned to districts pursuant to chapter 392-122 WAC. The provision of chapter 392-117 WAC, Timely reporting, apply to apportionment of state moneys. Failure to report in the form and by the due dates required in this chapter can result in reduction, delay, or recovery of state moneys.

NEW SECTION

WAC 392-167A-075 Allowable expenditures. Fair start program funding granted to school districts and educational service districts shall be used only for expenditures approved on the program budget document included in the application. If a school district or educational service district expends fair start program funds for an early prevention and intervention program in a nonallowable category the amount of the nonallowable expenditure will be recovered by the superintendent after the end of the school fiscal year.

NEW SECTION

WAC 392-167A-080 Application revisions. A district requesting approval for change in its fair start program application shall submit a request for revision of the application to the superintendent of public instruction. Application revisions shall not be granted after March 15 of any school year.

NEW SECTION

WAC 392-167A-085 Expenditures and accounting. Allowable expenditures for the early prevention and intervention program shall meet the following requirements:

(1) Expenditures are for services which include but are not limited to services provided by school counselors, school psychologists, school nurses, school social workers, licensed mental health professionals, child psychiatrists, appropriate health care providers, and social service case workers or social workers under contract.

(2) Expenditures for additional staff, to contract for staff and services, or to conduct training related to the district's early prevention and intervention program including multicultural inservice training when appropriate.

(3) Direct expenditures are accounted for as follows:

(a) School district expenditures are accounted for the following program, activity, and object combinations as defined in the *Accounting Manual for Public School Districts* in the state of Washington:

- (i) Program: 58 - Special and pilot programs, state
- (ii) Activity: 21 - Supervision
24 - Guidance and counseling
25 - Psych-speech-hearing psychology, services
26 - Health services
27 - Teaching
- (iii) Object: Any object expenditure with the exception of:
0 - Debit transfer
9 - Capital outlay

(b) Educational service district expenditures are accounted for in the following program, activity, and object for expenditure combinations as defined in the *Accounting Manual for Educational Service Districts* in the state of Washington:

- (i) Program: 40 - Student counseling and testing
- (ii) Activity: 21 - Staff development
98 - General support
- (iii) Any object of expenditure with the exception of:
0 - Debit Transfer
9 - Capital outlay

(4) Indirect expenditures attributable to fair start services may be charged at a maximum rate of five percent for school districts and nine percent for educational service districts. School districts and educational service districts that charge indirect costs to the fair start program shall maintain records documenting the use of such moneys and report to the superintendent in the required end of year report.

NEW SECTION

WAC 392-167A-090 End of year report. School districts and educational service districts shall submit an end of year report on form SPI 1195E provided by the superintendent of public instruction. Such reports shall include:

- (1) The number of full time equivalent (FTE) certified and classified staff involved in the program;
- (2) Number of students referred to child protective service;
- (3) Number of students referred to office for disruptive behavior;
- (4) Number of students referred to special education for services;
- (5) Number of students suspended from school;
- (6) The actual expenditures (Form SPI 1102E) by object and activity; and
- (7) Other information as required by the superintendent consistent with the responsibilities for administering the fair start program. This report is due to the superintendent no later than October 15 of each year.

PERMANENT

WSR 93-12-017
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 93-09—Filed May 21, 1993, 10:51 a.m.]

Date of Adoption: May 7, 1993.

Purpose: WAC 392-122-400, to define procedures for allocating state moneys for early intervention services in the public schools.

Statutory Authority for Adoption: RCW 28A.600.445.

Pursuant to notice filed as WSR 93-07-046 on March 15, 1993.

Changes Other than Editing from Proposed to Adopted Version: The title, purpose, and other summary information for WSR 93-07-046 and 93-07-048 were inadvertently switched. Text of the proposed rule was published under WSR 93-07-046, the title and summary under WSR 93-07-048.

Effective Date of Rule: Thirty-one days after filing,
 May 21, 1993
 Judith A. Billings
 Superintendent of
 Public Instruction

FAIR START PROGRAM

NEW SECTION

WAC 392-122-400 Fair start program—Applicable provisions. The following sections of this chapter apply to the distribution of state moneys for early intervention and prevention services (the fair start program) pursuant to RCW 28A.600.425 through 28A.600.450 and the biennial Operating Appropriations Act:

- (1) WAC 392-122-400 through 392-122-415; and
- (2) WAC 392-122-900 through 392-122-910.

NEW SECTION

WAC 392-122-401 Fair start program—Timely reporting. The provisions of chapter 392-117 WAC, Timely reporting, apply to state fair start program funding. Failure of a district to report in the form or by the due date required by the superintendent of public instruction can result in the reduction, delay, or recovery of state moneys.

NEW SECTION

WAC 392-122-405 Fair start program—Definition—Kindergarten through sixth grade annual average full-time equivalent students. As used in WAC 392-122-400 through 392-122-415 "kindergarten through sixth grade annual average full-time equivalent students" means the annual average full-time equivalent students as defined in WAC 392-121-133 enrolled in grades kindergarten through six.

NEW SECTION

WAC 392-122-410 Fair start program—Definition—Approved fair start program. As used in WAC 392-122-415, "approved fair start program" means a school district or educational service district fair start program approved by

the superintendent of public instruction pursuant to chapter 392-167A WAC.

NEW SECTION

WAC 392-122-415 Fair start program—Apportionment of moneys to school districts and educational service districts. From moneys appropriated by the legislature for early intervention and prevention services, the superintendent of public instruction shall apportion moneys as follows:

(1) Allocations shall be based on a uniform state-wide rate per annual average full-time equivalent student as determined by the superintendent of public instruction.

(2) Allocations to school districts operating an approved fair start program shall be based on the kindergarten through sixth grade annual average full-time equivalent students of the school district.

(3) Allocations to educational service districts operating an approved fair start program shall be based on the combined kindergarten through sixth grade annual average full-time equivalent students enrolled in school districts served through the educational service district and identified pursuant to WAC 392-167A-055(10).

(4) Payments shall be made in the manner prescribed in WAC 392-121-400 except that payments shall be at a rate of ten percent per month for the months of September through June.

WSR 93-12-043
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Health)

[Order 365B—Filed May 25, 1993, 3:48 p.m.]

Date of Adoption: May 12, 1993.

Purpose: To eliminate wording that excludes temporary-worker housing started before May 3, 1969, from meeting State Board of Health standards in chapter 246-358 WAC.

Citation of Existing Rules Affected by this Order:
 Amending WAC 246-358-001.

Statutory Authority for Adoption: RCW 70.54.110.

Pursuant to notice filed as WSR 93-07-106 on March 23, 1993.

Effective Date of Rule: Thirty-one days after filing,
 May 24, 1993

Sylvia Beck
 Executive Director
 State Board of Health

AMENDATORY SECTION (Amending Order 326B, filed 1/12/93, effective 2/12/93)

WAC 246-358-001 Purpose and scope. (1) This chapter contains:

(a) Minimum health and sanitation requirements for temporary-worker housing adopted by the Washington state board of health in accordance with RCW 70.54.110;

(b) Procedures for applying for an operating license to provide temporary-worker housing, adopted by the Washing-

ton state department of health in accordance with RCW 43.70.340(3); and

(c) Operating license fees as set by RCW 43.70.340(2) to cover the costs of an inspection program to ensure compliance with this chapter, adopted by the Washington state department of health.

(2) This chapter applies to temporary-worker housing (~~(started on or after May 3, 1969)~~) that consists of:

- (a) Five or more dwelling units; or
- (b) Any combination of dwelling units, dormitories, or spaces that house ten or more occupants.

(3) This chapter does not apply to housing regulated by chapter 59.18 RCW, Residential Landlord-Tenant Act, or chapter 59.20 RCW, Mobile Home Landlord-Tenant Act.

WSR 93-12-051
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Order 3555—Filed May 26, 1993, 4:45 p.m.]

Date of Adoption: May 26, 1993.

Purpose: WAC 388-96-026, clarifies who is a "new contractor" and who must submit a budget; WAC 388-96-113, removes "special circumstances" which means all accounts are reversed after 120 days; WAC 388-96-572, corrects reference; WAC 388-96-585, revises automobile depreciation and adds bankruptcy fees and outside consultation for MDS support; WAC 388-96-709, adds new section to determine contractor's rate when the contractor reduces the number of licensed beds; WAC 388-96-710, clarifies how the rate will be set for a contractor who meets the definition of WAC 388-96-026; and WAC 388-96-774, clarifies that rate increases will not be granted, nor may the contractor spend a rate revision granted under WAC 388-96-774, for any type of age increase or for temporary personnel.

Citation of Existing Rules Affected by this Order: Amending chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Statutory Authority for Adoption: RCW 74.46.800, 74.46.450, and 74.09.120.

Pursuant to notice filed as WSR 93-08-065 on April 5, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-96-026 (1)(a) deletes "On a site that has not been previously used for a nursing facility operation,..." to expand the number of contractors who qualify under the regulation. WAC 388-96-585 (2)(nn) reinstates "...s primarily used for the administrator, facility staff, or central office staff", allowing greater depreciation expense for vehicles used to transport patients. WAC 388-96-585 (2)(xx) changes "Public No." to "Public Law." WAC 388-96-710 changes the words "administration" and "operation" to "administrative" and "operational." ESSB 5724, effective July 1, 1993, changes the name of the cost centers in compliance with APA rule that permits changes to items of the same subject matter as the proposed revision. WAC 388-96-754 (3)(b) deletes the words ". . . excluding any revisions done pursu-

ant to WAC 388-96-774 . . ." This section will not be amended on permanent filing.

Effective Date of Rule: Thirty-one days after filing,
 May 26, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-026 Projected budget for new contractors. (1) (~~Each new contractor shall submit a projected budget to the department at least sixty days before its contract becomes effective.~~) For purposes of (this section) administering chapter 388-96 WAC, the department shall consider a "new contractor" as one (which) who receives a new vendor number and:

(a) (~~Operates a new facility going into operation for the first time~~) Builds from the ground-up a new facility; and operates the new facility with completely new staff, administration and residents. If the "new contractor" operated a nursing facility immediately before the opening of the new facility, then the "new contractor" must operate the new facility;

(i) With staff and administration that are substantially to completely different than the previous operation of the "new contractor"; and

(ii) Have a resident population that is substantially to completely different than the residents residing in the previous nursing facility; or

(b) Currently operates, acquires, or assumes responsibility for operating an existing nursing facility that was not operated under a Medicaid contract immediately prior to the effective date of the new Medicaid contract; or

(c) (~~Enters the cost related reimbursement system after providing service at the nursing home in the past, but either not under the program or receiving flat or class rate reimbursement~~) Purchases or leases a nursing facility that at the time of the purchase or lease was operated under a Medicaid contract.

(2) A new contractor as defined under WAC 388-96-026 (1)(a) or (b) shall submit a projected budget to the department at least sixty days before its contract becomes effective. The projected budget shall:

(a) Cover the twelve months immediately following the date the contractor enters the program;

(b) Be certified by the new contractor;

(c) Be prepared on forms and in accordance with instructions provided by the department; and

(d) Include all earnest money, purchase, and lease agreements involved in the transactions, if applicable.

(3) A new contractor shall submit, at least sixty days before the effective date of the contract, a statement disclosing the identity of individuals or organizations who:

(a) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

(b) Have a beneficial ownership interest in the purchasing or leasing entity.

PERMANENT

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-113 Completing reports and maintaining records. (1) All report schedules shall be legible and reproducible. All entries must be typed, completed in black or dark blue ink, or provided in an acceptable, indelible copy.

(2) Reports shall be completed in accordance with the provisions of this chapter, the state of Washington nursing home accounting and reporting manual, and such instructions as may be issued by the department from time to time. If no specific regulation, manual provision, or instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made (~~(, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings))~~). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy and generally accepted accounting principles are followed.

(4) Methods of allocating costs, including indirect or overhead costs, shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 388-96-534.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. Records shall be available for review by authorized personnel of the department and of the United States Department of Health and Human Services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes as provided in subsection (5) of this section or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (6) of this section.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods. (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settle-

ment periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554(~~((6))~~)(7).

AMENDATORY SECTION (Amending Order 3270, filed 10/29/91, effective 11/29/91)

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to SNF or ICF recipients covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapters 388-86 and 388-88 WAC;

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

- (i) The debt is related to covered services;
- (ii) It arises from the recipient's required contribution toward the cost of care;
- (iii) The provider can establish reasonable collection efforts were made;
- (iv) The debt was actually uncollectible when claimed as worthless; and
- (v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

- (k) Charity and courtesy allowances;
- (l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;
- (m) Vending machine expenses;
- (n) Expenses for barber or beautician services not included in routine care;
- (o) Funeral and burial expenses;
- (p) Costs of gift shop operations and inventory;
- (q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care;
- (r) Fund-raising expenses, except expenses directly related to the patient activity program;
- (s) Penalties and fines;
- (t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;
- (u) Federal, state, and other income taxes;
- (v) Costs of special care services except where authorized by the department;
- (w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs;
- (x) Expenses of profit-sharing plans;
- (y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;
- (z) Personal expenses and allowances of owners or relatives;
- (aa) All expenses of maintaining professional licenses or membership in professional organizations;

- (bb) Costs related to agreements not to compete;
- (cc) Goodwill and amortization of goodwill;
- (dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;
- (ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:
 - (i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or
 - (ii) In connection with a fair hearing, a final administrative decision has not been rendered; or
 - (iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or
 - (iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.
- (ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;
- (gg) Lease acquisition costs and other intangibles not related to patient care;
- (hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;
- (ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;
- (jj) Beginning January 1, 1985, interest costs;
- (kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;
- (ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;
- (mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;
- (nn) For rates effective after June 30, 1993, depreciation expense in excess of ((twenty-five hundred)) four thousand dollars per year for each passenger car((s)) or other vehicles primarily used for the administrator, facility staff, or central office staff;
- (oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of ~~((licensing))~~ health at the time of such pool personnel use;
- (pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) Costs and fees otherwise allowable for legal services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a total cost basis, reported by all contractors for the most recent cost report period: *Provided*, That this limit shall not apply to a contractor unless the contractor has exceeded this percentile for each of the three years preceding the most recent cost report year;

(ss) Costs and fees otherwise allowable for accounting and bookkeeping services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a per patient-day cost basis, reported by all contractors for the most recent cost report period, provided this limit shall not apply to a contractor unless the contractor has exceeded this percentile for each of the three years preceding the most recent cost report year; ~~(and)~~

(tt) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA~~(-)~~;

(uu) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period~~(-)~~;

(vv) Outside consultation expenses required pursuant to WAC 388-88-135;

(xx) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598.

NEW SECTION

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective rate when the contractor reduces the number of its licensed beds and:

(a) Notifies the department in writing thirty days before the licensed bed reduction; and

(b) Supplies a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

(c) Requests a rate revision.

(2) The revised prospective rate shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums unless otherwise specified in this section and remain in effect until a prospective rate can be set according to WAC 388-96-713.

(3) The revised prospective rate shall be effective the first of a month determined by where in the month the effective date of the licensed bed reduction occurs or the date the contractor complied with subsections 1(a), (b), and (c) of this section as follows:

(a) If the contractor complied with subsection (1)(a), (b), and (c) of this section and the effective date of the reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective rate is effective the first of the month in which the reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective rate is effective the first of the month following the month in which the reduction occurs; or

(b) When the contractor fails to comply with subsection 1(a) of this section, then the date the department receives from the contractor the documentation that is required by subsection (1)(b) and (c) of this section shall become the effective date of the reduction for the purpose of applying subsection (3)(a)(i) and (ii) of this section.

(4) The department shall revise the contractor's prospective rate as follows:

(a) For the nursing service and food cost centers, the rate will remain the same as before the reduction in licensed beds;

(b) For property, administration, and operations cost centers; and return on investment rate, the department will use the reduced total of licensed beds to determine occupancy level under WAC 388-96-719(4). If the contractor's occupancy level of licensed beds computed on the most recent, complete, desk-reviewed annual cost report before the licensed bed reduction:

(i) Was above eighty-five percent and remains above eighty-five percent after the reduction, then the department will:

(A) Not change the administration and operation rate;

(B) Recompute the property rate to reflect the new asset basis; and

(C) Recompute the return on investment rate to reflect the new asset basis and the change in the property cost center.

(ii) Was below eighty-five percent and changes to at or above eighty-five percent after the reduction, then the department will recompute rates for:

(A) Administration and operations using actual days; and

(B) Property and return on investment rates using actual days and the new asset basis.

(iii) Was below eighty-five percent and remains below eighty-five percent after the reduction, then the department will recompute rates for:

(A) Administration and operation using the change in days that results from the reduced number of licensed beds used in calculating the eighty-five percent occupancy level; and

(B) Property and return on investment using the change in days that results from the reduced number of licensed

beds used in calculating the eighty-five percent occupancy level and to reflect the new asset basis.

AMENDATORY SECTION (Amending Order 3424, filed 7/23/92, effective 8/23/92)

WAC 388-96-710 Prospective reimbursement rate for new contractors. (1) The department shall establish ((a)) an initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). The rate shall take effect as of the effective date of the contract(-

(2) The department shall base this prospective reimbursement rate, as specified below, on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances. This rate)) and shall comply with all the provisions of rate setting contained in this chapter ((and shall comply with)) including all lids and maximums set forth in this chapter. ((Subject to such provisions, lids, and maximums, the department shall follow the procedures set forth in this section))

(2) To set the initial prospective reimbursement rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) ((The department shall select from department records a sample comprised of all the current contractors in the same county in similar circumstances:

(i) For facilities not operated by a Medicaid contractor for the period of operation immediately prior to the effective date of the new contract; and

(ii) For new facilities going into operation for the first time. New facilities going into operation for the first time shall be those with a new building, new resident population and new staff. Similar circumstances shall consist of the same bed capacity, plus or minus twenty five beds. The department shall exclude from the sample those facilities against which the department has assessed a civil penalty for health or safety violations or proposed licensed revocation, stop placement or decertification for health or safety violations within six months preceding the effective date of the new contract. If the county wide sample does not include at least six facilities, the department shall include in the sample all facilities in similar circumstances in the adjoining county or counties. Based upon the most recent information in its files relating to the topics set forth below, the department shall determine:

(A) The average sample debility score;

(B) The average sample nursing services wages and hours; and

(C) The average sample costs for nursing services, food, and administration and operations cost centers inflated in accordance with the provisions of this chapter.

(1) Nursing services. The department shall follow the projected budget for rate setting to the extent it does not exceed the sample average wages, hours, and inflated costs plus ten percent of such wages, hours, and inflated costs. The department shall allow a budget above the sample averages plus ten percent only to the extent anticipated debility of the patient population to be served exceeds or is

likely to exceed the sample average debility as demonstrated and documented by the contractor. In such cases, rate funding shall not exceed predicted staffing for the anticipated debility. The department shall determine actual debility when sufficient data is available and shall recover any overpayment under rules relating to errors and omissions.

(II) Food. The food rate shall be the rate per patient day of other Medicaid contractors established in accordance with this chapter.

(III) Administration and operations. The department shall follow the projected budget for rate setting to the extent it does not exceed:

(aa) The sample average inflated costs as determined under subsection (2)(a) of this section for administration and operations, plus

(bb) Ten percent of such costs. The department shall allow a budget above the sample average inflated costs plus ten percent only to the extent costs are likely to exceed the inflated sample average plus ten percent as demonstrated by the contractor. However, the department shall allow budgeted salaries of administrators and assistant administrators if not in excess of maximums set forth in this chapter.

(IV) Property. The property rate shall be set in accordance with the provisions of this chapter.

(V) Return on investment. The department shall set the return on investment rate in accordance with the provisions of this chapter. The department shall use budgeted food cost in computing the financing allowance to the extent it does not exceed the inflated sample average food cost. The department shall allow a budget above the inflated sample average only to the extent food cost is likely to exceed the inflated sample average as demonstrated and documented by the contractor.

(b) The department shall follow the procedures set forth in subsection (2)(a) of this section for facilities operated by a Medicaid contractor, if any, for the period of operation immediately prior to the effective date of the new contract. However, the department shall use data used to set the preceding contractor's rate rather than data from a sample average plus ten percent. The department shall not use data used to set the preceding contractor's rate if the department has assessed a civil penalty against such contractor for health or safety violations or has proposed licensed revocation, stop placement, or decertification for health or safety violations within six months preceding the effective date of the new contract. In such cases, the department shall use sample average data)) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained; and

(e) Based upon the most recent information available to the department for the nursing facilities selected under subsection (2)(b) of this section, rank from the lowest to the highest.

(3) If the department has not received a properly completed projected budget at least sixty days prior to the effective date of the contract, the department shall establish a rate based on the other factors specified in subsection

~~(2)(c) of this section. This initial prospective rate shall remain in effect until a prospective rate can be set according to WAC 388-96-713.~~

~~(4) If a change of ownership is not an arm's length transaction as defined in WAC 388-96-010, the department shall set the new contractor's prospective rates in the administration and operation and property cost areas no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends)) Determine whether the new contractor belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;~~

~~(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained; and~~

~~(c) Based upon the most recent information available to the department for the nursing facilities selected under subsection (2)(b) of this section, rank from the lowest to the highest the rates in nursing services, food, administrative, and operational cost centers and based on this ranking:~~

~~(i) Determine the rate in the middle of the ranking, above and below which lie an equal number of rates (median) and then identify the rate immediately above the median for each cost center identified in subsection (2)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center; and~~

~~(ii) Set the new contractor's rates for each cost center identified in subsection (2)(c) at the lower of the "selected rate" or the budget rate; and~~

~~(iii) Set the property rate in accordance with the provisions of this chapter; and~~

~~(iv) Set the return on investment rate in accordance with the provisions of this chapter. In computing the financing allowance, the department shall use for the nursing services, food, administrative, and operational cost centers the rates set pursuant to subsection (2)(c)(i) and (ii) of this section.~~

~~(3) If the department has not received a properly completed projected budget from the new contractor as defined under WAC 388-96-026 (1)(a) or (b) at least sixty days prior to the effective date of the new contract, the department shall establish rates for:~~

~~(a) Nursing services, food, administrative and operational cost centers based on the "selected rates" as determined under subsection (2)(c) of this section; and~~

~~(b) Property in accordance with the provisions of this chapter using for the new contractor:~~

~~(i) As defined under subsection 1(a) of this section, information from the certificate of need; or~~

~~(ii) As defined under subsection (1)(b) of this section, information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under subsection (1)(b) of this section, has not provided the requested information timely, then the property rate will be zero. The property rate will remain zero until the information is received.~~

~~(c) Return on investment rate in accordance with the provisions of this chapter using the "selected rates" estab-~~

lished under subsection (2)(c) of this section, to compute the working capital provision and variable return for the new contractor:

(i) As defined under subsection (1)(a) of this section, information from the certificate of need; or

(ii) As defined under subsection (1)(b) of this section, information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under subsection (1)(b) of this section, has not provided timely the requested information, then the net book value of allowable assets will be zero. The financing allowance rate component will remain zero until the information is received.

(4) The initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(c), shall be the last prospective reimbursement rate paid by the department to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new contract.

(5) For the new contractor as defined under WAC 388-96-026 (1)(a), (b), or (c):

(a) The initial prospective rate shall remain in effect until a prospective rate can be set according to WAC 388-96-713; or

(b) If the new contractor has participated in the program for less than six months of the prior calendar year, its July 1 prospective reimbursement rate will be the one set pursuant to WAC 388-96-710 inflated in accordance with WAC 388-96-719(3).

AMENDATORY SECTION (Amending Order 2970, filed 4/17/90, effective 5/18/90)

WAC 388-96-774 Prospective rate revisions. (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply.

(a) The department may grant revisions for:

(i) Inflation only as authorized ((#)) under WAC 388-96-719(3); and ((may grant))

(ii) Other revisions for cost increases only as authorized in this section.

(b) The department shall not grant and the contractor shall not use rate adjustments for:

(i) Wage increases for existing, newly hired or promoted staff except as authorized in WAC 388-96-756; and ((not for increases in))

(ii) The use of temporary employment services providing direct patient care. ((This section shall apply to rate revision requests and periods subsequent to May 20, 1985.))

(2) The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(3) The department may adjust rates for any of the following:

(a) Variations in the distribution of patient classifications or changes in patient characteristics from:

(i) The prior reporting year; or

(ii) Those used to set the rate for a new contractor; or
 (iii) Corresponding to the nursing staff funded for a new contractor.

(b) Program changes required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration; and

(c) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(4) Contractors requesting an adjustment shall submit a written request to the department separate from all other requests and inquires of the department, e.g., WAC 388-96-904 (1) and (5). The written request shall include the following:

(a) A financial analysis showing:

(i) The increased cost; and

(ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost.

(b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation showing the changes in staffing have commenced, or other commenced or completed improvements.

(5) Contractors receiving prospective rate increases per this section shall submit quarterly reports ~~((beginning))~~. The quarterly reports shall cover the first day ((of the month following the date)) the rate increase is ((granted, showing)) effective and show how the additional rate funds and hours were ((spent)) utilized. If the funds and/or hours were not ~~((spent))~~ utilized for the changes and/or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying:

(a) Additional staff to be added;

(b) Changes in ~~((Medicaid))~~ all patient characteristics requiring the additional staff; and

(c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider one or more of the following:

(a) Whether additional staff requested by a contractor is necessary to meet patient care needs;

(b) Comparisons of staffing patterns of nursing facilities ~~((having similar size and patient characteristics))~~ from either the latest statewide metropolitan statistical area (MSA) peer group or non-MSA peer group to which the nursing facility belongs and calculated on a per patient day basis. The department shall use the latest MSA and non-MSA received from the office of management and budget or the appropriate federal agency;

(c) The physical layout of the facility;

(d) Nursing service planning and management for maximum efficiency;

(e) Historic trends in underspending of a facility's nursing services component rate;

(f) Numbers, positions, and scheduling of existing staff;

(g) Increases in acuity (debility) levels of contractors' residents;

(h) Survey, inspection of care, and department consultation results; and

(i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.

(8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.

(9) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

(a) Compensation of the receiver;

(b) Reasonable expenses of receivership and transition of control; and

(c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

(10) The department shall not grant a rate adjustment effective earlier than sixty days prior to receipt of the written request for such adjustment accompanied by all related documentation and information required by this section.

WSR 93-12-052
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3557—Filed May 26, 1993, 4:46 p.m.]

Date of Adoption: May 26, 1993.

Purpose: Clarifies the eligibility and payment standards used for general assistance clients in a congregate care facility, adult family home, adult residential treatment facility/adult residential rehabilitation center, and Division of Developmental Disabilities group homes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-29-130 Standards of assistance—Persons in congregate care facilities (CCF), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), and Division of Developmental Disabilities (DDD) group home facilities; and WAC 388-29-280 Standards of assistance—Adult family home care.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-09-017 on April 14, 1993.

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

May 26, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2694, filed 9/12/88)

WAC 388-29-130 Standards of assistance—Persons in congregate care facilities (CCF), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), and division of developmental disabilities (DDD) group home facilities. (1) The monthly eligibility standard for ~~((congregate))~~ CCF, ARRC/ARTF, and DDD group home care shall be:

(a) ~~The department-contracted facility rate ((established and published by the department)) for payment to ((specific congregate care)) such facilities ((which contract with the department)) to provide a specific level of care((-2-The)) and supervision; plus~~

(b) ~~A monthly ((standard)) allowance of thirty-eight dollars and eighty-four cents for clothing, personal maintenance, and necessary incidentals ((for a person in a congregate care facility shall be thirty eight dollars and eighty four cents effective September 1, 1988)) (CPI).~~

(2) The monthly grant payment standard shall be the CPI allowance.

AMENDATORY SECTION (Amending Order 2947, filed 3/1/90, effective 4/1/90)

WAC 388-29-280 Standards of assistance—Adult family home care. (1) The ~~((basic))~~ monthly eligibility standard for adult family home (AFH) care shall be ~~((four hundred dollars and four cents. (-2-The))):~~

(a) The department-contracted facility rate for payment to AFHs to provide a specific level of care and supervision; plus

(b) A monthly ((standard)) allowance of thirty-eight dollars and eighty-four cents for clothing ((and)), personal maintenance, and necessary incidentals ((for a person in an adult family home shall be thirty eight dollars and eighty four cents. (-3))) (CPI); plus

(c) Additional service hours ((are)) computed at ((five dollars and thirty six cents per hour to a maximum of sixty hours)) the department-contracted rate as described under WAC 388-15-880.

(2) The monthly grant payment standard shall be the one-person monthly payment standard as defined under WAC 388-29-100(3).

WSR 93-12-053
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3558—Filed May 26, 1993, 4:47 p.m.]

Date of Adoption: May 26, 1993.

Purpose: Establishes administrative requirements and guidelines for statutory authority under chapter 74.13 RCW. Provides necessary guidelines to field and central office children's administration staff on constituent relations operations. Provides administrative rule basis for development of manual procedures. New WAC 388-74-010 and 388-74-030.

Statutory Authority for Adoption: RCW 74.13.045 and chapter 74.13 RCW.

Pursuant to notice filed as WSR 93-09-018 on April 14, 1993.

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

May 26, 1993

Rosemary Carr

Acting Director

Administrative Services

NEW SECTION

WAC 388-74-010 Child welfare services complaint resolution definitions. (1) "Complaints office" means the office within the department responsible for handling complaints regarding child welfare services.

(2) "Division of children and family services (DCFS)" means the division within the department responsible for administering child welfare services programs.

NEW SECTION

WAC 388-74-030 Complaint procedure. The complaints office shall be responsible for handling complaints and grievances from clients, foster parents, and other affected persons who do not have other remedies available through judicial review or adjudicative proceedings. The complaints office may inquire into, determine fact, and facilitate the resolution of disputes and complaints regarding a department policy or procedure or the application of such a policy or procedure as required under RCW 74.13.045.

(1) A client, foster parent, or other person shall have the right to question or aggrieve actions or decisions concerning the application of policies and procedures related to child welfare programs administered under chapter 74.13 RCW.

(a) A client, foster parent, or other person shall have the right to initiate the complaint process by requesting a review by the supervisor of the DCFS social worker, after the complainant has made a reasonable effort to resolve the matter with the social worker.

(b) When a complaint remains unresolved at the supervisory level, the complainant may request further review by the area manager.

(c) When a complaint remains unresolved at the area manager level, the complainant may request review by the regional administrator.

(d) At any time during the regional complaint resolution process, a client, foster parent, staff person, or other person may request the complaints office to facilitate resolution.

(2) The regional administrator or chief of complaints office may convene a panel review to review complaints which remain unresolved by the regional complaint resolution process.

(a) The person requesting a panel review shall have made a reasonable attempt and have failed to resolve the grievance before a panel review will be convened to attempt to resolve the issue.

(b) The office responsible for handling complaints and the DCFS regional administrator shall convene a regional panel comprised of at least the following members:

May 26, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

(i) The DCFS regional administrator's designee who shall be from an administrative unit other than where the complaint originated;

(ii) One person from the complaints office;

(iii) At least one person not employed by the division of children and family services; and

(iv) If the complainant is a foster parent, a foster parent not involved in the complaint and from an office other than where the complaint originated.

(c) The panel conducting the review may examine the complaint, the complainant's file, and any other relevant material. The complainant, division staff, and others may be asked to provide verbal or written information to the panel.

(d) The designated panel chairperson shall submit the written findings and recommendations from the panel to the DCFS director and to the assistant secretary responsible for child welfare programs who will issue a final written decision.

(e) The response of the assistant secretary is final and terminates the review process. If new information relevant to this decision emerges within thirty days of the final decision, the regional administrator and the chief of the complaints office shall consider the information and may reconvene the panel.

(3) The panel review shall not apply in circumstances where the complainant has the right under Title 13, 26, or 74 RCW to seek resolution of the complaint through judicial review or through an adjudicative proceeding.

(4) The panel review process shall not apply to:

(a) Contract rate setting or contested standard rate payments, contested rate payments, or exceptional payments above standard rates; and

(b) Disputes or decisions regarding written personal service contracts or financial agreements.

(5) A person's participation in the complaint process shall not affect the right of any person to seek other statutorily or constitutionally permitted remedies.

(6) Nothing in this chapter shall be construed to create substantive or procedural rights for any person.

WSR 93-12-054
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3560—Filed May 26, 1993, 4:48 p.m.]

Date of Adoption: May 26, 1993.

Purpose: New sections facilitate on-line computer access by eligibility staff in field offices and make the policies easier to understand. Rewriting, reorganizing, and recodifying the WAC policies relating to financial and medical assistance programs. New chapter 388-280 WAC.

Citation of Existing Rules Affected by this Order:
 Repealing chapter 388-62 WAC.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-08-075 on April 6, 1993.

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

Chapter 388-280 WAC
UNITED STATES (U.S.) REPATRIATE PROGRAM

NEW SECTION

WAC 388-280-1010 Purpose. (1) The purpose of the program is to assist repatriates, returned or brought to the U.S. from foreign countries, to resettle in the U.S. by providing assistance for one year or less until other resources become available.

(2) Repatriation assistance is a loan which is to be repaid by the repatriate. Repayment is according to the repatriate's ability.

NEW SECTION

WAC 388-280-1020 Definition. (1) "Dependent of U.S. citizen" means:

(a) An adult repatriated U.S. citizen's:

(i) Spouse;

(ii) Unmarried minor children, including adopted and stepchildren;

(iii) Unmarried adult children with disabilities when dependency is based on the disability; or

(iv) Parents.

(b) A minor repatriated U.S. citizen's:

(i) Spouse;

(ii) Parents or grandparents; or

(iii) Minor siblings.

(c) A U.S. citizen's repatriated spouse's:

(i) Parents; or

(ii) Minor siblings.

(2) "Extended repatriation assistance" means repatriation assistance provided for up to nine months after eligibility for the ninety-day temporary assistance period ends.

(3) "Repatriate" means a U.S. citizen or a dependent of a U.S. citizen who is without available resources and is returned or brought back from a foreign country to the U.S. because of:

(a) Destitution of the U.S. citizen; or

(b) Illness of the U.S. citizen or the dependent of a U.S. citizen; or

(c) War, threat of war, invasion, or similar crisis.

(4) "Temporary assistance" means repatriation assistance provided during the first ninety days a repatriate is back in this country.

NEW SECTION

WAC 388-280-1030 Application. (1) The department shall consider a referral to a person by the U.S. State Department as a request for assistance.

(2) For client requests, where a person contacts the department directly, the department shall:

(a) Notify the U.S. State Department of such request;

(b) Consider the U.S. State Department's reply, designating the person as a repatriate, as a request for assistance.

(3) The department shall apply to the U.S. Department of Health and Human Services (HHS) for extended repatriation assistance when he repatriate is:

(a) Unable to attain self-support or self-care for reasons such as age, disability, or lack of vocational preparation; or
(b) Ineligible for assistance through any other program.

(4) When extended repatriation assistance is appropriate, the department shall apply for such assistance before the expiration of the initial ninety-day period of eligibility.

NEW SECTION

WAC 388-280-1040 Repaying repatriation assistance. (1) The department shall:

(a) Explain to the repatriate that assistance received under the U.S. repatriate program is a loan the repatriate is expected to repay;

(b) Obtain a signed statement that the repatriate:

(i) Understands the repayment requirement; and
(ii) Agrees to make repayment;

(c) Assess the repatriate's ability to repay and make a recommendation to the U.S. Department HHS regarding the repatriate's financial ability to make repayment; and

(d) Document reasons why the repatriate is unable to make repayment.

(2) The department shall consider a repatriate able to repay assistance when income or resources in excess of continuing needs will become available within one year after the repatriate's resettlement.

NEW SECTION

WAC 388-280-1050 Safeguarding information. (1) The department shall use information obtained about a repatriate only as necessary for program administration.

(2) Except as noted under subsection (3) of this section, the department shall not disclose:

(a) The name or address of a repatriate, including lists or passenger manifests; or

(b) Personal information identifying a repatriate, the circumstances or physical or mental health as furnished on applications, reports of investigations, medical reports, or any other department records.

(3) The department may release personal information to another agency from whom the repatriate has requested services when:

(a) A repatriate receives a request for the release of relevant information from the other agency which specifies the other agency will not disclose the information.

NEW SECTION

WAC 388-280-1060 Referral to other agencies. The department shall refer a repatriate to the Social Security Administration to apply for Supplemental Security Income (SSI) benefits if the repatriate is:

- (1) Sixty-five years of age or older;
- (2) Blind; or
- (3) Disabled.

NEW SECTION

WAC 388-280-1070 Income and resources. (1) The department may deny or terminate repatriate assistance when the client has nonexempt:

(a) Income, according to aid to families with dependent needs; and/or

(b) Resources, according to AFDC rules, that are immediately available to meet their repatriation needs.

(2) The department shall consider resources immediately available when the:

(a) Resource value can be determined;

(b) Resource is under the control of the repatriate; and

(c) Repatriate can draw upon the resource for maintenance.

NEW SECTION

WAC 388-280-1080 Eligibility. Provided a household is otherwise eligible, the department shall grant:

(1) Temporary repatriation assistance to needy persons who are repatriates as designated by the U.S. State Department.

(2) Extended repatriation assistance to needy repatriates upon approval of the U.S. Department of Health and Human Services.

NEW SECTION

WAC 388-280-1090 Client responsibilities. An applicant for or recipient of repatriation assistance shall:

(1) Provide evidence the U.S. State Department needs to establish the applicant's status as a repatriate;

(2) Assist in determining the willingness and ability of a relative to assist the repatriate;

(3) Report other resources potentially available or self support; and

(4) Immediately report change in income or resources.

NEW SECTION

WAC 388-280-1100 Department of responsibilities as the port of entry state. The department shall:

(1) Meet the repatriate at the port of entry and determine what services are needed;

(2) Explain the program and provide a repatriate with informational handouts as provided by the U.S. Department of HHS;

(3) Explain the repayment provisions for the program and secure a signed repayment agreement;

(4) Provide appropriate assistance including onward transportation to the final destination;

(5) Coordinate with the final destination state regarding reception and care at the final destination;

(6) For mentally ill repatriates, provide related hospitalization and other medical assistance, including involuntary treatment in a mental health hospital, as necessary.

NEW SECTION

WAC 388-280-1110 Department responsibilities as the final destination state. The department shall:

- (1) Develop a plan to carry out arrangements for care, treatment, and assistance or reception, assistance, and resettlement;
- (2) Determine the need for continuing assistance;
- (3) Explain the program;
- (4) Explain the repayment provisions and secure a signed repayment agreement; and
- (5) Provide necessary services.

NEW SECTION

WAC 388-280-1120 Unattended minors. The department shall provide services for the care and protection of unattended repatriate minors. The department shall:

- (1) Provide social services or arrange for placement of the repatriate minor in a facility that supplement or substitute for parental care and supervision, as needed, through the child welfare services program;
- (2) Ensure such services and assistance conform to the department's standards for foster home, receiving home, or institutional care; and
- (3) Observe recognized child welfare practices in protecting an unaccompanied repatriate minor.

NEW SECTION

WAC 388-280-1130 Scope of services. The department shall provide a repatriate the following necessary services:

- (1) Transportation to the repatriate's place of residence, the home of relatives, or the place the repatriate will be resettled:
 - (a) Only one domestic trip is allowable;
 - (b) The lowest cost and most direct means of transportation unless effective service to a repatriate calls for other accommodations;
 - (c) Transportation expenses, including travel incidentals, such as meal and lodging enroute and assistance with luggage, checking, storage, or transportation of personal effects.
- (2) Transportation, overnight accommodations, and per diem for an escort to accompany and assist a physically ill or mentally ill or disabled repatriate from the port of entry to the final destination, and the escort's expenses when returning to the port of entry;
- (3) Food items to meet the cost of a physician-recommended special diet;
- (4) Restaurant meals as required;
- (5) Temporary shelter;
- (6) Essential clothing;
- (7) Medical and hospital care a physician considers necessary because of the repatriate's health. The department shall limit care provided by the port of entry state to acute illnesses which prevent the repatriate from traveling to the final destination state;
- (8) Necessary social services;
- (9) Subsistence and resettlement expenses;
- (10) Communication by phone or telegraph to contact relatives, friends, or former employers to obtain access to resources for self-support;
- (11) Housing arrangements to provide adequate accommodations, including housing or utility deposits;

- (12) Sufficient funds for maintenance until the agency at the final destination can begin to assist the repatriate, if the person requires resettlement at the final destination; and
- (13) Counseling and referral in regard to employment, and retaining.

NEW SECTION

WAC 388-280-1140 Time limits on benefits. (1) Except as provided under subsection (2) of this section, the department shall limit repatriate assistance to ninety days beginning with the date of arrival in the U.S.

(2) The department shall provide a repatriate extended repatriation assistance for up to an additional nine months upon prior approval by the U.S. Department of Health and Human Services.

(3) The department shall immediately terminate a repatriate's assistance upon the repatriate's receipt of financial benefits under either the AFDC or SSI programs.

NEW SECTION

WAC 388-280-1150 Payment limits. (1) The department shall limit payments for repatriation assistance to:

- (a) The department's payment standards for the AFDC program as appropriate for the number of eligible repatriates for ongoing assistance;
- (b) A maximum of five hundred and sixty dollars per person for resettlement or assistance for initial one-time services such as rental deposits. The department shall limit use of this maximum to not more than one month and only during the temporary assistance period;
- (2) The department's payment for other services shall be as provided under section 1130, "Scope of services" in this chapter.

NEW SECTION

WAC 388-280-1160 Assistance payment—Types of payments. (1) The department shall grant a repatriate assistance in cash, voucher, or warrant. Payment shall be made either to the repatriate or in the repatriate's behalf.

(2) The department's method of payment shall be at the department's option.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

388-62 Repatriated United States citizens—Assistance.

WSR 93-12-055
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3565—Filed May 27, 1993, 11:44 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: The family independence program (FIP) will end June 30, 1993. During the period July 1, 1988 through June 30, 1989, AFDC rules in WAC 388-24-074(7) did not apply to FIP applicants. Some FIP recipients have been eligible continuously since before June 30, 1989. Effective July 1, 1993, AFDC rules in WAC 388-24-074(7) do apply to these FIP recipients, and these recipients must meet the work quarter requirement in order to be eligible under AFDC. This amendment clarifies the policy as it pertains to FIP recipients converting to AFDC.

Citation of Existing Rules Affected by this Order: Amending WAC 388-24-074 Aid to families with dependent children-employable—Deprivation due to unemployment of a parent.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 93-03-055 on January 15, 1993.

Changes Other than Editing from Proposed to Adopted Version: Added a second sentence to subsection (8).

Effective Date of Rule: July 1, 1993.

May 27, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3408, filed 6/23/92, effective 7/24/92)

WAC 388-24-074 Aid to families with dependent children-employable—Deprivation due to unemployment of a parent. (1) The department shall consider a child deprived of parental care and support due to the unemployment of a parent when the child lives with two parents, one of which meets all the requirements in this section.

(2) The department shall designate the qualifying parent as that parent earning the greater amount of income in the twenty-four-calendar-month period immediately preceding the month the application for assistance is filed. The department shall:

(a) Designate the qualifying parent using the best evidence available;

(b) Consider the earnings of both parents regardless of when the relationship began;

(c) Continue the designation for each consecutive month the family remains on assistance based on the current application; and

(d) Designate the qualifying parent if both parents earned an identical amount of income.

(3) The department shall consider the qualifying parent unemployed when the qualifying parent:

(a) Is employed less than one hundred hours a month;

(b) Exceeds this standard for a particular month if the excess is of a temporary nature evidenced by being under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month; or

(c) Participates in institutional and work experience training under the JOBS program and is not otherwise employed over one hundred hours.

(4) The qualifying parent shall be unemployed as defined in subsection (3) of this section for thirty days or more before the date AFDC-E is authorized except when:

(a) AFDC-E is terminated due to employment of the qualifying parent;

(b) The full-time employment ends within thirty days of termination; and

(c) The qualifying parent reapplies and is found otherwise eligible for AFDC-E.

(5) During the same thirty-day period, or subsequent period, the qualifying parent shall not have:

(a) Refused a bona fide offer of employment;

(b) Refused training for employment;

(c) Voluntarily left a job without good cause; or

(d) If eligible, refused to apply for or accept unemployment compensation.

(6) The qualifying parent shall participate, as required in the JOBS program, or, if exempt due to remoteness, and not participating in JOBS, shall be registered with a public employment agency in the state.

(7) The qualifying parent shall have one of the following:

(a) Six or more quarters of work within any thirteen calendar quarter period ending within one year before the application for assistance.

(i) A "quarter of work" means a calendar quarter in which the parent earned or received earned income of fifty dollars or more, or participated in the OPPORTUNITIES program; FIP-related education, training, employment services; or JOBS program.

(ii) A "calendar quarter" means three consecutive months ending March 31st, June 30th, September 30th, or December 31st.

(b) Within one year before the application, received, or had such a work history to be eligible to receive, unemployment compensation.

(8) A family independence program (FIP) enrollee who was approved for FIP before June 30, 1989, based on the unemployment of the qualifying parent, and who received FIP continuously through June 30, 1993, shall have eligibility for AFDC determined according to WAC 388-24-074 (1) through (7). Said enrollee may establish the six work quarter requirement in any thirteen consecutive quarter period beginning seventeen quarters before the enrollee's application for FIP benefits through June 30, 1993.

WSR 93-12-056

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3562—Filed May 27, 1993, 11:45 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: The family independence program (FIP) will expire June 30, 1993. Under FIP, recipients who owned real property with a net equity value in excess of the resource maximum could receive benefits as long as they continued to make a good faith effort to sell the property. The propose of this rule is to clarify that FIP recipients, who own real property with a net equity value in excess of the resource maximum, must meet the AFDC conditional eligibility requirements at the time of program conversion to AFDC.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-28-425 Effect of resources on financial need—Real property other than home—All programs.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 93-03-056 on January 15, 1993.

Effective Date of Rule: July 1, 1993.

May 27, 1993
Rosemary Carr
Acting Director
Administrative Services

their income computed using the \$30 plus 1/3 disregard, however. The purpose of this rule is to clarify that the \$30 plus 1/3 of the remainder disregard shall not start over when FIP recipients, for whom this disregard was applied while they received FIP, convert to AFDC effective July 1, 1993.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-28-570 Net cash income—Exempt earned income.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 93-03-057 on January 15, 1993.

Effective Date of Rule: July 1, 1993.

May 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2691, filed 9/12/88)

WAC 388-28-425 Effect of resources on financial need—Real property other than home—All programs.

(1) If an applicant owns real property with net equity value in excess of the resource maximum, the applicant may receive assistance for a period not to exceed nine months provided the applicant:

(a) Is making a good-faith effort to sell the property. "Good-faith effort" means listing the property with a multiple listing realtor or other reasonable means when a multiple listing is unavailable or the realtor refuses to list the property.

(b) Signs a repayment agreement to repay the lesser of the amount of aid received or the net proceeds of such sale. "Net sale proceeds" means sale price less encumbrances and costs incurred in selling the property.

(2) If the owner of excess real property ceases to make good-faith efforts to sell the property, the entire amount of assistance may become an overpayment. Clients must be advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good-faith efforts to sell have ceased, prior to assessment of an overpayment under this section.

(3) At the time assistance is authorized, the department shall file a lien without a sum certain on the specific property.

(4) An enrollee in the family independence program (FIP) who converts to AFDC, and who owns real property with net equity value in excess of the resource maximum, shall have eligibility for AFDC determined according to WAC 388-28-425 (1), (2), and (3).

**WSR 93-12-057
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3564—Filed May 27, 1993, 11:46 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: The family independence program (FIP) expires June 30, 1993. Income budgeting rules under FIP were different than under AFDC, but FIP recipients' income was computed under the rules of both AFDC and FIP. FIP recipients received the benefits that were the highest of the two computations. The \$30 plus 1/3 disregard was not an income disregard under FIP. FIP recipients with income had

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 11/24/92 [4/24/92])

WAC 388-28-570 Net cash income—Exempt earned income. (1) For rules on exempting earned income of a full- or part-time student, see WAC 388-28-535. For rules exempting income from training, see WAC 388-28-515. For rules exempting earned income for refugee assistance, see WAC 388-55-010. For rules on other income, see WAC 388-28-580.

(2) As used in this section, "earned income" shall mean income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(3) For an AFDC recipient, earned income includes earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages from WIN on-the-job training, and wages paid under the Job Training Partnership Act (JTPA). See WAC 388-28-535(2) for treatment of a child excluded from the grant.

(4) The definition of "earned income" excludes:

(a) Returns from capital investment with respect to which the individual is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income((-));"

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.;

(c) Income from WIN incentive payments and training-related expenses derived from WIN institutional or work experience training((-);

(d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

PERMANENT

(5) In AFDC, refugee assistance, and general assistance when payment of income earned over a period of more than one month is delayed, the exemption applies to the period during which the income was earned.

(6) Aid to families with dependent children.

(a) The following shall be disregarded sequentially from the monthly gross earned income of each individual member of the assistance unit((-):

(i) Ninety dollars for work expenses, regardless of the number of hours worked per month((-);

(ii) For each nonstudent dependent child and adult found otherwise eligible to receive assistance or having received assistance in one of the four prior months, thirty dollars and one-third of the remainder not already disregarded. The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until the recipient has ~~((been a nonrecipient for twelve consecutive months))~~ not received AFDC, FIP, or a combination of AFDC and FIP for twelve consecutive months. Family independence program (FIP) enrollees who had earned income greater than seventy five dollars per month from July 1, 1988, through September 30, 1989, or greater than ninety dollars per month from October 1, 1989, through June 30, 1993, shall be deemed to have had the thirty dollars and one-third of the remainder of earned income disregard applied to their earned income when income was budgeted;

(iii) After expiration of the disregard in subsection (6)(a)(ii) of this section, thirty dollars for a maximum of eight consecutive months, whether or not the recipient has earnings or is receiving assistance; it cannot be applied again until the recipient has been a nonrecipient for twelve consecutive months((-);

(iv) The actual cost for care of each dependent child or incapacitated adult living in the same home and receiving AFDC provided:

(A) Conditions under WAC 388-51-110.(1)(c) are met for each dependent child;

(B) No disregard will be allowed for care provided by a parent or stepparent;

(C) The provider verifies the cost incurred;

(D) The cost is incurred for the month of employment being reported; and

(E) The cost for each dependent child or incapacitated adult, depending on the number of hours worked per month does not exceed the following:

Hours Worked Per Month	Dependent Care Max- imum Deductions Dependent 2 Years of Age or Older	Dependent Care Max- imum Deductions Dependent Under 2 Years of Age
	0 - 40	\$ 43.75
41 - 80	87.50	\$100.00
81 - 120	131.25	\$150.00
121 or more	175.00	\$200.00

(b) The exemptions and deductions in subsection (6)(a) of this section will not be applied for any month if the individual within a period of thirty days preceding the month in which the income was received:

(i) Terminated the individual's employment or reduced the individual's earned income without good cause; or

(ii) Refused without good cause to accept employment in which the individual is able to engage which is offered through employment security department, or is otherwise

offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment.

(c) The exemptions and deductions in subsection (6)(a) of this section will not be applied for any month the recipient failed without good cause to make a timely report of income. When a timely report is made under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Good cause shall be determined by the department. Any circumstance beyond the control of the recipient shall constitute good cause.

To be considered timely, a report must be received by the department:

(i) On or before the eighteenth day of the month following the month in which the income was received((-); or

(ii) By the first following work day if the eighteenth day of the month falls on a weekend or holiday.

(d) If a recipient requests termination in order to break the consecutiveness of the applicable time limits for the thirty-dollar plus one-third exemption, and would have been eligible, the months of voluntary nonreceipt of assistance shall be counted toward the applicable time limits.

(e) If a recipient quits work without good cause, the thirty-dollar and one-third exemption shall be deemed to have been received and shall be counted toward the applicable time limits.

(f) Months in which the applicant/recipient received the thirty-dollar and one-third exemption in another state shall not apply toward the applicable time limits.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(b) Inability of the individual to get to and from the job without undue cost or hardship to the individual;

(c) The nature of the work would be hazardous to the individual;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute; or

(f) Adequate child care is not available to the AFDC household.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 93-12-058
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3561—Filed May 27, 1993, 11:47 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: The family independence program (FIP) will end June 30, 1993. FIP enrollees will have earned incentives for employment during the months of May and June. Due to retrospective budgeting, these incentives will not be

paid until July and August. This rule allows for the payment of these incentives after the FIP program has ended. This rule clarifies the fair hearing rules to clearly state that enrollees may not continue to receive benefits if they file a fair hearing regarding the termination of the FIP program. This rule makes clear that benefits will not be terminated for enrollees due to program closing prior to July 1, 1993, and prior to written notification. New WAC 388-77A-010, 388-77A-020, 388-77A-030, 388-77A-040, 388-77A-041, 388-77A-050, and 388-77A-055.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 93-03-059 on January 15, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-77A-040 split into WAC 388-77A-040 and 388-77A-041 relating to child care and medical benefits. This separation makes the rule less open to interpretation and does not change the intent of the rules. WAC 388-77A-050 split into WAC 388-77A-050 and 388-77A-055 and separates the two issues of continuation of benefits and predetermination redetermination eligibility for other programs.

Effective Date of Rule: July 1, 1993.

May 27, 1993
Rosemary Carr
Acting Director
Administrative Services

Chapter 388-77A WAC FAMILY INDEPENDENCE PROGRAM EXPIRATION

NEW SECTION

WAC 388-77A-010 Purpose. Chapter 74.21 RCW authorizing the family independence program (FIP) expires on June 30, 1993. The department shall convert FIP enrollees to regular AFDC, food assistance, medical assistance and the job opportunities basic skills and training program (JOBS) in the five FIP demonstration sites and the ten remaining FIP and AFDC combined sites on July 1, 1993.

NEW SECTION

WAC 388-77A-020 Benefit change limitations. (1) The department shall not change an enrollee's benefits and/or services as a result of this program change prior to July 1, 1993.

(2) The department shall not change an enrollee's benefits before the enrollee receives written notice of the proposed action.

NEW SECTION

WAC 388-77A-030 Standards of assistance—Family independence program (FIP) households entitled to employment incentive payments earned in May and June 1993. (1) The department shall pay to households who are eligible for AFDC at the end of the FIP demonstration project on June 30, 1993, an incentive payment when all of the following conditions apply:

(a) The household is eligible to receive a July 1993 AFDC IV-A grant payment;

(b) The household received a FIP-IV-A grant payment in June of 1993;

(c) An eligible member of the household earned a FIP employment incentive in May of 1993;

(d) The household was in a retrospective budgeting cycle for the report month of May; and

(e) The income earned and the hours worked are reported by the eighteenth of the process month, unless there is good cause for late reporting.

(2) The department shall pay to households who are eligible for AFDC at the end of the FIP demonstration project on June 30, 1993, an incentive payment when all of the following conditions apply:

(a) The household is eligible to receive an August 1993 AFDC IV-A grant payment;

(b) The household received a FIP-IV-A grant payment in June of 1993;

(c) An eligible member of the household earned a FIP employment incentive in June of 1993;

(d) The household was in a retrospective budgeting cycle for the report month of June; and

(e) The income earned and the hours worked are reported by the eighteenth of the process month, unless there is good cause for late reporting.

(3) For the purpose of this rule, the incentive payment shall be calculated in the following manner:

(a) The department shall determine what the FIP-IV-A cash assistance would have been using under WAC 388-77A-030(4);

(b) The department shall determine what IV-A cash benefits the household is eligible to receive under the AFDC chapter 388-28 WAC;

(c) The department shall compare the amounts in subsection (4) of this section and chapter 388-28 WAC. If the amount determined under subsection (4) is greater, the department shall issue a supplement to bring the AFDC IV-A payment up to the amount the household would have received on FIP.

(4) For the purpose of this rule FIP-IV-A cash assistance benefits shall be calculated as follows:

(a) The department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements. The department shall round the amount to be issued down to the nearest dollar;

(b) The department's benchmark standard for FIP assistance units shall be equal to the sum of the applicable AFDC payment standard for households with shelter costs plus eighty percent of the thrifty food plan;

(c) The department shall treat earned income as follows:
(i) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income. The department shall disallow this deduction when earnings are reported after the eighteenth of the process month without good cause for late reporting;

(ii) In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt from the FIP calculation the earnings of a child seventeen years of age or younger.

(d) The department shall treat unearned income the same as AFDC as described under chapter 388-28 WAC;

(e) The department shall provide enrollees who are employed with incentive benefits as follows:

(i) Fifteen percent of the benchmark standard for enrollees working half-time (seventy-five to one hundred forty-nine hours per month);

(ii) Thirty-five percent of the benchmark standard for enrollees working full-time (one hundred fifty or more hours per month).

(f) Incentives shall not be provided for earnings:

(i) Reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(ii) That are exempt or disregarded, except when the earnings are produced by an adult member in the assistance unit.

(g) Incentives for self-employed enrollees with an approved self-employment plan will be based on:

(i) The enrollee's declaration of the hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(ii) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

(h) The incentive paid shall be the highest for which the assistance unit qualifies. The department shall not allow more than one incentive per assistance unit;

(i) Incentives shall be rounded down to the nearest dollar;

(j) Incentive payment shall be disregarded in the food stamp calculations.

NEW SECTION

WAC 388-77A-040 Transitional child care. (1) The department shall find a person receiving family independence program (FIP) noncash child care on June 30, 1993, eligible for family support act (FSA) child care based on FSA requirements as of July 1, 1993.

(2) The following households shall be eligible for FSA transitional child care for up to twelve months effective July 1, 1993:

(a) Those with earnings less than one hundred thirty-five percent of the benchmark plus incentives but over the payment standard on June 30, 1993; and

(b) Those who are not eligible for a IV-A cash payment on July 1, 1993, due to the termination of FIP employment incentives on June 30, 1993.

(3) A person the department determines eligible for FSA child care under subsections (1) and (2) shall continue to receive FSA child care for the remainder of the time authorized under FIP.

NEW SECTION

WAC 388-77A-041 Medical benefits. (1) The department shall find a person receiving medical benefits under WAC 388-83-029(4) on June 30, 1993:

(a) Eligible for extended medical benefits under WAC 388-83-029 as of July 1, 1993; and

(b) Subject to reporting requirements as of July 1, 1993.

(2) The department shall find:

(a) A person receiving FIP transitional medical benefits under WAC 388-77-037 and 388-83-029(6) on June 30, 1993; and

(b) Households not eligible for a IV-A cash payment on July 1, 1993, due to the termination of FIP employment incentives on June 30, 1993:

(i) Eligible for extended medical assistance benefits under WAC 388-83-029 (3) and (5) as of July 1, 1993; and

(ii) Not subject to reporting requirements under WAC 388-83-029 as of July 1, 1993.

(3) The department shall determine a person eligible for extended medical assistance benefits to be eligible for these benefits for the remainder of the certification period as authorized under FIP.

NEW SECTION

WAC 388-77A-050 Fair hearing—Continuation of benefits. (1) When a FIP enrollee files a request for fair hearing according to chapter 388-08 WAC within the advance notice period, assistance shall not be continued when the sole issue is one of state or federal law requiring automatic grant adjustment for classes of recipients unless the reason for an individual appeal is an incorrect grant, benefit, or service computation.

(2) The following specific FIP program components require automatic grant adjustments for FIP enrollees as a result of the expiration of the FIP law:

(a) Discontinuance of the FIP program effective June 30, 1993;

(b) Discontinuance of qualifying for FIP five percent, fifteen percent and thirty-five percent incentive payments effective June 30, 1993; HOWEVER, any factual issue concerning budgeting of earnings or the availability of incentive payments for earnings received in May and June of 1993 is one of individual benefit computation for which continued Title IV-A benefits shall be provided;

(c) Discontinuance of FIP food cash assistance rather than food stamp benefits effective June 30, 1993;

(d) Discontinuance of payment of a full grant for persons living in supplied shelter; HOWEVER, any factual issue on whether shelter is supplied is one of individual benefit computation for which continued Title IV-A benefits shall be provided.

(3) When benefits are continued pending a fair hearing the continued payment shall not exceed the maximum payment standard in effect for the AFDC program on July 1, 1993.

NEW SECTION

WAC 388-77A-055 Pretermination redetermination.

(1) Prior to termination of benefits received by an enrollee under FIP, the department shall determine whether, effective July 1, 1993, the enrollee is eligible for assistance under ongoing non-FIP programs. Enrollees shall have their eligibility and benefits determined according to the rules for these programs. AFDC eligibility rules regarding income, work quarters, and excess real property are contained in WAC 388-24-074, 388-28-425, and 388-28-570.

(2) Advance and adequate notice of termination of FIP benefits shall also include notice of approval or denial of

eligibility for assistance under the program specified in subsection (1) of this section.

(3) Any notice of denial, or of continued services with reduced benefits, shall include the reason(s) for such eligibility determination.

WSR 93-12-059
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3566—Filed May 27, 1993, 11:50 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: Amends editorial changes and revises the transitional child care rules as the result of federal clarification of the Family Support Act, which implements the program, and other changes representing state policy. Chapter 388-51 WAC, creates new sections WAC 388-51-155, 388-51-160, 388-51-170, 388-51-180, 388-51-210, 388-51-250, and 388-51-260.

Citation of Existing Rules Affected by this Order: Repealing chapter 388-51 WAC, WAC 388-51-125, 388-51-150, 388-51-200, and 388-51-300; and amending chapter 388-51 WAC, WAC 388-51-020, 388-51-040, 388-51-110, 388-51-115, 388-51-120, 388-51-123, 388-51-130, and 388-51-135.

Statutory Authority for Adoption: Family Support Act, P.L. 100-485, ESHB 1330, section 211, chapter 16, Laws of 1991.

Pursuant to notice filed as WSR 93-07-073 on March 17, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-51-110 (2)(b)(ii) changed to assure eligible non-JOBS clients have equal access to child care benefits. WAC 388-51-155 (2)(a) now clarifies 45 CFR 256.2 (b)(1). WAC 388-51-180 (7)(c) changed to say "where cost of recovery does not exceed the overpayment amount." WAC 388-51-210(1) now references the "Supportive services plan."

Effective Date of Rule: July 1, 1993.

May 27, 1993
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3126, filed 12/31/90, effective 1/31/91)

WAC 388-51-020 Definitions. Except as specified in this chapter, terms used under chapter 388-51 WAC shall have the same meaning applied to the AFDC program, ~~((and))~~ as terms defined under chapters 388-22 WAC and 388-29, and to the JOBS program ~~((set forth))~~ under chapter 388-47 WAC.

(1) "Able" means physically and/or mentally capable of caring for a child in a responsible manner.

(2) "Applicable standards" means standards and practices related to child care under chapter 388-73 WAC or, in the case of a tribal JOBS program, tribal law.

~~((2))~~ (3) "Child care overpayment" means any child care payment received by or for an assistance unit for a month which exceeds the amount the unit was eligible to receive.

(4) "Co-payment" means the computed amount which the parent pays toward the child's cost of care.

(5) "JOBS" means the job opportunities and basic skills training program for eligible AFDC families which assists obtaining education, training, and employment needed to avoid long-term welfare dependence.

(6) "Support services" means child care, and other services provided for under federal law, that may be required enabling an AFDC applicant or recipient to pursue employment, education, and training under chapter 388-47 WAC.

AMENDATORY SECTION (Amending Order 3126, filed 12/31/90, effective 1/31/91)

WAC 388-51-040 Assurances and responsibilities under JOBS, income assistance, and transitional child care. (1) The department shall assure:

~~((1))~~ (a) Supportive services needed to enable a participant with an approved employability plan to participate in accordance with that approved plan in the JOBS program;

~~((2))~~ (b) Child care services meet applicable standards of state or tribal law as described under WAC 388-15-170(8);

~~((3))~~ (c) An entity providing child care allows parental access;

~~((4))~~ (d) The child's individual needs are taken into account when the department provides or arranges for child care and other supportive services; and

~~((5))~~ (e) Child care provided or claimed for payment is related to a person's JOBS program participation or employment hours.

(2) The department shall:

(a) Inform applicants or recipients about child care and supportive services available under this chapter;

(b) Respond to requests for child care services within a reasonable period of time;

(c) Inform applicants or recipients of the types and locations of child care services available to help them select child care services;

(d) Inform applicants or recipients of the child care options for which the department can make payment as described under WAC 388-51-110. The department shall:

(i) Provide information on transitional child care to all families terminating from AFDC; and

(ii) Include information on how to request transitional child care in the informational material provided to families terminating from AFDC.

(e) Inform applicants or recipients of their rights and responsibilities in relation to child care and support services;

(f) Provide timely child care payments to the provider; and

(g) Provide advance and adequate notice to recipients of reduction, suspension, or termination of child care benefits.

(3) The recipient shall:

(a) Choose the provider and make the child care arrangements;

(b) Immediately notify the department of any change in providers;

- (c) Pay the in-home care giver when the department pays the applicant or recipient for in-home care;
(d) Pay any required co-payment;
(e) Supply the department with necessary information to allow payment to the authorized provider; and
(f) Immediately notify the provider when the department discontinues or changes the child care authorization.
(4) The provider shall provide:
(a) Parental access;
(b) Constant supervision of a child under care throughout the time such person is the provider;
(c) Developmentally appropriate activities for a child under provider's care; and
(d) Access to attendance records by appropriate state and federal government representatives.
(5) The provider shall meet licensing and contracting requirements as required under chapters 388-150 and 388-155 WAC.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-110 ~~((Jobs and))~~ **JOBS, income assistance, and transitional child care programs.** (1) The department shall guarantee child care by:

- (a) Paying providers for center care or family day care ~~((#))~~ when the provider is:
- Licensed under chapter 74.15 RCW and either chapters 388-73, 388-150, or 388-155 WAC;
 - Exempt from licensure under chapter 74.15 RCW and chapters 388-73, 388-150, or 388-155 WAC;
 - A tribal day care center ~~((which meets))~~ meeting the requirements of tribal law and ~~((is))~~ certified by the department; ~~((of))~~
 - A child care facility, certified by the department, on a military installation; or
 - A child care facility operated on public school property by a school district.

(b) Paying the recipient for in-home care provided the care taker meets the requirements ~~((#))~~ as described under WAC 388-15-170 ~~((6;))~~ (7)(~~(;))~~ and (8) ~~((are met))~~. In-home care shall include care given in the child's home ~~((of the recipient;))~~ or in a relative's home if the relative is:

- (i) An adult sibling living outside the child's home(~~(;))~~;
or
(ii) Grandparents, aunts, uncles, or first cousins(~~(;))~~;

(c) Allowing the dependent care earnings disregard for employed AFDC recipients. The department shall allow a disregard when the household:

(i) Received AFDC on October 13, 1988, based on application of the dependent care disregard, and has remained continuously eligible for grant assistance since that time. Such households shall have the option to use the disregard or state-paid child care;

(ii) Was employed on September 30, 1991, and has not ~~((yet been))~~ converted to the state-paid, child care system; or

(iii) Is subject to retrospective budgeting and is converting to state-paid child care. ~~((For such cases))~~ When the household incurred child care costs in the corresponding budget month, the department shall allow both state-paid, child care and a child care earnings disregard for the month of conversion and the month thereafter ~~((if the household~~

~~incurred child care costs in the corresponding budget month))~~.

(2) Within the child care guarantee of this section, the department shall authorize payment for child care to allow:

- An AFDC applicant or recipient to participate in:
 - JOBS orientation or assessment;
 - Job search that is part of an approved employability plan under chapter 388-47 WAC; or
 - ~~((A))~~ An AFDC recipient to participate in:
 - Work-related barrier removal activities, as approved by the department for participation in employment or activities under chapter 388-47 WAC;
 - In an approved education or training or other component activity ~~((that is part of an approved employability plan))~~ under chapter 388-47 WAC; or
 - Employment, either to accept or maintain.
- A family eligible for transitional child care to participate in employment activities.

(3) The department shall take the individual needs of the child into account.

(4) The department shall not guarantee child care for two-parent households where one parent is able and available to care for the children. See "able" ~~((is))~~ as defined ~~((as physically and/or mentally capable of caring for children in a responsible manner))~~ under section 020 of this chapter.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-115 ~~((Jobs and))~~ **JOBS, income assistance, and transitional child care programs—Eligible children and recipients.** (1) The department shall authorize necessary child care if the dependent child is:

(a) Included in the same assistance unit as the recipient; or

(b) For transitional child care, meets the requirements of WAC 388-51-170(4); or

(c) Included in the household, but is not in the recipient's assistance unit because the child is receiving SSI benefits or foster care benefits under Title IV-E of the Social Security Act; and

- ~~((e))~~ (d) Twelve years of age or younger; or
~~((#))~~ (e) Physically or mentally (including emotionally) incapable of self-care, as verified by a licensed medical practitioner or licensed or certified psychologist; or
~~((e))~~ (f) Under court supervision.

(2) The department shall not authorize child care to a recipient not included in the assistance unit because the recipient is:

- An undocumented alien;
- A recipient of SSI; or
- A nonneedy relative.

(3) The department shall authorize **JOBS and income assistance** child care to employed recipients not included in the assistance unit due to a sanction with children meeting the requirements of subsection (1) ~~((above))~~ of this section.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-120 ~~((Jobs and))~~ **JOBS, income assistance, and transitional child care program—Payment.** (1) The department's payment for child care shall

not exceed the local market rate for child care. The department shall establish the market rate based on representative samples of local child care providers.

(2) The child care rates shall be as published by the department.

(3) The department's payment for child care shall:

(a) Relate to a person's hours of participation under chapter 388-47 WAC or hours of employment; and

(b) Include transportation time between the place of employment or participation site for activity under chapter 388-47 WAC and the child care provider.

(4) The department may authorize child care payments for JOBS or income assistance child care for up to two weeks for a person waiting to enter education or training, or other component activity approved under chapter 388-47 WAC, or employment.

(5) The department may authorize JOBS, income assistance, or transitional child care for a period not to exceed one month when:

(a) Child care arrangements would otherwise be lost; and

(b) The component activity or employment is scheduled to begin within that period.

(6) The department may pay for initial one-time fees for registration or equipment which are required by an authorized child care provider if such fees are:

(a) Required of all parents whose ~~((children are))~~ child is in care; and

(b) Needed to maintain a child care arrangement.

(7) The department shall not pay ongoing annual registration fees.

(8) Notwithstanding WAC 388-51-110 (1)(b), the department may establish a protective payee due to mismanagement ~~((#))~~ when the recipient fails to pay the in-home care provider when:

(a) The department has issued a child care warrant ~~((has been issued))~~ to the correct address and ~~((it has been))~~ twelve or more working days have passed since the issuance date; and

(b) The recipient has not reported the warrant lost, stolen, or destroyed.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-123 ~~((Jobs and))~~ **JOBS, income assistance, and transitional child care programs—Effective dates.** (1) The department shall authorize JOBS and income assistance child care for:

(a) Orientation or assessment, to coincide with participation in orientation or assessment provided the household has applied for assistance;

(b) Employment, to coincide with the start of employment or the date of eligibility for assistance, whichever is later, so long as the employment is timely reported by the eighteenth day of the process month. If the employment is not timely reported, the effective date for child care benefits shall be the date of request for child care;

(c) Other approved activities, to coincide with the date of request for child care or the ~~((start of))~~ date the activity commenced or was approved, whichever is later.

(2) The department shall authorize transitional child care for eligible families as required under WAC 388-51-155(3).

(3) The department ~~((is required to))~~ shall provide timely notice to recipients for changes in payment when the change results in a discontinuation, suspension, reduction, termination, or forces a change in child care arrangements:

(a) Except, as required under WAC 388-51-120 (4) and (5), the department shall terminate child care benefits to coincide with the termination of a component activity or assistance, provided timely notice for the change in child care has been given; and

(b) Timely notice requirements shall not apply for other changes in the manner of payment.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-130 Income assistance and transitional child care programs—Effect on eligibility and payments.

(1) Except as provided under WAC 388-28-570 (6)(a)(iv), 388-51-110 (1)(c), and subsections (2) and (3) of this section, the department shall determine AFDC eligibility and payment amounts without the dependent care disregard for households subject to the income assistance child care program.

(2) The department shall determine payment amounts with the dependent care disregard for households receiving both state-paid child care and the earnings disregard for the month of conversion and the month thereafter.

(3) ~~((The department shall determine eligibility and payment amounts for the month of application as provided under WAC 388-51-110 (1)(e)(iv)))~~ When eligible, an employed applicant's eligibility for income assistance child care starts with the first day of AFDC eligibility.

(4) The department shall not consider the child care benefits provided under this chapter as income or resources when determining AFDC, food stamp program eligibility, or payment amount. Income received as a child care provider shall be treated according to the requirements under chapters 388-28 and 388-49 WAC.

AMENDATORY SECTION (Amending WSR 92-08-033, filed 3/24/92, effective 4/24/92)

WAC 388-51-135 ~~((Jobs and))~~ **JOBS, income assistance, and transitional child care—Hearings.**

(1) Applicants ~~((#))~~ or recipients shall be entitled to fair hearings under chapter 388-08 WAC on any action affecting child care benefits except for changes resulting from a change in policy or law.

(2) Recipients of JOBS and income assistance child care payments shall not be eligible for continued child care benefits pending the outcome of a fair hearing.

(3) Recipients of transitional child care benefits are eligible for continued benefits pending the outcome of a fair hearing. Continued benefits may not extend beyond the family's twelve-month eligibility period.

NEW SECTION**WAC 388-51-155 Transitional child care—Purpose and initial eligibility.** (1) The department shall:

(a) Guarantee transitional child care to families who become ineligible for AFDC as described under subsection (2) of this section; and

(b) Permit such AFDC-ineligible families to accept or retain employment.

(2) A family shall be eligible for transitional child care provided the family:

(a) Is ineligible for AFDC due solely or in part because of increased hours of, or increased income from, employment or the loss of income disregards due to time limitations;

(b) Received AFDC in three or more of the six months immediately preceding the first month of ineligibility; and

(c) Request orally or in writing transitional child care benefits and provides the information necessary for determining eligibility and fees.

(3) A family's eligibility for transitional child care shall begin with the first month the AFDC family is ineligible for AFDC for reasons described under subsection (2) of this section, and shall continue for a period of twelve consecutive months.

(4) Families may begin receiving child care in any month during the twelve-month eligibility period. The department shall allow retroactive benefits for child care paid by an eligible family during this twelve-month period when the:

(a) Provider meets requirements as described under WAC 388-51-110(1); and

(b) Family requests benefits during the twelve-month period.

NEW SECTION

WAC 388-51-160 Transitional child care—Co-payment. (1) The caretaker relative shall contribute to the transitional child care cost based on the family's ability to pay according to a sliding scale based on the AFDC need standard as described under WAC 388-29-001(15) and 388-29-100(1).

(a) Families with gross income, at or below one hundred percent of the needs standard, shall contribute five dollars per month toward the transitional child care cost.

(b) Families with gross income exceeding one hundred percent of the needs standard shall contribute toward the transitional child care cost at the rate of twenty-five percent of the income exceeding one hundred percent of the needs standard, but not less than five dollars per month.

(c) In computing the effects of income on transitional child care co-payment levels, AFDC rules as described under chapter 388-28 WAC shall apply.

(d) The department shall calculate co-payments for the transitional child care total cost without regard to the number of children receiving care.

(2) The department shall calculate co-payments:

(a) At the time of the initial eligibility determination;

(b) When monthly income decreases; and/or

(c) When household size increases.

(3) A person failing to pay the required co-payment shall be subject to termination as required under WAC 388-51-170 (1)(c).

(4) A family shall pay the co-payment for transitional child care directly to the child care provider.

NEW SECTION

WAC 388-51-170 Transitional child care—Ongoing eligibility. (1) A family's eligibility for transitional child care ceases to exist for a remaining portion of the twelve-month period when the caretaker relative:

(a) Terminates employment without good cause. Good cause for failure to retain employment includes, but is not limited to:

(i) Physical, mental, or emotional inability to perform the required activity;

(ii) Court-ordered appearance or temporary incarceration;

(iii) Family or individual emergency or crises;

(iv) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(v) Inclement weather preventing a person and others similarly situated from traveling to, or participating in, the prescribed employment;

(vi) The nature of the employment is hazardous to the individual;

(vii) The employment wages do not meet minimum wage standards or are not customary for the work in the community;

(viii) The employment was obtained due to a vacancy caused by a labor dispute;

(ix) Refusal to accept major medical treatment needed to continue employment, for example, major surgery;

(x) Refusal to continue employment when the wages, less mandatory payroll deductions and necessary work-related expenses, do not equal or exceed the family's AFDC cash benefit;

(xi) Illness or incapacity of another household member requiring the caretaker relative's care; or

(xii) Child care problems and/or loss of a child care provider.

(b) Fails to cooperate with the department in establishing and enforcing child support obligations;

(c) Fails to pay required co-payment fees; or

(d) Child is no longer dependent, except for deprivation by unemployment.

(2) A family's eligibility for child care shall be reinstated only when:

(a) The caretaker relative loses a job with good cause and finds another job, the department may qualify the family for the remaining portion of the twelve-month eligibility period; or

(b) Back co-payment fees are paid or satisfactory arrangements are made to make full payments.

(3) Siblings of children eligible for transitional child care, if needy and otherwise eligible, who enter or return to a household, shall be eligible to receive transitional child care benefits.

(4) The department shall not consider transitional child care benefits as income or resources when determining AFDC or food stamp program eligibility or payment amount.

Income received as a child care provider shall be treated according to chapters 388-28 and 388-49 WAC.

NEW SECTION

WAC 388-51-180 Child care overpayments. (1) In those areas not expressly covered under WAC 388-51-180, recipients of JOBS, income assistance, and/or transitional child care benefits shall be subject to and covered by chapter 388-44 WAC.

(2) The department shall include, but not limit a child care overpayment to:

(a) Vendor payments for child care provided during a period when a child was not eligible for public assistance;

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client;

(c) Payments made during the ten-day advance notice period when the client is ineligible for payment; and

(d) Continued payments received by the recipient because the appropriate ten-day advance period extends into the next month.

(3) The department shall calculate the amount of the child care overpayment based on the amount of child care payment the client or the child care provider receives for which the assistance unit was not entitled.

(4) When establishing an overpayment, the department shall reduce any child care overpayment by the amount of any child care underpayment where applicable.

(5) The department shall recover overpayments from:

(a) The assistance unit which was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any member of the overpaid assistance unit whether or not currently a recipient.

(6) When a provider has claimed payment for child care services not provided, the department shall establish the overpayment in the provider's name.

(7) The department shall attempt recovery of an overpayment in all cases:

(a) Of fraud;

(b) Involving current recipients of child care benefits; and

(c) Where cost of recovery does not exceed the overpayment amount.

(8) In recovering overpayments from a family currently receiving child care benefits, the department shall consider a family's income level and financial obligations, including household expenses, when determining repayment requirements. Such families shall retain a reasonable amount of funds to meet the needs of the assistance unit.

(9) The department may only make recovery of child care overpayments from current Title IV-A child care recipients from child care benefits. Recovery may not interfere with child care arrangements.

(10) The department may make any recoveries of child care overpayments from AFDC benefit payments only on a voluntary request from a family receiving AFDC benefits.

(11) The department shall recover overpayments from families no longer receiving child care payments as required under WAC 388-44-150.

NEW SECTION

WAC 388-51-210 Other supportive services. The department and the JOBS contractor may provide other supportive services payment or reimbursement for other supportive services expenses enabling a person to participate in the JOBS program.

(1) The expenditures for a participant's supportive services shall be subject to the maximum limits as indicated in the state's supportive services plan.

(2) Supportive services shall be as outlined in the JOBS supportive services state plan and shall include but not be limited to:

(a) Transportation costs;

(b) Tools and equipment;

(c) License fees, including union initiation fees and licenses required by law, employer, or union for participation in JOBS or employment; and

(d) One-time work-related expenses necessary for a participant to accept or maintain employment. These expenses shall be allowed only when:

(i) The participant has a bona fide job expected to last thirty days or more;

(ii) Other funds are not available; and

(iii) Such expenses are required for the type of work.

NEW SECTION

WAC 388-51-250 Transitional supportive services. The department or the contractor may provide transitional supportive services, as outlined in the JOBS supportive services state plan, to a JOBS participant who loses eligibility for AFDC.

(1) Services provided within thirty days following AFDC termination include, but are not limited to transportation, one-time work-related expenses, and social services; and

(2) Counseling services for job retention may be provided for up to ninety days following AFDC termination.

NEW SECTION

WAC 388-51-260 Supportive services overpayments. (1) In those areas not expressly covered by WAC 388-51-260, it is the intent of the department that recipients of JOBS and/or transitional supportive services benefits be subject to and covered by chapter 388-44 WAC.

(2) "Supportive services overpayment" means any supportive service payment received by or for an assistance unit or JOBS participant that exceeds the amount the unit was eligible to receive.

(3) The amount of the supportive services overpayment shall be the amount of payment received by the assistance unit or vendor for which the assistance unit was not entitled.

(4) For current recipients of supportive services benefits, recovery of support services overpayments may be made only from support services benefits. Any recovery of an overpayment may be made from AFDC benefit payments only upon voluntary request from a family receiving AFDC benefits.

(5) Recovery of overpayments from families no longer receiving supportive services payments follow WAC 388-44-150.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-51-125	Jobs and income assistance child care program—Responsibilities.
WAC 388-51-150	Other supportive services.
WAC 388-51-200	Transitional supportive services.
WAC 388-51-300	Transitional child care.

WSR 93-12-060
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3563—Filed May 27, 1993, 11:55 a.m., effective July 1, 1993]

Date of Adoption: May 27, 1993.

Purpose: The family independence program (FIP) will end on June 30, 1993. This amendment makes clear that enrollees in FIP who have an approved employability plan will be considered to have the same plan approved under JOBS on July 1, 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 388-47-115 Funding approval of education and JOBS components.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 93-03-058 on January 15, 1993.

Effective Date of Rule: July 1, 1993.

May 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3398, filed 5/29/92, effective 7/1/92)

WAC 388-47-115 Funding approval of education and JOBS components. (1) For the purpose of plan approval initial approving authority begins with the employment security department. The department of social and health services shall:

(a) Review approved plans within ~~((30))~~ thirty calendar days of initial approval.

(b) Review disapproved plans within ten calendar days of denial.

(c) Review if the plan clearly violates department policy or whether the department has information which clearly indicates a concern with the plan.

(d) Joint agency administrative review will be conducted at the local level of any initial approval with which the department does not concur.

(2) The contractor shall fund approvable JOBS plan components in accordance with the following priorities:

(a) First priority shall be given to participants in an approved educational, training or employment plan whose JOBS or FIP plan is in process and is being re-authorized;

(b) Second priority shall be given to volunteers included in the target groups specified under WAC 388-47-070(1);

(c) Third priority shall be given to participants volunteering for basic education and job ready participants volunteering for intensive job search, on-the-job training or the work supplementation program;

(d) Fourth priority shall be given to all other recipients.

(3) Separate allocation may be established for each priority group.

(4) The contractor shall accept all employability plans approved under the family independence program (FIP) as approved under JOBS effective July 1, 1993.

(5) The contractor shall limit plan approval subject to the availability of funds and to a specific component.

~~((5))~~ (6) Funding approval for child care participants in a tribal JOBS program shall be subject to the provisions of this section.

~~((6))~~ (7) The contractor shall create a local obligational register. When funds have been exhausted for a priority group, a local waiting list shall be established. Ranking within each priority shall be on a first come first served basis using the date of request for participation in JOBS or FIP.

~~((7))~~ (8) If the funds appropriated for JOBS are available, the contractor shall approve the plan for the highest ranked person on the waiting list and obligate sufficient funds from the obligational register to cover the cost of:

(a) Training or education, component costs, child care, and support services necessary to complete the approved plan; or

(b) For participants in a tribal JOBS program, the cost of child care necessary to complete the approved plan.

~~((8))~~ (9) The contractor shall limit plan approval through the end of the state biennium. In obligating funds, the contractor shall obligate funds through the completion of the plan or the end of the biennium, whichever is earlier. Priority for subsequent years is established in subsection (2) of this section.

~~((9))~~ (10) The contractor's approval of a plan shall be by specific components. Requests to change to another component shall be subject to the availability of funds and other applicable criteria for component approval. If the contractor does not approve a change in components because of lack of funds, the contractor shall place the person on a waiting list.

~~((10))~~ (11) For self-initiated training that is approvable, the contractor will place the person on a local waiting list and if funds are available provide necessary child care and support services as provided in the approved plan. The contractor shall not pay for tuition, books, or other fees.

~~((11))~~ (12) A participant may choose to participate in training without child care and support services. For such persons, the contractor shall:

(a) Place the person on a local waiting list;

(b) Approve the plan subject to review of child care and support service needs when partial funds are available; and

(c) At such time as funds are available to fund the remainder of the plan offer support services.

~~((12))~~ (13) Participants shall utilize other funding sources such as Pell grants before JOBS funds are used. Plan approval shall be pended until grant or aid resources have been determined.

~~((13))~~ (14) Total JOBS costs shall not exceed the maximum of four thousand five hundred dollars per participant excluding child care.

**WSR 93-12-062
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Order R-388, Docket No. UW-921211—Filed May 27, 1993, 1:54 p.m.]

In the matter of adopting WAC 480-110-023 and amending WAC 480-110-176 relating to jurisdictional threshold and preservation of records.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-06-056, filed with the code reviser on February 26, 1993. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW) the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-06-056, for 9:00 a.m., Wednesday, April 21, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until April 2, 1993.

Written comments were presented by Rock E. Caley, by the Washington State Department of Health, and by the commission staff.

The rule proposals were considered for adoption at the commission's regularly scheduled open public meeting on April 21, 1993, before Chairman Sharon L. Nelson, Commissioner Richard D. Casad and Commissioner A. J. Pardini. At that time and place, the proposal was continued for further consideration and for adoption at 9:00 a.m. at the May 5, 1993, open public meeting. It was heard at the continued time and place. Oral comments were made by Teresa Osinski of the commission staff. After considering the written and oral comments, the commission adopted the rules as noticed.

In reviewing the entire record, the commission determines that WAC 480-110-023 should be adopted and WAC 480-110-176 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

WAC 480-110-023 is adopted to increase the threshold for water company regulation from \$300 average annual revenue per customer to \$379, consistent with authorization in RCW 80.04.010, to reflect the effects of inflation since the statute was adopted.

WAC 480-110-176 is amended, to update the version of a regulatory publication referenced in the rule; to update the name of the publishing organization; and to state where copies of the referenced material may be viewed and obtained.

ORDER

THE COMMISSION ORDERS That WAC 480-110-023 is adopted and WAC 480-110-176 is amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.080(2).

THE COMMISSION FURTHER ORDERS That this order and the rule shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 25th day of May, 1993.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

NEW SECTION

WAC 480-110-023 Average customer revenue jurisdictional threshold. (1) Pursuant to RCW 80.04.010, the commission may increase annually the jurisdictional revenue threshold pertaining to water companies by reflecting the rate of inflation as determined by the implicit price deflator of the United States Department of Commerce.

(2) Calculated as specified in subsection (1) of this section, the average customer revenue jurisdictional threshold for water companies beginning on the effective date of this section is three hundred seventy-nine dollars.

AMENDATORY SECTION (Amending Order R-64, filed 2/13/74)

WAC 480-110-176 Filing of records and reports and the preservation of records. (1) All records and reports required by these rules shall be retained on file in the office of the utility at which such records and reports were made, or in such other place as may be especially approved by the commission, for such time as is specifically provided in paragraph (2) of this section, or where no time is specified, for a period of three years.

(2) *The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, Revised ((1963)) 1984* published by the National Association of ~~((Railroad and Utilities))~~ Regulatory Utility Commissioners (NARUC) is hereby prescribed as the requirement for the preservation of records of water companies in the state of Washington. The document is available for public inspection at the commission branch of the Washington state library, housed with the commission's headquarters office. The commission secretary will provide a copy of the document on request, subject to any pertinent charge.

(3) No records shall be destroyed prior to the expiration of ~~((such))~~ the time ~~((or period))~~ specified in paragraphs (1) and (2) of this section, except by prior written permission of the commission.

PERMANENT

WSR 93-12-063

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:12 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering and corrects statute cite, previous cite WAC 4-25-010.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-400 Preamble.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-090 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Rader, CPA
Executive Director

- 4-25-140 CPA certificate—Education requirements.
- 4-25-141 CPA exam—Application.
- 4-25-142 CPA exam—Policy on cheating.
- 4-25-190 Experience.
- 4-25-191 Licenses to practice—Certificates—Individual.
- 4-25-260 Temporary permits.
- 4-25-360 Reinstatement.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- 4-24 Public records—Disclosure.

WSR 93-12-065

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:14 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering and corrects statute cite, previous cite WAC 4-25-360.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-760 Reinstating certificates and licenses.

Statutory Authority for Adoption: RCW 18.04.055(11).

Pursuant to notice filed as WSR 93-08-104 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Rader, CPA
Executive Director

NEW SECTION

WAC 4-25-400 Preamble. These rules are adopted by the Washington state board of accountancy, pursuant to its authority under RCW 18.04.055, the Public Accounting Act. Their purpose is to promote and protect the public interest by implementing the provisions of that act, which provide for the certifying and licensing of practitioners of public accountancy and the regulation of the practice of public accountancy. The further purpose is the enhancing of the reliability of information which is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises.

WSR 93-12-064

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:13 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: Repeal chapter 4-24 WAC and sections of chapter 4-25 WAC that are being recodified.

Citation of Existing Rules Affected by this Order: Repealing WAC 4-25-010, 4-25-040, 4-25-140, 4-25-141, 4-25-142, 4-25-190, 4-25-191, 4-25-260, 4-25-360 and chapter 4-24 WAC.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-089 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Rader, CPA
Executive Director

NEW SECTION

WAC 4-25-760 Reinstating certificates and licenses.

A person or firm whose certificate or license to practice has been revoked or suspended pursuant to RCW 18.04.295 and/or 18.04.305 and/or 18.04.335 may apply to the board for modification of the suspension, revocation, or probation after a minimum of one year has elapsed from the effective date of the board's decision imposing it unless the board sets some other period by order; except that if any previous application has been made with respect to the same penalty, no additional application will be entertained before the lapse of an additional year following the board's decision on the last such previous application.

The application shall be in writing; shall set out and, as appropriate, substantiate the reasons constituting good cause for the relief sought, and shall be accompanied by at least two supporting recommendations, under oath, from licensees who have personal knowledge of the activities of the applicant since the suspension or revocation was imposed.

An application will ordinarily be disposed of by the board upon the basis of the materials submitted in support thereof, supplemented by such additional inquiries as the board may think fit. At the board's discretion a hearing may be held on such an application, following such procedures as the board may deem suitable for the particular case.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 4-25-010 Preamble.
- 4-25-040 Board meetings, officers, fees.

PERMANENT

The board may impose, as a condition for reinstatement of a certificate or permit or modification of a suspension or probation, such terms and conditions as it deems suitable.

In considering an application, the board may consider all activities of the applicant since the disciplinary penalty from which relief is sought was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the certificate or permit was in good standing, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity.

No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court-imposed probation or parole.

WSR 93-12-066
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:15 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering and corrects statute cite, previous cite WAC 4-25-260.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-755 Temporary permits.

Statutory Authority for Adoption: RCW 18.04.055(11).

Pursuant to notice filed as WSR 93-08-103 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
 Carey L. Radar, CPA
 Executive Director

NEW SECTION

WAC 4-25-755 Temporary permits. This board does not issue temporary practice permits to out-of-state CPAs or CPA firms. However, pursuant to RCW 18.04.350(2), a CPA from another state or country may temporarily practice in this state on professional business incident to the CPA's regular out-of-state practice if the CPA holds a valid license to practice public accounting issued by another state or country. A CPA who:

- (1) Maintains an office location in this state; and/or
- (2) Advertises to provide services in this state; and/or
- (3) Collects more than ten percent of gross annual billings from Washington clients; is not deemed to meet the

"incident to" provision and must, therefore, apply for a Washington CPA certificate and licenses within thirty days of the time such CPA's practice ceases to be "incident to" an out-of-state CPA practice.

WSR 93-12-067
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:16 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, corrects statute cite, and removes reference to another WAC section, previous cite WAC 4-25-191.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-740 CPA certificate and license.

Statutory Authority for Adoption: RCW 18.04.215.

Pursuant to notice filed as WSR 93-08-102 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
 Carey L. Radar, CPA
 Executive Director

NEW SECTION

WAC 4-25-740 CPA certificate and license. (1) Application for initial license to practice public accounting and for renewal of license pursuant to RCW 18.04.215 shall be made on a form provided by the board. Application for renewal of licenses and/or certificates shall be filed no later than March 31 of the year of expiration. Renewal of the license to practice public accounting is deemed to be renewal of the associated certificate.

(2) Application for renewal of license or certificate shall be accompanied by evidence satisfactory to the board that the applicant has complied with continuing professional education requirements pursuant to RCW 18.04.105(8).

(3) An application shall not be deemed to be completed until the applicable fees have been received and continuing education requirements have been met.

(4) Certificates and licenses expire on June 30 of every other year and have a duration of two years.

(5) Failure to file or complete an application for certificate or license renewal within the time required by board rule will result in delinquency fees.

(6) In those instances where the applicant for certificate or license renewal fails to file a complete application by June 30 of the year of expiration, the board may enter into an agreement with the applicant to renew the license or certificate under the following condition: The applicant agrees to stipulate that the certificate and license will be suspended effective September 30 of the year of renewal unless the applicant files a complete application with the board prior to that date.

WSR 93-12-068
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:17 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-190.

PERMANENT

Citation of Existing Rules Affected by this Order: New section WAC 4-25-730 Experience.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-101 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Radar, CPA

Executive Director

NEW SECTION

WAC 4-25-730 Experience. Experience required for issuance of an initial license shall meet the requirements of this section:

(1) **Experience definition and timing:** One year of experience shall consist of full-time employment of no less than two thousand hours. For purposes of computing work experience for a part-time employee, two thousand hours shall constitute one year. Employment may be for one or more employers, with or without compensation, and may consist of any combination of full-time and part-time employment. For an applicant who passed the uniform certified public accounting examination prior to May 1988, experience obtained more than five years prior to application for initial license shall be supplemented by eighty hours of continuing education during the two-year period prior to application. For an applicant who passed the examination in May 1988, or thereafter, this experience must cover a minimum twelve-month period and must be obtained no more than five years prior to applying for a license.

(2) **Experience in public accounting:**

(a) An applicant shall show he/she has had employment for a period of one year as a staff accountant under the direct supervision of a currently licensed certified public accountant who is actively engaged in the practice of public accounting and is a member of a firm licensed to practice public accounting. Experience shall be in a CPA firm that participates in a board approved peer or quality review of its accounting or auditing practice. Qualifying experience for purposes of this section shall mean the performance of services as one skilled in the knowledge and practice of public accounting, including performance of accounting or auditing procedures, issuance of reports on financial statements, performance of management advisory or other consulting services, preparation of tax returns and furnishing advice on tax matters.

(b) Public accounting services shall be performed for clients of a certified public accountant or a firm of certified public accountants in compliance with the board's rules and must regularly involve the exercise of independent judgment and the application of appropriate technical and behavioral standards such as the standards contained in the Code of Professional Ethics, Generally Accepted Auditing Standards, Statement of Responsibilities in Tax Practice, Statement on Standards for Management Advisory Services, Statement on Standards for Accounting and Review Services, Statement on Standards for Attestation Engagements and other similar practice standards issued by the American Institute of Certified Public Accountants.

(3) **Experience other than in public accounting:**

(a) The experience required, as stated in subsection (2) of this section, may also be met by work experience, not including in-classroom training, performed under the direct supervision of a currently licensed certified public accountant in a commercial or governmental organization which has filed a sponsorship agreement with the board, acceptable to the board, which among other things specifies:

- (i) The scope of accounting, auditing, consulting, and other services performed within the organization;
- (ii) The professional education and on-job training provided to an applicant prior to application; and
- (iii) The program of review and supervision performed by the internal review committee within the organization which administers the agreement.

(b) Qualifying work experience must be of a type and at a level equivalent to that performed in public accounting practice and must regularly involve the exercise of independent judgment and the application of the appropriate technical and behavioral standards.

(4) **Experience affidavit:** The experience claimed by an applicant shall be verified by the certified public accountant or firm of certified public accountants supervising the applicant on an experience affidavit form provided by the board.

(5) **Examination of experience documentation:**

(a) Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided.

(b) The board may require an interview or an inspection of documentation relating to an applicant's experience. Any licensee having custody of such documentation shall produce it upon request by the board.

(c) Any licensee who refuses to provide the evidence or documentation of the applicant's experience, requested by an applicant or by the board, shall upon request by the board explain in writing or in person the basis for such refusal.

(6) **Reciprocity:** An applicant who applies for initial license in this state shall be required to document experience obtained in another jurisdiction which is equivalent to the requirements of this state.

WSR 93-12-069

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:18 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-142.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-721 CPA examination—Cheating policy.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-100 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Radar, CPA

Executive Director

NEW SECTION**WAC 4-25-721 CPA examination—Cheating policy.**

(1) Purpose. The purpose of this cheating policy is to define cheating for purposes of the CPA examinations and the penalties the board may impose for cheating. Cheating includes, but is not limited to:

(a) Communication between candidates inside or outside of the examination room during the examination.

(b) Unauthorized communication with others outside of the examination room during the examination.

(c) Substitution by a candidate of another person to write one or more of the examination papers for him/her.

(d) Reference to crib sheets, text books, or other material inside or outside the examination room during the examination.

(e) Copying another candidate's answers.

(2) Policy. Cheating on the CPA examination is dishonesty related to the professional responsibilities of a CPA. The board may impose one or more of the following penalties:

(a) Enter a failing grade for any or all parts of the candidate's examination;

(b) Bar a candidate from writing future examinations;

(c) Expel a candidate from the examination room.

Board representatives may move a candidate suspected of cheating away from other candidates. Board representatives may request any candidate suspected of cheating or who may have observed cheating to remain for a reasonable period of time following an examination session for questioning. The board may schedule a hearing to determine the validity of the charge of cheating.

All candidates involved in cheating may be subject to penalties, although not necessarily of the same severity.

Other jurisdictions to which a candidate may apply for the examination may be notified of the board's conclusions and order.

WSR 93-12-070**PERMANENT RULES****BOARD OF ACCOUNTANCY**

[Filed May 27, 1993, 4:19 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-141.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-720 CPA examination—Application.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-099 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993

Carey L. Radar, CPA
Executive Director

NEW SECTION**WAC 4-25-720 CPA examination—Application.**

Applications to take the certified public accountant examination must be made on a form provided by the board and filed with the board on or before March 1 for the May examination and September 1 for the November examination. Applications for the May examination must be postmarked by March 1 (and received by March 10). Applications for the November examination must be postmarked by September 1 (and received by September 10).

An application will not be considered filed until the examination fee has been received.

An applicant who fails to appear for examination or reexamination shall forfeit the fees charged for examination and reexamination. The board may, upon showing of good cause, refund a portion of the examination fee.

Notice of the time and place of the examination shall be mailed at least ten days prior to the date set for the examination to each candidate whose application to sit for the examination has been approved by the board.

(1) A passing grade for each section shall be seventy-five. The board uses the Advisory Grading Services of the American Institute of Certified Public Accountants.

An applicant, at each sitting of the examination in which the applicant takes any section of the examination, must take all sections not previously passed.

(2) Ethics exam. In addition to the uniform CPA examination, candidates shall be required to pass an examination, or alternatively to complete a course of study, prescribed by or acceptable to the board, in professional ethics.

(3) Proctoring CPA exam candidates. The board may agree to request the assistance of another accountancy board in proctoring Washington's applicants at out-of-state exam sites and may agree to proctor another accountancy board's applicants at a Washington exam site, both subject to space and staffing constraints. The board will not arrange for out-of-state proctoring for applicants domiciled out-of-state who wish to take the uniform CPA exam as Washington candidates. Such applicants must take the CPA exam in Washington on a space available basis.

(4) CPA exam—Completion of education requirement. A person who has met the education requirement of WAC 4-25-710, or who expects to meet it within one hundred twenty days following the examination, or with respect to whom it has been waived, is eligible to take the uniform CPA examination provided all other requisites have been satisfied. If a person is admitted to the examination on the expectation that he or she will complete the educational requirement within one hundred twenty days, no certificate may be issued, nor credit for the examination or any section of it be given, unless this requirement is in fact completed within that time or within such time as the board in its discretion may determine upon application.

WSR 93-12-071
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:20 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-140.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-710 CPA certificate—Education requirements.

Statutory Authority for Adoption: RCW 18.04.055(5).

Pursuant to notice filed as WSR 93-08-098 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
 Carey L. Radar, CPA
 Executive Director

NEW SECTION

WAC 4-25-710 CPA certificate—Education requirements. Applicants for a CPA certificate shall have a baccalaureate degree conferred by a college or university recognized by the board. The degree program shall include an accounting concentration or its equivalent and related subjects the board deems appropriate.

(1) Equivalent education. The board may, in its discretion, waive the educational requirements for any person if the board is satisfied that the applicant has successfully completed such equivalency examinations as may be offered by bona fide educational testing organizations. The board will not prepare or offer equivalent education examinations. The board will designate, by resolution, acceptable educational testing organizations and equivalency examinations when and if acceptable organizations and examinations exist.

(2) Education obtained outside the United States. In the case of education obtained outside the United States, the board may, at its discretion, rely on bona fide foreign education credential evaluation services. The board will not provide such services, but will designate acceptable foreign education evaluation services, by board resolution, upon application from service providers.

(3) As used in these rules, a "semester hour" means the conventional college semester hour. Quarter hours may be converted to semester hours by multiplying them by two-thirds.

(4) Accreditation standards. For purposes of this rule, the board will recognize colleges and universities which are accredited in accordance with (a) through (c) of this subsection.

(a) An accredited college or university is a four-year degree-granting college or university accredited at the time the applicant's degree was received by virtue of membership in one of the following accrediting agencies:

(i) Middle States Association of College and Secondary Schools;

(ii) New England Association of Schools and Colleges;

(iii) North Central Association of Colleges and Secondary Schools;

(iv) Northwest Association of Schools and Colleges;

(v) Southern Association of Colleges and Schools;

(vi) Western Association of Schools and Colleges; and

(vii) Accrediting Commission for Independent Colleges and Schools, or its predecessor, the Accrediting Commission of the Association of Independent Colleges and Schools.

(b) If an institution was not accredited at the time an applicant's degree was received but is so accredited at the time the application is filed with the board, the institution will be deemed to be accredited for the purpose of (a) of this subsection provided that it:

(i) Certifies that the applicant's total educational program would qualify the applicant for graduation with a baccalaureate degree during the time the institution has been accredited; and

(ii) Furnishes the board satisfactory proof, including college catalogue course numbers and descriptions, that the preaccrediting courses used to qualify the applicant for a concentration in accounting are substantially equivalent to postaccrediting courses.

(c) If an applicant's degree was received at an accredited college or university as defined by (a) or (b) of this subsection, but the educational program which was used to qualify the applicant for a concentration in accounting included courses taken at nonaccredited institutions, either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant's degree was received, provided the accredited institution either:

(i) Has accepted such courses by including them in its official transcript; or

(ii) Certifies to the board that it will accept such courses for credit toward graduation.

(5) Alternative to accreditation. A graduate of a four-year degree-granting institution not accredited at the time the applicant's degree was received or at the time the application was filed will be deemed to be a graduate of a four-year accredited college or university if a credentials evaluation service approved by the board certifies that the applicant's degree is equivalent to a degree from an accredited college or university as defined in subsection (4) of this section.

(6) Accounting concentration. A concentration in accounting for holders of baccalaureate degrees, for purposes of this rule, shall consist of at least:

(a) Twenty-four semester hours or the equivalent, in accounting subjects including no more than ten semester hours of lower division elementary accounting courses; and

(b) Twenty-four semester hours or the equivalent, in business administration subjects which shall include business law, finance, and economics.

(c) A concentration in accounting for holders of graduate degrees for purposes of this rule shall consist of at least:

(i) Sixteen semester hours or the equivalent in graduate level accounting subjects. Undergraduate accounting courses may be substituted at two-thirds of the stated undergraduate credit; and

(ii) Sixteen semester hours or the equivalent in graduate level business administration subjects which shall include business law, finance, and economics. Undergraduate business courses may be substituted at two-thirds of the stated undergraduate credit.

WSR 93-12-072
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:21 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-040.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-551 Duty to respond to board inquiry.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-097 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-551 Duty to respond to board inquiry.

A licensee shall respond in writing to any communication from the board requesting a response, within twenty days of the mailing of such communications by registered or certified mail, to the last address furnished to the board by the licensee.

WSR 93-12-073
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:22 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-040.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-550 Address changes.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-096 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-550 Address changes. Each licensee shall notify the board in writing within thirty days of any change of address.

WSR 93-12-074
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:23 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-040.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-540 Brief adjudicative proceedings.

Permanent

Statutory Authority for Adoption: RCW 18.04.055.
Pursuant to notice filed as WSR 93-08-095 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-540 Brief adjudicative proceedings. The board adopts the brief adjudicative proceedings procedures permitted by RCW 34.05.482 through 34.05.494 to provide appeal from staff denials of license or certificate applications, good character rulings, agency ethics rulings, and such other matters as the board may decide to address in this manner. The presiding officer for such proceedings shall be the executive director who shall render findings and an order after consulting with one or more board members. Persons aggrieved by a brief adjudicative proceedings order may appeal to the full board for administrative review. Such appeal must be made, orally or in writing, within twenty-one days after receipt of the brief adjudicative proceedings order.

WSR 93-12-075
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:24 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering and changes fees, previous cite WAC 4-25-040.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-530 Fees.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-094 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-530 Fees. Commencing July 1, 1993, the board shall charge the following fees:

- (1) CPA examination applications:
 - (a) One or two sections \$ 120
 - (b) Three sections \$ 140
 - (c) Four sections \$ 160
 - (d) Administration of examination for out-of-state applicants, per section \$ 10
- (2) Application for certificate \$ 50
- (3) Application for certificate by reciprocity from other jurisdictions \$ 150
- (4) Biennial license to practice public accounting, includes certificate renewal fee \$ 80
- (5) Biennial certificate renewal \$ 25
- (6) Biennial firm license:
 - (a) Sole proprietorships (with one or more employees) \$ 60
 - (b) Partnerships \$ 60

PERMANENT

- (c) P.S. corporations \$ 60
- (d) Amendment to firm license \$ 10
- (7) Copies of records, per page \$0.10
- (8) Printed listing of CPAs, CPA firms,
CPA exam candidates, set up charge
plus \$.01/record \$ 50
- (9) Computer diskette listing of CPAs,
CPA firms, CPA exam candidates \$ 50
- (10) Applications for reinstatement \$ 25
- (11) Replacement CPA certificates \$ 25
- (12) Quality Assurance Review program per
financial statement report review
(includes monitoring reviews for up
to two years) \$ 225
- (13) Late or incomplete individual or firm
renewal application, per month or part
thereof, to a maximum of \$200 per
application \$ 25

Note: The board may waive late filing fees for good cause.

WSR 93-12-076
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:25 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering. Clarifies and expands board members' and staff's duties to treat investigation, and other sensitive data, in confidence.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-511 Confidential information.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-092 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-511 Confidential information. Members of the board, board employees, board contract investigators, and board designated volunteers shall not disclose or use to their own advantage any confidential information that comes to their attention in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body established by law or formally recognized by the board.

WSR 93-12-077
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 27, 1993, 4:26 p.m., effective July 1, 1993]

Date of Adoption: May 21, 1993.

Purpose: General housekeeping, reorganizes WAC section numbering, previous cite WAC 4-25-040.

Citation of Existing Rules Affected by this Order: New section WAC 4-25-510 Board meetings, officers.

Statutory Authority for Adoption: RCW 18.04.055.

Pursuant to notice filed as WSR 93-08-091 on April 7, 1993.

Effective Date of Rule: July 1, 1993.

May 24, 1993
Carey L. Radar, CPA
Executive Director

NEW SECTION

WAC 4-25-510 Board meetings, officers. An annual meeting of the board shall be held in December each year. At least six other meetings shall be held each year, normally in the months of February, April, June, August, October, and November. Such regular board meetings will normally be on the last Friday of the month, with the exceptions of November and December meetings which shall normally be on the third Friday of the month. The chair or a quorum of the board shall have the authority to call meetings of the board. The board shall follow and apply the rules of procedure, chapter 34.05 RCW, as regards to notice and conduct of meetings.

At the annual meeting the board shall elect from among its members the chair, vice-chair, and secretary. The officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, but shall be eligible for reelection for an additional term.

The chair or, in the event of the chair's absence or inability to act, the vice-chair shall preside at all meetings of the board. Other duties of the officers shall be such as the board may from time to time determine.

WSR 93-12-082
PERMANENT RULES
GAMBLING COMMISSION

[Filed May 28, 1993, 9:44 a.m., effective July 1, 1993]

Date of Adoption: May 28, 1993.

Purpose: WAC 230-04-400, to be consistent with the provision of RCW 9.46.075; WAC 230-20-670, clarify wording the subsection (3) to read "no Class B or above commercial amusement game operator shall allow operation of a game at a premise which has not been previously licensed by the commission"; WAC 230-20-685, to comply with the recent amendment to WAC 230-04-138(k) which allows commercial amusement games to be operated in grocery stores; WAC 230-40-055, addition of "free roll" or customer appreciation tournament requirements to paragraph (2); WAC 230-02-270, amend rule to remove language relating to alternative punchboards utilizing electronically determined positions, numbers or symbols; WAC 230-25-160, to be consistent with changes made to WAC 230-30-050, pull tabs shall be removed from the packaging container and mixed before selling to the public, and WAC 230-30-070, flare deletion and record of wins greater than twenty dollars; WAC 230-30-060, amend rule to delete provisions for electronic punchboards. No such device currently exists; WAC 230-30-080, consolidate and clarify standards and requirements for coin-operated pull tab dispensing devices; WAC 230-30-095, consolidate and clarify standards and requirements for coin-operated pull tab dispensing devices.

Delete requirement for direct commission approval of each device and prototype and retention by commission of each such device approved; WAC 230-30-097, consolidate and clarify standards and requirements for coin-operated pull tab dispensing devices; and WAC 230-30-100, consolidate and clarify standards and requirements for coin-operated pull tab dispensing devices.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-400, 230-20-670, 230-20-685, 230-40-055, 230-02-270, 230-25-160, 230-30-060, 230-30-080, 230-30-095, 230-30-097, and 230-30-100.

Statutory Authority for Adoption: RCW 9.46.075 for WAC 230-40-400; RCW 9.46.070(2) and 9.46.0331(2) for WAC 230-20-670 and 230-20-685; RCW 9.46.070 and 9.46.0325 for WAC 230-40-055; RCW 9.46.070 for WAC 230-02-270, 230-30-060, 230-30-080, 230-08-095, 230-08-097 and 230-30-100; and RCW 9.46.070 (8)(11)(14) for WAC 230-25-160.

Pursuant to notice filed as WSR 93-07-082 on March 18, 1993, for WAC 230-04-400, 230-20-670, 230-20-685 and 230-40-055; WSR 93-07-081 on March 18, 1993, for WAC 230-02-270, 230-25-160 and 230-30-060; WSR 93-07-083 on March 18, 1993, for WAC 230-30-080, 230-30-095 and 230-30-100; and WSR 93-07-087 on March 19, 1993, for WAC 230-30-097.

Effective Date of Rule: July 1, 1993.

May 28, 1993
Sharon M. Tolton
Rules Coordinator

AMENDATORY SECTION (Amending Order 51, filed 4/30/76)

WAC 230-04-400 Denial, suspension or revocation of licenses. The commission may deny a license((;)) or permit((;)) to any applicant, or may suspend or revoke any and all licenses or permits of any holder, when ~~((such person))~~ the applicant or holder, or any other person with any interest in the applicant ~~((for,))~~ or holder ~~((of, such license or permit))~~:

(1) ~~((Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto;~~

~~(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;~~

~~(3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;~~

~~(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of any crime, whether a felony or misdemeanor involving any gambling activity or involving moral turpitude;~~

~~(5) Denies the commission or its authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted or who fails promptly to produce for inspection or audit any book, record, or document required by law or regulation;~~

~~(6) Shall fail to display its license on the premises where the licensed activity is conducted at all times during the operation of the licensed activity;~~

~~(7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;~~

~~(8)) Commits any act that constitutes grounds under RCW 9.46.075 for denying, suspending, or revoking licenses or permits;~~

(2) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person, whether any of these crimes is a misdemeanor or felony;

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;

(4) Is serving a period of probation or community supervision imposed as a sentence for any criminal offense, whether juvenile, misdemeanor, or felony, and whether or not the offense is covered under RCW 9.46.075(4); *Provided*, That each case will be individually analyzed to determine the extent to which the probationary or supervisory status affects the person's qualifications to hold a license or permit;

(5) Is the subject of an outstanding gross misdemeanor or felony arrest warrant;

(6) Poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations;

(7) When other than a charitable or nonprofit organization operates punchboards or pull tabs, or operates or allows card games at any time other than as a commercial stimulant;

~~((9))~~ (8) Fails to provide at the office of the commission any information required under the commission's rules within the time required therefor by applicable rule, or if no maximum time has been established respecting the particular kind of information by other rule then within ~~((30))~~ thirty days after receiving a written request therefor from the commission or its staff;

~~((10) Allows any person who has been convicted of, or forfeited bond upon, any of the offenses set out in (4) above to participate in the management or operation of any activity regulated by the commission without prior written approval of the commission or its director.))~~ (9) Allows any person to participate in the management or operation of any activity regulated by the commission without prior written approval of the commission or its director when that person:

(a) Has been convicted of, pleaded guilty to, or forfeited bond upon any of the offenses set out in RCW 9.46.075(4);

(b) Has violated any other provisions of chapter 9.46 RCW or Title 230 WAC; or

(c) Would otherwise be subject to denial or revocation under the provisions of this section.

(10) Commits any other act that the commission determines constitutes a sufficient reason in the public interest for denying, suspending, or revoking licenses or permits.

AMENDATORY SECTION (Amending Order 233, filed 10/19/92, effective 11/19/92)

WAC 230-20-670 Commercial amusement games—Operating requirements. (1) Each location where commercial amusement games are operated shall be required to obtain a commercial amusement game license.

(2) A person licensed for Class A (premise only) commercial amusement games may enter into a contract with a Class B or above commercial amusement game licensee to operate amusement games on their premises. The contract must be written and specific in terms, setting out the time of the contract, revenue sharing plan and all expenses to be borne by each party: *Provided*, That the revenue sharing plan may be based on a percentage of revenue generated by the activity if the method of distribution is specific. All contracts regarding the operation of amusement games shall be submitted to the commission and become part of the licensee file.

(3) No Class B or above commercial amusement game operator shall ~~((locate a game at a premises which is not))~~ allow operation of a game at a premise which has not been previously licensed by the commission.

AMENDATORY SECTION (Amending Order 230, filed 9/18/92, effective 10/19/92)

WAC 230-20-685 Commercial amusement games—Wager and prize limitations. For locations authorized under WAC 230-04-138 (1)(g), (i), ~~((or))~~ (j), or (k) where school-aged minors are allowed to play, the following limitations shall apply.

(1) Prize limitations. No prize offered shall exceed a cost to the operator of one hundred dollars.

(2) Consideration. The maximum wager for play shall not exceed fifty cents.

AMENDATORY SECTION (Amending Order 184, filed 10/24/88)

WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the commission. Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: *Provided*, That Class B licensees are limited to only those card games authorized under their licensing class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. The licensee shall notify the commission ten days in advance of any card tournament where the single or multiple buy-in exceeds ~~((50.00))~~ fifty dollars. A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed ~~((50.00))~~ fifty dollars, including all separate fees which might be paid by a player for various phases, events of the tournament, food and drink offerings, and promotional material. The fee to enter a tournament and a description of all goods and services to be provided as a part of the tournament must be fully disclosed to each

entrant prior to their paying such fee. Such disclosure must be posted conspicuously on the premises at the time payment is received and remain posted until the tournament is complete. This same information must be included in all advertisements for said tournament. Operators may offer "free roll" or customer appreciation tournaments provided that the pretournament play requirements do not exceed the fifty-dollar entry fee limitation. Entrants in such tournaments must initially be provided with the same number of chips or points and the same opportunity for re-buys. All prizes awarded for free roll or customer appreciation tournaments may be deducted as prizes for determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(3) All fees paid to enter a tournament shall be reported as gross gambling receipts: *Provided*, That if an operator prepares and provides food and drink items to all tournament entrants on the licensed premises as a part of their entry fee, the fair market value of the food and drink provided, not to exceed ~~((25 or 50%))~~ twenty-five dollars or fifty percent of the entry fee, which ever is greater, shall be treated as sales of food and drink for on premise consumption and not included as gross gambling receipts. Such sales, must be properly supported by records: *Provided further*, That if an operator provides items promoting the tournament or licensed business, such as hats, t-shirts, etc., to all participants as a part of their entry fee, the actual cost of such items, supported by invoices and other such records, shall be deducted as prizes in determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(4) In addition to the entry fee, a minimum buy-in of chips may be required. The total buy-in per player shall not exceed ~~((200.00))~~ two hundred dollars per tournament and may be either a single or multiple buy-in during the course of the tournament. A record of the buy-ins for each participant will be maintained by the licensee in a format provided by the commission. All buy-ins of chips are not gross gambling receipts and shall be returned to the participants in the form of prizes. Prizes from buy-ins are not deductible for commercial stimulant purposes.

(5) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in ~~((paragraph (2) above))~~ subsection (2) of this section. The licensees actual cost for prizes awarded to the players may be deducted ~~((from the gross))~~ as prizes for determining adjusted net gambling receipts generated by the entry fees.

(6) The licensee shall adopt tournament rules to facilitate the operation of card tournaments: *Provided*, That all tournament rules for tournaments where the single or multiple buy-in exceeds ~~((50.00))~~ fifty dollars must be submitted to the commission for approval. All tournament rules must be posted where all tournament participants can see and read the rules.

(7) The licensee shall maintain a record of all such fees collected and the number of participant for each tournament conducted. This information shall be entered in a format approved by the commission. The total gross gambling receipts for the tournament shall be entered on the card room daily control sheet for the time and date the tournament

begins and the record of participants shall be attached and maintained with that daily control sheet.

(8) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant: *Provided, That* the name and address of each participant receiving promotional items as set forth in ~~((paragraph (3) above))~~ subsection (3) of this section shall not be required on the prize record. The record shall be attached to the daily control sheet used on the date the majority of the prizes are awarded.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86)

WAC 230-02-270 Punchboard defined. ~~((1))~~ "Punchboard" means a board or device containing a number of receptacles of uniform size in which are placed, at random, punches (slips of paper or other substance, imprinted with numbers or symbols) and which:

~~((a))~~ (1) A specific serial number is assigned to the punchboard and printed on each punch;

~~((b))~~ (2) A flare or face sheet covers the receptacles and sets out the winning numbers or symbols and prizes which may be won;

~~((c))~~ (3) Upon the payment of consideration, a player may select and remove a punch from a ~~((receptacle [receptacle]))~~ receptacle; and

~~((d))~~ (4) A prize is awarded if the number or symbol, set out on the selected punch, matches a symbol on the flare or face sheet.

~~((2))~~ ~~In the alternative, electronic devices may be used to replace the receptacles and punches with representative electronic positions and randomly assigned numbers or symbols: *Provided, That* the following conditions must be met:~~

~~(a) A physical flare or face sheet must cover the electronic positions and no video representation of a punchboard is used;~~

~~(b) To select a chance a player must physically punch a hole in the flare or face sheet;~~

~~(c) Numbers or symbols must be assigned to each electronic position prior to the first punch by a player and remain fixed to the assigned positions during the entire play of the game;~~

~~(d) A receipt, setting out the numbers, symbols, or punch number selected, is furnished to the player after each punch is selected;~~

~~(e) Must provide a commission approved audit trail; and~~

~~(f) The electronic device and the flare must be submitted to, and approved by, the commission prior to being offered for sale in the state.)~~

AMENDATORY SECTION (Amending Order 194, filed 7/18/89, effective 8/18/89)

WAC 230-25-160 Pull tabs at fund raising events—Operational requirements—Limitations. ~~((1))~~ The following requirements shall be utilized in the sale of pull tabs at fund raising events.

~~((a))~~ (1) All pull tab series for use at fund raising events shall contain the inspection identification stamps and

record entry labels and shall be purchased for specific use at fund raising events.

~~((b))~~ (2) Pull tabs shall ~~((only be sold out of the original shipping container or))~~ be removed from the packaging container and mixed before selling to the public. All pull tabs will be sold out of a noncoin operated dispensing device (clear container). Pull tab prices shall be equal to the price set by the manufacturer for each specific series. The maximum price for any pull tab shall not exceed fifty cents.

~~((c))~~ (3) Up to a maximum of three pull tab series may be out for play at one time. All pull tabs shall be sold from a booth or similar confined area which prohibits public access to the pull tabs~~((;))~~.

~~((d))~~ (4) Each pull tab series shall constitute a separate table and have a separate number. Each series shall have a separate corresponding lock box, money paddle, chip rack for making change and payment of prizes~~((, and a winners register))~~. All currency, coin, or chips used to purchase pull tabs, shall immediately be placed in the corresponding lock box by the attendant(s) on duty. All change given back to players shall be in the form of chips or coin.

~~((e))~~ (5) All winning pull tabs shall be defaced when cashed in and deposited in the corresponding lock box. Winning pull tabs shall be paid in chips and coin only. *Provided:* Winning pull tabs may be redeemed for additional tabs from the same series only. When a winning pull tab of ~~((5))~~ five dollars or more is cashed, the attendant shall ~~((immediately delete that prize from the corresponding flare with a black marker. In addition, the attendant(s) shall fill out the winners register for prizes paid in excess of twenty dollars;~~

~~((f))~~ conspicuously delete all references to that prize being available to players from the flare prior to awarding the prize. In addition, for prizes over twenty dollars, the attendant(s) will verify the winner's identity and record the date, and initial the winning pull tab. The winner shall be required to print their name and date of birth in ink on the winning pull tab or to an attached sheet of paper.

(6) When a series is removed from play, the series (including the flare), the corresponding lock box and chip rack shall be transported to the count room by a runner at which time the box shall be opened for tabulation. All ~~((monies))~~ moneys collected, prizes paid and tabs sold shall be tabulated and recorded on the pull tab accounting report furnished by the commission in accordance with the instructions attached to the accounting report.

~~((g))~~ (7) After completing the count, winning pull tabs shall be packaged separately or banded and placed with the unused portion of that particular series in the original shipping container. The organization must retain the used series for a period of one year~~((; and))~~.

~~((h))~~ (8) At the completion of the fund raising event, all series still out for play shall be transported to the count room in accordance with ~~((paragraphs (f) and (g))~~ subsections (6) and (7) of this section. All unopened pull tab series shall be returned to the licensed distributor who furnished the series for a full refund. Pull tabs may not be sold, or transferred to another licensee.

AMENDATORY SECTION (Amending Order 164, filed 1/13/87)**WAC 230-30-060 Punchboard restrictions.** ~~((+))~~

No operator shall put out for play, and no manufacturer shall sell or furnish to any person, any punchboard ~~((or electronic punchboard:~~

~~(a) Which has not been submitted to the commission staff and been approved for sale by the commission staff in the state of Washington. An identical prototype of the electronic punchboard must be submitted to the commission for review and approval. The commission shall retain the device actually submitted when approved.)):~~

~~((b))~~ (1) To which any key to any winning number, or symbol, exists other than a key which is furnished to the operator, which key designates the color codes for all chances on that board without regard to whether or not such chances are designated winners.

~~((c))~~ (2) Which has taped sides, corners, or edges.

~~((d))~~ (3) Wherein the winning punches or approximate location of any winning punches can be determined in advance of punching the punchboard in ~~((an [any]))~~ any manner or by any device, including, but not limited to, any patterns in manufacture, assembly, packaging or programming. Winning punches shall be distributed and mixed among all other punches in the punchboard. The punchboard shall be manufactured or programmed with special care so as to eliminate any pattern as between punchboards, or portions of punchboards, from which the location or approximate location of the winning punches may be determined.

~~((2) When electronic punchboards are submitted for approval or modification, the commission shall assess an estimated fee to the person submitting the request, which fee is equal to the actual cost of review and analysis of the electronic punchboard submitted and which fee shall be paid prior to the electronic punchboard being approved for use and sale in the state of Washington. Excess fees collected shall be returned to the applicant at the completion of the review and analysis.))~~

AMENDATORY SECTION (Amending Order 222, filed 4/18/91, effective 5/19/91)

WAC 230-30-080 Limitation on pull tab dispensing devices. (1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.

(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.

(3)(a) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device until any other series of pull tabs previously in, or upon, the device has been played out or permanently removed from public play.

(b) Provided, that in the use of a multiple series dispenser, each series shall be played independently and in accordance with the provisions in (a) above.

(4) No pull tab once placed in, or if a spindle upon, a pull tab dispensing device out for public play shall be removed from the dispensing device until the series is permanently removed from public play, except only:

(a) Those pull tabs actually played by consumers,

(b) Those pull tabs removed by representatives of the commission, or other law enforcement agency inspecting the device, and

(c) Those tabs temporarily removed during necessary repair or maintenance of the device. Excepting only tabs removed under (b) and (c) hereinabove, once a pull tab has been removed from public play it shall not again be put out for public play.

(5) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device used for dispensing that series.

~~(6) (No person shall sell or transfer to another person in this state, or for use within this state, or shall place out for public play any device for the dispensing of pull tabs not so constructed as to allow a consumer to clearly see each pull tab within, or if a spindle upon, the device prior to playing the device. However, a metal plate, not to exceed 3/4 inch in height, may be affixed across the front at the bottom of the dispensing columns of a mechanical pull tab dispensing device.~~

~~(7) No person shall sell or transfer to any other person in this state, or for use within this state, or put out for public play any device for the dispensing of pull tabs without permanent lines or markings on the face or viewable through the face of the device and clearly visible to the consumer which effectively divide the tabs remaining in the device into divisions of approximately 25 tabs so that the consumer can determine how many tabs remain within the device.~~

~~(8) No person shall put out for public play any device for the dispensing of pull tabs which is not so constructed as to provide for at least one selection position for every 1,200 pull tabs originally in the series in play in the machine.~~

~~(9))~~ No person shall sell or transfer to another person in this state, or for use within this state, or put out for public play, any pull tab series which contains more than 6,000 individual pull tabs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-30-095 Pull tab dispensing devices to be submitted to commission for approval prior to sale.

NEW SECTION

WAC 230-30-097 Standards—Coin-operated pull tab dispensing devices. Operators may utilize coin-operated pull tab dispensing devices provided that each such device meets the following standards:

(1) Devices must be manufactured by a manufacturer licensed by the Washington state gambling commission.

(2) Devices shall have conspicuously set forth thereon a stamp, seal, or label which identifies its manufacturer and the city and state of its manufacture.

(3) Devices shall have the manufacturer's serial number for that device stamped or embossed into its case.

(4) Devices shall be constructed so that consumers can clearly see each pull tab within the device, except that area at the bottom of the device, not to exceed one inch in height, covered for security or mechanical reasons.

(5) Devices shall have permanent lines or markings which divide the pull tabs remaining in the device into divisions of approximately twenty-five tabs so that the consumer can determine how many tabs remain within the device.

(6) Devices shall have one selection position for every one thousand two hundred pull tabs originally in the series.

(7) Devices utilizing bill acceptors or similar devices that do not return change shall clearly disclose that fact to the consumer.

AMENDATORY SECTION (Amending Order 90, filed 6/14/79)

WAC 230-30-100 Punchboards and pull tabs ((device)) to display name of its licensed manufacturer.

(1) No operator shall put out for play, and no distributor or manufacturer shall sell or otherwise furnish, any punchboard((;)) or series of pull tabs ((~~or device for the dispensing of pull tabs~~)) unless each such board((;)) or series((; ~~or device~~)) shall have conspicuously set forth thereon a stamp, seal or label which identifies its manufacturer and the city and state of its manufacturer.

(2) ~~((Any coin operated pull tab dispensing device manufactured or sold in this state, or for use in this state, and initially placed out for play on or after August 1, 1976, shall have the manufacturer's name, the city and state of its manufacturer, and the manufacturer's serial number for that device stamped or embossed into its case. The manufacturer shall keep a permanent record describing each such device sold, identifying the purchaser and setting out that serial number.~~

~~The manufacturer's serial number shall be set out on the sales invoice each time the device is sold or transferred.~~

~~((3))~~ Each individual pull tab shall have conspicuously set forth thereon the name of the manufacturer or label or trademark which identifies its manufacturer. The label or trademark must be filed with the commission prior to the printing of the pull tab.

~~((4))~~ (3) No operator shall put out for play and no distributor shall sell or otherwise furnish, any punchboard((;)) or series of pull tabs ((~~or coin operated device for the dispensing of pull tabs~~)) unless the manufacturer of punchboards((;)) or series of pull tabs ((~~or coin operated device for the dispensing of pull tabs, identified on such device~~)) has been licensed by the commission.

**WSR 93-12-085
PERMANENT RULES
PERSONNEL BOARD**

[Order 418—Filed May 28, 1993, 10:14 a.m., effective July 1, 1993]

Date of Adoption: May 13, 1993.

Purpose: This rule outlines reasons why the director of personnel would refuse to examine, disqualify, or remove an applicant from a register and/or certification.

Citation of Existing Rules Affected by this Order: Amending WAC 356-22-070.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 93-08-047 on April 2, 1993.

Effective Date of Rule: July 1, 1993.

May 18, 1993
Marilyn Glenn
Acting Secretary

AMENDATORY SECTION (Amending Order 414, filed 1/5/93, effective 2/1/93)

WAC 356-22-070 Applications—Disqualification.

The director of personnel is expected to follow accepted standards of personnel practice in screening applicants and may refuse to examine an applicant, may disqualify an applicant after examination or may remove the applicant's name from a register and/or certification or refuse to certify the applicant if:

(1) The applicant is found to lack any of the requirements ((~~established~~)) for the register (as defined in WAC 356-26-030) ((~~or the~~)), class, and/or position.

(2) The applicant has been convicted of any infamous crime, a crime involving moral turpitude, or any crime which would be grounds for dismissal from the position for which he/she is applying.

(3) The applicant has made a false statement of material fact in the application.

(4) The applicant has previously been dismissed or resigned from private or public service for delinquency, misconduct, inability to do similar work, or any other such cause directly bearing upon fitness as an employee.

(5) The applicant has used, or attempted to use, bribery to secure an advantage in the examination or appointment.

(6) The applicant has directly or indirectly obtained information regarding examinations to which he/she was not entitled.

(7) The applicant has otherwise violated provisions of these rules.

(8) The applicant has taken part in the compilation, administration or correction of the examination.

(9) The applicant has a disability, as evidenced by a written statement from a physician or a licensed mental health professional, that renders the employer unable to reasonably accommodate the applicant in any position within the class.

**WSR 93-12-086
PERMANENT RULES
PERSONNEL BOARD**

[Order 419—Filed May 28, 1993, 10:20 a.m., effective July 1, 1993]

Date of Adoption: May 13, 1993.

Purpose: This rule describes under what circumstances employees would be compensated for shift premium.

PERMANENT

Citation of Existing Rules Affected by this Order:
Amending WAC 356-15-060.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 93-09-059 on April 20, 1993.

Effective Date of Rule: July 1, 1993.

May 18, 1993
Marilyn Glenn
Acting Secretary

AMENDATORY SECTION (Amending Order 406, filed 6/26/92, effective 7/27/92 [8/1/92])

WAC 356-15-060 Shift premium provisions and compensation. (1) Basic shift premium shall be paid in the amount specified in WAC 356-15-061.

(2) For purposes of this section, evening shift is defined as a work shift of eight or more hours which ends at or after 10 p.m. Night shift is defined as a work shift of eight or more hours which begins by 3:00 a.m.

(3) Full time employees shall be entitled to basic shift premium under the following circumstances:

(a) Employees whose assigned hours consist entirely of evening and/or night shifts are entitled to shift premium for all hours of their scheduled evening and/or night shifts and for all (~~adjoining~~) additional hours which are worked and compensated.

(b) Employees are entitled to shift premium for all scheduled hours after 6 p.m. or before 6 a.m.

(c) Employees assigned to work at least one, but not all, night and/or evening shifts, are entitled to shift premium for those scheduled evening or night shifts, and for all (~~adjoining~~) additional hours which are worked and compensated.

(d) Employees who regularly work a day shift schedule and who are assigned extended hours are entitled to shift premium for all hours worked after 6 p.m. or before 6 a.m.

(4) Part-time and intermittent employees shall be entitled to basic shift premium under the following circumstances:

(a) For all assigned hours of work after 6 p.m. and before 6 a.m.

(b) For assigned full night or evening shifts, as defined in subsection (2) of this section.

(5) **Monthly shift premium rates:** In cases where shift premium hours are regularly scheduled over a year, agencies may pay shift premium at a monthly rate which is equal for all months of the year. Such monthly rates shall be calculated by dividing twelve into the amount of shift premium an employee would earn in a year if the hourly rules in subsection (2) of this section were applied. This option is granted to simplify bookkeeping and is not authorized to establish shift premium rates higher or lower than those set by the board.

(6) **Shift premium and overtime:** When an employee is compensated for working overtime during hours for which shift premium is authorized in this section, the overtime rate shall be calculated using the "regular rate" as defined in WAC 356-05-353.

(7) **Payment during leave and for holidays not scheduled to work:** Employees eligible for shift premium for their scheduled shifts will receive the same proportion of

shift premium for respective periods of authorized paid leave and for holidays not worked which fall within their usual scheduled shift.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 93-12-087
PERMANENT RULES
PERSONNEL BOARD**

[Order 420—Filed May 28, 1993, 10:22 a.m., effective July 1, 1993]

Date of Adoption: May 13, 1993.

Purpose: This rule allows for employees to be compensated at a greater range of pay than the classification has been allotted.

Citation of Existing Rules Affected by this Order:
Amending WAC 356-14-075.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 93-08-044 on April 2, 1993.

Effective Date of Rule: July 1, 1993.

May 18, 1993
Marilyn Glenn
Acting Secretary

AMENDATORY SECTION (Amending Order 256, filed 8/15/86, effective 10/1/86)

WAC 356-14-075 Y-rate—Administration. (1) A Y-rate is a dollar amount that is treated as the basic salary for an employee.

(2) A Y-rate is set by the director of personnel or other provisions of the merit system rules at an amount other than that which would be paid if such action were not taken.

(3) A Y-rate (~~(W)~~) will remain in effect until one of the following occurs:

(a) A specific date established by the director of personnel is reached; or

(b) The employee (~~leaves the class or~~) voluntarily leaves the position (~~he/she~~) occupied when the Y-rate was approved except for transfers due to reduction-in-force; or

(c) The range for the employee's present class is increased to include the Y-rate amount which formerly exceeded the top of the range. At that time, the employee's basic salary shall become the maximum step of the salary range for the class; or

(d) The range for the employee's present class is increased, but had already encompassed the employee's Y-rate, which was between normal steps. At that time, the employee's basic salary shall advance to the normal step of the range which provides the closest to, but not greater than, the increase in the range; or

(e) The employee's salary is reduced pursuant to WAC 356-34-020; or

(f) The Y-rate is subsequently modified by the director of personnel.

(4) On its effective date, a Y-rate will cause the employee to lose his or her periodic increment date unless the salary is between steps of the range.

(5) Salary increases approved by the legislature shall not move the basic salary of a Y-rated employee higher than the top step of the salary range assigned to that employee's classification, unless the salary appropriations act specifically provides for increases above the top step for Y-rated employees.

(6) The director of personnel shall keep records of all Y-rate approvals.

WSR 93-12-088
PERMANENT RULES
PERSONNEL BOARD

[Order 421—Filed May 28, 1993, 10:25 a.m., effective July 1, 1993]

Date of Adoption: May 13, 1993.

Purpose: WAC 356-26-030 lists all register designations as well as general information in regards to composition, ranking, provisions, and length of each register. WAC 356-30-130 defines and describes general guidelines for seasonal career employment.

Citation of Existing Rules Affected by this Order: Amending WAC 356-26-030 and 356-30-130.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 93-08-042 on April 2, 1993.

Effective Date of Rule: July 1, 1993.

May 18, 1993
Marilyn Glenn
Acting Secretary

AMENDATORY SECTION (Amending Order 224, filed 6/24/85)

WAC 356-26-030 Register designation. (1) Agency reduction in force.

(a) Composition.

(i) The agency reduction in force register will consist of classes and the names of all employees who hold or have held permanent status in those classes and: (A) Have been notified they are scheduled for reduction in force; or (B) held permanent status prior to separation due to a reduction in force; or (C) who have accepted a voluntary demotion in a class in lieu of a reduction in force; or (D) were in a trial service period with another department and separated due to reduction in force; or (E) employees requesting to be placed on this register for classes held immediately prior to the position being reallocated downward; or (F) who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the director of personnel a current statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status since the employee's last separation other than a reduction in force, or in which he/she served more than six months on a position which would have meant permanent status had it been under the jurisdiction of the state personnel board at the time.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(ii) An ~~(E)~~ employee's name ~~(s)~~ shall not appear for classes at or below the range level of a class in which the employee ~~(s)~~ ~~(are)~~ is serving on a permanent full-time basis, except:

(A) ~~(*)~~ When the employee ~~(s)~~ ~~(have)~~ has accepted an option ~~(s)~~ beyond a reasonable commuting distance in lieu of separation due to reduction in force. ~~(In the excepted cases.)~~ ~~(t)~~ The employee's ~~(s)~~ name ~~(s)~~ may appear for classes at the same or lower range levels when the availability would return the employee ~~(s)~~ back to ~~(their)~~ his/her previous work location ~~(s)~~.

(B) When the employee has accepted a position in lieu of separation due to a reduction in force, in a different class series.

(C) Any other exceptions shall be approved by the director or designee.

(2) Service-wide reduction in force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction in force register, except for those requesting to be on the agency reduction in force register following a reallocation downward.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-agency reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees

appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency promotional.

(a) Composition.

(i) This register will be established by appropriate classes for each agency and shall include the names of those current permanent employees of each agency who have served six months of a probationary period, or past permanent employees who have been separated due to reduction in force within the last year and who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months.

(5) Service-wide reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

(6) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of ranking.

(i) This register will be unranked.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

(7) Voluntary demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of ranking.

(i) This register shall be unranked. However, employees subject to reduction in force shall have priority.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

(8) Service-wide promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees who have served six months of a probationary period or past permanent employees who have been separated due to reduction in force within the last year who have obtained a passing final grade in the total promotional examination. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months. Persons on this register will indicate the geographic areas and agencies for which they are available.

(9) Reemployment.

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within five years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction in force status and have been offered and declined employment. The director of

personnel may extend the time during which an employee may apply for reemployment if the director of personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

- (b) Method of ranking.
- (i) This register shall be unranked.
- (c) Life of register.
- (i) An eligible's name will normally remain on this register for two years.

- (d) Special provisions.
- (i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.

- (10) Inter-system employment.
- (a) Composition. This register shall contain the names of permanent classified employees under the jurisdiction of the higher education personnel board who have submitted an application and who have passed the required examination.

- (b) Method of ranking. This register shall be ranked according to final passing score from the highest to the lowest.

- (c) Life of register. An eligible's name will normally remain on this register for one year.

- (d) Special provisions. Employees appointed from this register will serve a six month trial service period.

- (11) Open competitive.
- (a) Composition.
- (i) This register will contain the names of all persons who have passed the entrance examination.

- (b) Method of ranking.
- (i) This register shall be ranked by the final score.
- (c) Life of register.
- (i) An eligible's name will normally remain on this register for one year unless changed by the director of personnel.

- (d) Special provisions.
- (i) Persons on this register will indicate the geographic areas for which they are available.

AMENDATORY SECTION (Amending Order 202, filed 5/2/84)

WAC 356-30-130 Seasonal career employment. (1) Seasonal career employees are those in seasonal career positions or employees whose repeated pattern of work is defined as the second pattern (2) in the definition of seasonal career employment.

(2) Positions which are established to respond to cyclic work load requirements and which meet the definition of seasonal career employment shall be established as seasonal career positions: *Provided*, That the agency will not establish seasonal career positions which circumvent the utilization of full-time positions.

(3) An initial appointment into seasonal career employment shall be from a register or lists; except that employees selected for a fourth consecutive season of cyclical temporary employment, as provided in the definition of seasonal career employment, shall be granted a seasonal career appointment provided they pass a qualifying examination for the classification in which they are employed.

(4) Upon completion of the probationary period of 1040, 1560, or 2080 accumulated scheduled hours (if serving a six-month, nine-month, or twelve-month probationary period), employees in seasonal career employment shall assume the rights of a permanent employee. Past service that later entitles employees to seasonal career employment will count toward permanent status at the beginning of the fourth qualifying season.

(5) Seasonal career employees affected by reduction in force, reduction in hours of work, subsequent reemployment or increase in scheduled hours of work will have their reduction in force rights only within their seasonal career layoff unit and will compete based on seniority. Notification of reduction in force or alterations of work schedules shall be given no later than two working days prior to the effective date. Seniority gained by seasonal career employees during seasonal layoff shall be disregarded.

(6) Seasonal career reduction in force registers shall be maintained and posted within their respective agencies in accordance with the agency's reduction in force procedures and policies.

(7) Seasonal career employees separated due to a reduction in force shall be placed on a separate seasonal career reduction in force register for the season (~~from~~) and/or duration for which they were laid off.

WSR 93-12-093 PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 31, 1993, 3:32 p.m.]

Date of Adoption: May 31, 1993.

Purpose: Revise general reporting rules, classification plan, and corresponding base rate tables applicable to workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries.

Citation of Existing Rules Affected by this Order: Amending chapter 296-17 WAC, Manual of rules, classifications and rating system for Washington workers' compensation insurance.

Statutory Authority for Adoption: RCW 51.04.020(1) and 54.16.035.

Pursuant to notice filed as WSR 93-07-114 on March 24, 1993.

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

May 31, 1993
Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 90-13-018, filed 6/8/90, effective 7/9/90)

WAC 296-17-350 Minimum premiums—Assumed worker hours. A minimum premium is the lowest amount of premium to be paid by an employer and is also the basis for determining premium computation for workers for whom an assumed number of worker hours must be, and hereby, is established:

(1) **Minimum premium.** Except as otherwise provided in this chapter, every employer shall be liable for a premium

not less than ten dollars for any calendar quarter regardless of number of worker hours reported.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Building or property management.** Resident managers, caretakers, or similar employments that are employed for irregular periods and whose compensation is for a stipulated sum in money or a substitute for money shall be reported for the purpose of premium calculation by dividing total compensation by (~~(\$6.00)~~) the average hourly wage for classification 4910 as contained in WAC 296-17-89501 "average hourly wages" to determine reportable assumed hours. Provided that the reportable exposure calculated under this subsection shall not exceed 520 hours per quarter for each worker.

(4)(a) **Commission personnel—Inside employments.** Commission personnel—inside employments are persons whose compensation is based upon a percentage of the amount charged for the commodity or service rendered and who are employed exclusively within an office having no duties away from the office. Commission personnel—inside employments are to be reported for premium purposes at a minimum of assumed worker hours of not less than eight worker hours a day for part-time employment, or not less than 40 worker hours per week for full-time employment unless the employer maintains and presents to the department's representative at the time of audit payroll records that show in detail the name of each such commissioned worker, the actual number of hours worked for each such worker and the date or dates the services were rendered. If actual time records are maintained then such actual hours shall be reported to the department and premiums paid on such actual hours.

(b) **Commission personnel—Outside employments.** Commission personnel—outside employments are persons whose compensation is based upon a percentage of the amount charged for the commodity or service rendered and who are employed to perform duties primarily away from the employers premises although some office work may be performed. Commission personnel—outside employments are to be reported for premium purposes at a minimum of assumed worker hours of not less than eight worker hours a day for part-time employment, or not less than 40 worker hours per week for full-time employment: *Provided*, That the assumed eight worker hours daily for part-time employment will apply only if the employer's books and records are

maintained so as to show separately such person's actual record of employment.

(5) **Salaried personnel.** Salaried personnel for the purposes of this chapter means persons whose compensation is not governed by the number of hours devoted to employment for their employer. Employers having salaried personnel in their employ shall for the purpose of premium calculation report assumed worker hours based upon one hundred sixty worker hours for each month in which the employee is on salary: *Provided*, That if the employer maintains complete and accurate records, supported by original time cards or timebook entries, the employer may report and pay premium on the actual hours worked by salaried personnel: *Provided further*, That the department may, at its discretion, authorize some other method in assuming workers hours for premium calculating purposes in the case of contract personnel employed by schools and/or school districts.

(6) **Piece workers.** For employees whose compensation is based upon the accomplishment of a number of individual tasks whether computed on the number of pounds, items, pieces, or otherwise who are not subject to any federal or state law or rule which requires the reporting of actual hours worked, the employer shall for the purpose of premium calculation assume each two dollars of earnings of each employee as representing one worker hour: *Provided*, That if the average rate of compensation for the applicable classification is at least \$3.00 but less than \$3.50 per worker hour the assumed amount shall be \$3.00 of earnings as representing one worker hour, and on a progressive basis, if the average compensation is at least \$3.50 but less than \$4.00 the assumed amount shall be \$3.50 of earnings as representing one worker hour, and so forth. The records of the department as compiled for the preceding fiscal year ending June 30, shall be the basis for determining the average rate of compensation for each classification: *Provided further*, That an employer who maintains records but is not required to do so shall report the actual hours worked for the purpose of premium calculation. In the event an employer who is otherwise required by federal or state laws or rules to maintain records of actual hours worked by each employee fails to do so, the worker hours of such employees will be determined by dividing the gross wages of each employee by the state minimum hourly wage to determine the hours reported for the purpose of premium calculation. Notwithstanding any other provisions of this section, workers employed in a work activity center pursuant to WAC 296-17-779 shall be reported on the basis of the piece worker rule.

(7) **Noncontact sports teams.** All employers having personnel in their employ as defined under WAC 296-17-745 shall for the purpose of premium calculations, report assumed worker hours based upon 40 worker hours for each week in which any duties are performed.

(8) **Jockeys and race drivers.** All employers having personnel in their employ as defined under WAC 296-17-739 shall, for the purpose of premium calculations, report assumed worker hours based upon ten hours for each mount in each horse race; professional drivers shall report worker hours based upon ten hours for each heat or race of any racing event: *Provided*, That any day such personnel do not ride or drive in a race, the premium calculation shall be

made by assuming ten worker hours for any day in which duties are performed.

(9) **Pilots and flight crew members.** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: *Provided*, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: *Provided further*, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-430 General exclusions. Some operations are so exceptional or unusual that they are excluded from the scope of all basic classifications. Such operations are referred to as general exclusions and are subject to the division of worker hours rules in all classifications including the standard exception classifications. The following operations are excluded from all basic classifications including the standard exception classifications unless they are specifically included.

(1) Aircraft operation - All operations of the flying crew.

(2) Racing operations - All operations of the drivers and pit crews.

(3) Diving operations - All operations of diving personnel and ship tenders who assist in diving operations.

In addition to the above (~~two~~) three listed exclusions, the following operations are similarly excluded from all basic classifications, provided that no division of these operations shall be permitted between the basic classifications assigned to cover these operations and any standard exception classifications.

(a) New construction or alterations by employees of the employer.

(b) Musicians and entertainers.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-440 Standard exceptions. The following employments referred to as standard exceptions are to be separately rated unless these employments are specifically included within the scope of a basic classification by use of words such as "including clerical office and outside sales." (Use of the words "clerical office" will also include draftsmen and use of the words "sales personnel" will also include collectors, messengers and corporate officers.) Provided that a division of a single employee's worker hours shall not be permitted between two standard exception classifications or between a standard exception classification and a basic business classification except as provided in the general exclusion rules of this manual.

The standard exceptions are defined below:

(1) Clerical office employees are defined as those employees whose duties are confined to keeping the books or records of the employer, or conducting correspondence or who are engaged wholly in office work where such books or

records are kept or where such correspondence is conducted, having no other duty of any nature in or about the employer's premises. If any clerical office employee is exposed to any operative hazard of the business, their entire worker hours shall be assigned to the highest rated classification of work to which they are exposed. The clerical office classification shall be applied only to persons as herein described who are employed exclusively in separate buildings or on separate floors of buildings or in departments on such floors which are physically separated from all other work areas of the employer by structural partitions and within which no work is performed other than clerical office duties as defined in this paragraph.

(2) Draftsmen will be considered to be clerical office employees when their duties are limited to office work only and who are engaged strictly as draftsmen in such a manner that they are not exposed to the operative hazard of the business. If any draftsman is exposed to any operative hazard of this business, their entire worker hours shall be assigned to the highest rated classification of work to which they are exposed.

(3) "Sales personnel - outside" covered under risk classifications 6301, 6302, and 6303 are defined as those employees engaged in such duties away from the premises of the employer who sell or solicit new accounts or customers for the employer or who service existing accounts or customers for the employer. Provided that no employee shall be assigned to a sales classification code if their duties include delivery, even though they may also solicit or collect. Employees having delivery duties, even if they walk or use public transportation, shall be assigned to the basic classification of the employer.

(4) Messengers will be considered sales employees, provided the following conditions are met:

(a) The messenger is used solely by the employer in connection with the administration of the employer's business operation.

(b) The operation is not provided to the public as a general delivery service.

(c) The employer's basic classification does not include the standard exception classification designations.

If all the above conditions do not exist, any employee assigned such duties shall be assigned to the governing classification of the employer when multiple basic classifications are assigned or to the basic classification in the event an employer has only a single basic classification assigned.

(5) Corporate officers are defined as those employees of a corporation elected and empowered in accordance with the articles of incorporation or bylaws as officers of the corporation who are also shareholders and serve on the board of directors of the corporation and whose duties are limited to administrative, clerical office and outside sales activities for the corporations. Any corporate officer who performs any duty that relates directly to the operational activities of the business shall be assigned to the basic classification(s) of the employer applicable to the work being performed. A corporate officer engaged exclusively in outside sales shall be assigned classification 6303. In no event however will a corporate officer be assigned the clerical office classification 4904.

With the exceptions of occupations falling within any classification that specifically includes clerical office, inside

draftsmen or sales personnel, the following designated occupational classifications shall apply.

Classification 4904 clerical office employees including inside draftsmen.

Classification 6303 sales personnel, outside or away from the employers premises including collectors, counselors, N.O.C., and messengers.

Classification 6301 automobile, truck, camper, trailer, mobile home, motorcycle and pleasure craft sales personnel.

Classification 6302 all door to door sales personnel.

Classification 7101 corporate officers.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-450 Special agricultural classification interpretations. Farming in classifications 4802 through 4806, 4808, 4809, 4810, 4811, 7301, 7302, and 7307 will include farm labor by contractors and farm machinery operations by contractors.

To qualify for separate ratings (classifications), separate and distinct payroll records of each such operation will be required.

If a single establishment or work comprises more than one of classifications 4802 through 4806, 4808, 4809, 4810, 4811, 7301, 7302, and 7307 and the language of the classifications under consideration allow for a division of payroll hours then the premiums shall be computed according to the payroll of each classification provided distinct payroll records have been kept for each such operation, otherwise, the operation will be assigned to the highest rated classification representing any portion of the work being performed. Separate agricultural classifications shall not be assigned to any agricultural operation which is within the scope of another basic classification assigned to the business. For example an employer engaged in the business of raising livestock would not be permitted to report the growing of crops which is used to feed such animals under a separate classification since the risk classification governing livestock farms includes the raising of such crops. The department in its discretion may assess a single rate of premium for an agricultural establishment when a substantial portion of the operation falls within one classification, and in such cases, the entire operation will be required to be reported in such largest classification: *Provided*, That under no circumstance will the hand-picking classification (4806) apply for the purpose of single rating an entire establishment engaged in other phases of agricultural activities. *Provided further*, that farm labor contractors shall be assigned the classification(s) applicable to the agricultural establishment for whom they are providing services.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-501 Classification 0101.

Airports, landing strips, runways and taxi ways((:)): Construction and repair

Alley and parking lot: Construction

Diking, N.O.C. - including oil spill clean-up involving diking and/or ditching work

Excavation work, N.O.C.

Forest trail construction, fire fighting and slash burning, N.O.C.

Grading work, N.O.C. - including land leveling and grading of farm lands by contractor

Highway, street and road, N.O.C.: Construction((, N.O.C.,)) and repair - includes operations such as grading, grubbing, clearing, surfacing, striping, guard rail((;)) highway divider((;)) installation, highway lighting and highway sign((;)) installation

Humus or peat digging - including humus or peat dealers

Land clearing, N.O.C. - including slope grooming (~~and forest trail construction, firefighting, and slash burning, N.O.C.~~)

Parking lot striping

Pit, crusher and bunker operations in connection with road, street and highway construction

Railroad((;)) line: Construction, maintenance and repair, N.O.C., - including the dismantling of tracks and the sale of salvaged track metal and ties

Retaining wall((;)): Construction or repair when done in connection with road, street and highway construction, N.O.C.

Sand ((;)), gravel, or shale: Digging, N.O.C.

Tunnels and approaches - including lining, cofferdam work, shaft sinking, and well digging with caisson

This classification excludes bridge construction which is to be reported separately ((rated under risk)) in classification 0201 ((WAC 296-17-508)) although such a structure may be constructed as a part of a highway, street or road construction project(~~- This classification further excludes~~); logging road construction (~~rated under risk~~) which is to be reported separately in classification 6902 ((WAC 296-17-747)); ((railroad bridge construction rated under risk classification 0201 (WAC 296-17-508) "bridge construction";)) log railroad construction ((rated under risk) which is to be reported separately in classification 6902 ((WAC 296-17-747)); and tunnels and approaches - including lining, cofferdam work, shaft sinking and well digging with caisson done in connection with dam construction (~~rated under risk~~) which is to be reported separately in classification 0701 ((WAC 296-17-528)).

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-506 Classification 0106.

Tree topping and pruning, N.O.C. (~~includes spraying or fumigating in connection with tree topping, repairing or trimming~~) - use of this classification is limited to employers engaged in providing a variety of tree care services such as tree topping and tree pruning. Work performed subject to this classification will generally take place in residential areas, or settings adjacent to roadways, parking lots, business parks, shopping malls. A primary purpose of this work is to remove tree or branch hazards from power lines or building structures. This classification includes all the incidental ground operations such as picking up branches and limbs, operating mobile chip machines used in connection with a tree topping or limbing operation, spraying or fumigating, and debris removal. This classification excludes

tree pruning done in connection with an orchard operation which is to be reported separately in classification 4803; tree pruning done in connection with a nursery operation which is to be reported separately in classification 4805; tree topping or tree pruning done in connection with a public or private forest, range land operation which is to be reported separately in classification 5004; or tree pruning done in connection with a Christmas tree farm operation which is to be reported separately in classification 7307.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-50601 Classification 0107.

Invisible fence installation

Pipelaying, N.O.C.

Utility line construction: Underground type, N.O.C. - including television cable, power, and telephone lines.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-50602 Classification 0108.

Ditches and canals, N.O.C.

Sewer construction

Septic tank installation, including drainfield construction

Tanks, N.O.C. - underground type: Installation and repair.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-510 Classification 0301.

~~((Agricultural irrigation pipe installation, service or repair
Agricultural sprinkler system installation, service or repair
Chemical spraying and fumigating
Landscape gardening
Landscaping and lawn yard care
Lawn type sprinkler systems installation, service or repair
This classification includes sodding, seeding, planting, and related landscape work for the beautification of median strips and roadsides but excludes crop dusting by aircraft rated under risk classification 6903 (WAC 296-17-748) and ditches and canals rated under risk classification 0108 (WAC 296-17-50602).))~~ Landscape gardening

Lawn and yard care

This classification includes all work related to employers engaged in landscaping or lawn and yard care such as planting or replanting a lawn, including mixing and spreading top soil, seeding or sodding, chemical spraying or fertilizing; all lawn care such as mowing, edging, and thatching; planting and caring for trees, shrubs, and plants; installing, servicing, or repairing underground lawn or landscape sprinkler systems; weeding flower beds; spreading decorative rock or garden bark; and the construction of incidental arbors or trellis and rock or brick paver walkways when done in connection with landscaping or lawn care project or contract

This classification also includes the installation, service, and repair of above and below ground agricultural sprinkler/irrigation systems; and the planting, spraying or

fumigating trees, shrubs, and plants when done separate from and not in connection with or incidental to tree care services and care of landscape for the beautification of median strips and roadsides

This classification excludes chemical spraying by aircraft which is to be reported separately in classification 6903; land clearing or grading operations which are to be reported separately in classification 0101; construction or maintenance of ditches or canals which are to be reported separately in classification 0108; tree care services by contractor which are to be reported separately in risk classification 0106; or contract forest and range land service activities for public or private landowners are to be reported separately.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-512 Classification 0306.

Boilers, N.O.C., installation, service or repair including boiler scaling and tank erection within buildings

Hot water heater - installation, service, or repair

Plumbing, N.O.C.; including incidental side sewer hook ups (street to house) when performed by a plumbing contractor subject to this classification, and only when it is performed as a part of a plumbing contract which includes installation of water lines and waste carry systems within a building; and sewer pipe cleaning including services provided by Roto Rooter or similar service providers engaged in line cleaning or unplugging. Side sewer hookups done as a separate contract is to be separately reported in classification 0101 "Excavation"

Pump installation, service or repair, N.O.C.

~~((Sewer pipe cleaning, including Roto Rooter or similar service providers~~

~~Side sewer installation (street to house hook ups) including service or repair))~~

Sprinkler installation - automatic

Steam pipe, boiler, etc., covering insulation

Water softening or treatment systems - installation of new equipment systems.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-521 Classification 0508.

Blast furnace and metal burners construction

Crane or derrick installation

Elevated railway, tram, lift, etc., construction, maintenance and repair

Exterior tanks - all types - erection, maintenance or repair, N.O.C.

Oil still or refinery construction. Excludes plant maintenance by contractor which is to be reported separately under risk classification 0603

Radio, television, water towers, poles and towers, N.O.C. - erection, maintenance and repair

Smokestacks - erection, maintenance and repair

Water cooling towers or structures - metal or wood: Erection, maintenance, and repair

Windmills - all types, erection, maintenance and repair, silo erection

This classification includes erection of skeletons for pillars, posts and like columns, all excavations, foundation work, and dismantling and repairing of above types of structures.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-52102 Classification 0510.

Wood frame building construction((;)) or alteration, ((~~or repair;~~) N.O.C.

For the purposes of this rule wood frame building construction means buildings erected exclusively of wood or wood products.

This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and installation of exterior doors and door frames whether performed by a general or specialty contractor.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-52108 Classification 0516.

Building repair and carpentry, N.O.C.

Playground equipment: Installation - wood.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-52110 Classification 0518.

Building construction, N.O.C., including alterations ((~~or repairs;~~)

Carport construction - metal: Erection

Service station canopy - metal: Erection.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-524 Classification 0603.

Dynamos((;)): Installation, service and repair including electrical generators and turbines

Engines and gas machines: Service and repair including installation ((and)), replacement of drive belts, erection of shafting

Machinery: Installation, service and repair ((and millwright work;)) - including installation and repair of escalator and conveyor systems, printing presses, and commercial laundry equipment N.O.C. and millwright work, N.O.C.

Playground equipment - metal: Installation and repair

This classification includes the dismantling of all the above types of machinery and will also include plant maintenance by contractor which will be rated as millwright work.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-526 Classification 0606.

Amusement devices, N.O.C.: Installation, service, repair, and removal - coin-operated in stores and shopping malls

Coin-operated machines - money collecting service

Fire extinguisher sales and service

Vending or coin-operated machines, operation, installation maintenance and service, includes product preparation by vending company

This classification excludes honor snack food services which will be reported under risk classification 1101 driver delivery sales, provided that in the event such an operation is conducted as a part of and in connection with an operation rated in this classification (0606), risk classification 0606 will be assigned to cover both operations.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-527 Classification 0607.

Advertising display service for stores within buildings

Dead bolt installation - new construction by locksmith

Drapes or curtain: Installation

Household appliances - electrical: Installation, service and repair

Meat slicer or grinder: Installation, service and repair

Rubber dock bumper: Installation

Safes and vaults((;)): Installation and removal

Television antenna or satellite disc: Installation and repair

Venetian blinds and shades((;)): Installation

This classification will include installation, service and repair of radio and television receiving sets, two-way radio, car stereo systems and radio-television repair.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-53504 Classification 1007.

~~((Lumber inspectors~~

~~Foresters, forest rangers, timber cruisers and surveyors~~

~~Log scaling and grading bureaus~~

~~Shingle and shake inspection and grading bureaus~~

~~Inspection and grading bureaus, N.O.C.~~

~~Geophysical exploration, N.O.C., no core drilling~~

~~Weather stations~~

~~Testing and inspecting of pipe lines - radiographers~~

~~Weigh scale attendants~~

~~Prospectors~~

~~X-raying by contractor at industrial plants or construction sites~~

~~Rainmaking - not by aircraft;))~~

Foresters, forest rangers, timber cruisers and surveyors

Geophysical exploration, N.O.C., no core drilling

Inspection and grading bureaus, N.O.C.

Log scaling and grading bureaus

Lumber inspection services

Prospectors

Rainmaking - not by aircraft

Surveyor services, N.O.C.Testing and inspecting of pipe lines - radiographersWeather stationsWeigh scale attendants, N.O.C.X-raying by contractor at industrial plants or construction sites

Classification 1007, classification 5004, and classification 5005 shall not be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses and each business has separate and distinct employees.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-538 Classification 1103.

Coal merchants, solid fuel yards, firewood dealers, excludes operations subject to risk classification 1004 (WAC 296-17-53501), risk classification 1702 (WAC 296-17-549), risk classification 1703 (WAC 296-17-550), risk classification 5001 (WAC 296-17-659).

~~((Lumber yards, building material dealers, not done in connection with or incidental to a manufacturing or processing plant operation also excluding yard operations rated under risk classification 1002 (WAC 296-17-534.)))~~

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-545 Classification 1501.

Counties and taxing districts, N.O.C., all other employees
Housing authorities, local public, all other employees including meter readers

Indian tribal councils, all other employees

~~This classification excludes ((hospital districts subject to risk classification 6105 (WAC 296-17-682); library districts, museum districts and school districts subject to risk classifications 6103 (WAC 296-17-680) and 6104 (WAC 296-17-681); port districts subject to risk classification 4201 (WAC 296-17-629); public utility districts subject to risk classification 1301 (WAC 296-17-539) and 1507 (WAC 296-17-546); law enforcement officers subject to risk classification 6905 (WAC 296-17-750); and fire fighters subject to risk classification 6904 (WAC 296-17-749)))~~ public utility districts subject to risk classification 1301 (WAC 296-17-539) and 1507 (WAC 296-17-546); bus or transit services subject to risk classification 1404; port districts subject to risk classification 4201 (WAC 296-17-629); library districts, museum districts and school districts subject to risk classifications 6103 (WAC 296-17-680) and 6104 (WAC 296-17-681); hospital districts subject to risk classification 6105 (WAC 296-17-682); fire fighters subject to risk classification 6904 (WAC 296-17-749); and law enforcement officers subject to risk classification 6905 (WAC 296-17-750)

This classification also excludes clerical office and white collar employees.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-555 Classification 2002.

Freight handler(s) services - packing, handling or shipping merchandise N.O.C.

Refrigeration car(s) - loading, unloading or icing

This classification also includes employees engaged in repackaging of goods from damaged containers.

This classification excludes drivers or other employees with driving duties which are to be reported separately under risk classification 1102 without a division of work hours.

NEW SECTION**WAC 296-17-56101 Classification 2009.**

Building material dealers, warehouse centers, home improvement centers, and lumber yards: Wholesale or retail
Pump, plumbing, irrigation pipe, and pipe supply dealers: Wholesale or retail

Farm supply stores: Wholesale or retail

Hardware stores with lumber or building material supplies: Wholesale or retail

For the purposes of this rule the term "building materials" includes but is not limited to such items as wallboard, roofing, insulation, sheet metal, bricks, blocks, windows, etc.

This classification includes all store and yard operations with inventory of building material, lumber and lumber products. Such stores may also carry a variety of hardware items, hand and power tools, paints, floor coverings, garden supplies, housewares, and similar types of products

This classification excludes delivery drivers which are to be separately rated under risk classification 1101 "Delivery-stores: Retail/wholesale." This classification further excludes all other activities conducted away from the shop or plant operation.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-562 Classification 2101.

Grain milling, feed mills, feed manufacture(s) - including preparation of cereal or compound feeds for livestock ((Farm supply stores))

Flour mills

Hay, grain or feed dealers

Seed merchants including operation of seed sorting machinery.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-568 Classification 2903.

Boat: Manufacturing, repair, or refinish - wood

Box, shook, pallet, bin: Manufacturing, assembly or repair - wood - including assembly work performed at the customer's place of business

Door, jamb, window, sash, stair, molding and miscellaneous millwork manufacturing, prehanging or assembly - wood

Furniture stock manufacturing - wood

Lumber remanufacturing

Sign manufacturing - wood

Truss manufacturing - wood

Veneer products manufacturing

Wood chip, hog fuel, bark, bark flour, presto log and lath manufacturing

Wood products manufacturing or assembly N.O.C.

Sawmill operations to be reported separately under risk classification 1002. Veneer manufacturing to be reported separately under risk classification 2904

~~((This is a shop or plant only classification but does not contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. This classification excludes all installation activities away from the shop or plant.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-56901 Classification 2905.

Furniture and casket manufacturing or assembly - wood

Furniture refinishing including repair - wood

Furniture refinishing with no repair work is to be reported separately under risk classification 3603

Physically separated upholstery departments of firms engaged in furniture or casket manufacturing, assembly or finishing may be reported separately under risk classification 3808, and in accordance with WAC 296-17-410

~~((This is a shop or plant only classification but does not contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. This classification excludes all installation activities away from the shop or plant.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-57001 Classification 2907.

Cabinet, countertop, and fixture: Manufacturing, modifying or assembly - wood

~~((This is a shop or plant only classification but does not contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. This classification excludes all installation activities away from the shop or plant.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-57002 Classification 2908.

Truck canopy: Manufacturing metal or wood - shop only
Housing((?)) - residential((?)) type: Factory-built((?)) - shop only

Mobile homes, campers and travel trailers: Manufacturing - shop only

This classification excludes fiberglass canopy manufacturing which is to be reported separately in classification 3511.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-57003 Classification 2909.

Woodenware: Household and sporting goods manufacturing or assembly, N.O.C.

This classification excludes wood products manufacturing or assembly reported under risk classifications 2903, 2905, and 2907

~~((This is a shop or plant only classification but does not contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. This classification excludes all installation activities away from the shop or plant.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-572 Classification 3102.

Rock wool insulation: Manufacturing((?)) - digging or quarrying to be separately rated.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-574 Classification 3104.

Plaster mills and whiting manufacturing, quarrying to be separately rated

Talc mills and emery works

Asbestos products manufacturing, including spinning or weaving, mica goods manufacturing

Soapstone or soapstone products manufacturing, marble cutting and polishing, slate milling

Stone cutting and polishing, N.O.C., away from quarry

Plasterboard or plaster block manufacturing

~~((Asphalt works, grinding, pulverizing or mixing asphalt))~~

Coating of building materials, N.O.C. - shop operations

Monument dealers who do stonecutting, engraving or sandblasting.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-579 Classification 3401.

Automobile, truck, body and fender repair shops, including painting and incidental upholstery and glass repair

Automobile, truck, motor home, mobile home, camper, and trailer sales and/or rental agency((?)) - including parts departments, repair shops, and canopy sales (~~and~~), Includes canopy installation by dealers subject to this ((classification)) subclassification. This subclassification also includes passenger shuttle services done in connection with rental or repair services

Automobile((?)) or truck((?)): Repair shops or garages - including parts departments

Automobile((?)) or truck service specialty shops - including sales, installation and repair of air conditioning systems, electrical systems, cruise controls, mufflers, and sun roofs

Boat dealers((?)) - including repair shops and parts departments

Marinas and boat house operations((?)) - including repair shops and parts departments

Motor home - service and repair shops including parts departments

This classification will include mobile home delivery and set-up when done by employees of the mobile home sales agency.

Contractors doing set-up and delivery of mobile homes who are not employees of the mobile home sales agency will be rated under risk classification 0517 (WAC 296-17-52109).

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-580 Classification 3402.

Abrasive wheel manufacturing
 Air compressor manufacturing or assembly, elevator manufacturing, gear grinding or manufacturing
 Automobile or truck, radiator and heater core manufacturing and repair shops
 Auto body manufacturing - truck, trailer, bus body manufacturing, travel trailer body repair
 Auto or motorcycle manufacturing or assembly
 Auto or truck engine manufacturing, aircraft engine manufacturing or rebuild, N.O.C.
 Auto or truck parts, machining or rebuild not in vehicle
 Battery manufacturing, assembly and repair: Storage type
 Bed spring or wire mattress manufacturing
 Confectioners machinery manufacturing or assembly, food processing machinery manufacturing or assembly, precision machined parts, N.O.C., manufacturing
 Coppersmithing, shop
 Die castings manufacturing
 Furnace, heater or radiator manufacturing
 Heat treating metal
 Lead burning, metal spraying - copper
 Machinery manufacturing or assembly, N.O.C.
 Machine shops, N.O.C., including mobile shops, tool sharpening and marine engine repair
 Nut, bolt, screw, nail, tack, rivet, eyelet, spike and needle manufacturing, N.O.C.
 Office machinery manufacturing or assembly, N.O.C., cash register and sewing machine manufacturing or assembly
 Photo processing machinery manufacturing or assembly
 Power saw, lawn and garden equipment and small motor repair, N.O.C.

Printing or bookbinding machinery manufacturing or assembly

Pump manufacturing or assembly, safe manufacturing or assembly, scale manufacturing or assembly including repair, auto jack manufacturing or assembly, water meter manufacturing or assembly including repair

Saw manufacturing or assembly

Sewing machine, commercial - repair and rebuild

Shoe machinery manufacturing or assembly, sprinkler head manufacturing or assembly, textile machinery manufacturing or assembly

Small arms, speedometer and carburetor manufacturing or assembly including rebuild

Tool manufacturing, machine finishing

Tool manufacturing, not hot forming or stamping, die manufacturing - ferrous

Valve manufacturing

Welding or cutting, N.O.C. including mobile operations

~~((This is a shop or plant only classification but does contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification.

This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. ((Unless outside activities are specifically provided for they are to be separately rated)) This classification excludes all activities away from the shop or plant

This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations rated within this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-582 Classification 3404.

Aluminum ware manufacturing - from sheet aluminum
 Auto or truck parts manufacturing or assembly N.O.C. - miscellaneous stamped parts
 Awning manufacturing or assembly - metal
 Brass or copper goods manufacturing
 Cans manufacturing - aluminum or galvanized
 Coffin-casket manufacturing or assembly, other than wood
 Electric or gas lighting fixtures, lampshades or lantern manufacturing or assembly - metal
 Furniture, shower-door, showcases - not wood - manufacturing or assembly
 Galvanized iron works, manufacturing - not structural
 Hardware manufacturing, N.O.C.
 Metal goods manufacturing, N.O.C., from material lighter than 9 gauge
 Metal stamping, including plating and polishing
 Sign manufacturing - metal
 Ski manufacturing and toboggan manufacturing other than wood
 Stove manufacturing, excluding wood stove manufacturing and other stoves made from material 9 gauge or heavier rated under risk classification 5209 (WAC 296-17-67602)
 Water heater manufacturing or assembly

Window, sash or door manufacturing or assembly - aluminum

Physically separate upholstery departments of firms engaged in furniture, coffin or casket manufacturing, assembly, or finishing may be separately rated under risk classification 3808 (WAC 296-17-612), and in accordance with WAC 296-17-410

~~((This is a shop or plant only classification but does contemplate))~~ Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. ~~((Unless outside activities are specifically provided for they are to be separately rated))~~ This classification excludes all activities away from the shop or plant

This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations rated in this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-58201 Classification 3405.

Aircraft parts manufacturing, N.O.C.

For the purpose of this rule; aircraft parts means the component parts making the aircraft operative and becoming part of the aircraft when being manufactured by the aircraft manufacturing company

Provided that this classification will not be assigned to an employer who has operations rated in risk classification 3402 (WAC 296-17-580); risk classification 3404 (WAC 296-17-582); risk classification ~~((3508-(WAC 296-17-592))~~ 3510 (WAC 296-17-59202); 3511 (WAC 296-17-55203); 3512 (WAC 296-17-59204); or risk classification 5201 (WAC 296-17-670) unless such operations are conducted as a distinct and separate business undertaking and rated in accordance with WAC 296-17-390

This is a shop or plant only classification but does contemplate work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-584 Classification 3407.

~~((Gas or oil dealers, wholesale or retail, including fuel oil, propane or butane~~

~~Asphalt, bitumen dealers~~

~~Oil refining petroleum, including manufacturing of products obtained therefrom~~

~~Gasohol distilling or refining~~

~~Asphalt or tar, distilling or refining~~

~~Oil wells operation - oil or gas lease operators~~

~~Oil or gas wells - cementing~~

~~Oil or gas wells - specialty tool operation, N.O.C., by contractor~~

~~Oil or gas wells - installation or recovery of casing~~

~~Gas dealers, liquified petroleum gas, gas works, all operations~~

~~Oil or gas lease work, N.O.C. - by contractors - not lease operation~~

~~Oil or gas pipe line operation~~

~~Synthetic rubber manufacturing~~

~~Gasoline recovery from casing head or natural gas-))~~

~~Asphalt, bitumen dealers~~

~~Asphalt or tar, distilling or refining~~

~~Asphalt paving material - manufacturing~~

~~Asphalt roofing material - manufacturing~~

~~Gas dealers, liquified petroleum gas, gas works, all operations~~

~~Gas or oil dealers, wholesale or retail, including fuel oil, propane or butane~~

~~Gasohol distilling or refining~~

~~Gasoline recovery from casing head or natural gas~~

~~Oil or gas lease work, N.O.C. - by contractors - not lease operation~~

~~Oil or gas pipe line operation~~

~~Oil or gas wells - cementing~~

~~Oil or gas wells - installation or recovery of casing~~

~~Oil or gas wells - specialty tool operation, N.O.C., by contractor~~

~~Oil refining-petroleum, including manufacturing of products obtained therefrom~~

~~Oil wells operation - oil or gas lease operators~~

~~Synthetic rubber manufacturing.~~

NEW SECTION

WAC 296-17-58502 Classification 3410.

Convenient grocery stores or mini markets with self-service gasoline operations.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-594 Classification 3602.

Camera manufacturing or assembly including repair in shop
Dental laboratories

Electric cordset radio and ignition assembly

Electronic circuit board assembly, N.O.C.

Electronic products manufacturing; resistors, capacitors, chip and relays manufacturing

Fishing tackle manufacturing, N.O.C., including assembly

Incandescent lamp manufacturing, electric tube or transistor manufacturing

Instrument manufacturing, scientific, medical or professional
Jewelry manufacturing or engraving

Magnetic tape manufacturing

Motion picture projectors manufacturing or assembly including repair in shop

Musical instrument repair - metal

Silverware manufacturing, watch case manufacturing

Sound recording equipment, thermometer and steam gauge manufacturing

Stereo components manufacturing or assembly

Tag, button, zipper or fastener manufacturing, bottle cap manufacturing

Telegraph or radio apparatus manufacturing, N.O.C.

Telephone set manufacturing or repair, N.O.C.

Trophy engraving
Watch manufacturing

This is a shop or plant only classification although the classification allows for repair work when specified it is contemplated that such repairs are limited to those brought into the shop by the customer or sent through a common carrier. This classification excludes all outside repair work

This classification does not apply to the production of raw material for use in the manufacturing of the above articles.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-604 Classification 3708.

Abrasive cloth preparation
Awning, tent, sail, flag, wind sock or sleeping bag: Manufacturing
Bag or sack - industrial size: Manufacturing or renovating - cotton, burlap, gunny, nylon, or textile
Braid, net, plush and velvet, thread, webbing and yarn: Manufacturing
Broom and brush: Manufacturing or assembly
Carpet or rug: Manufacturing
Cordage, rope or twine: Manufacturing
Cotton batting, wadding or waste: Manufacturing
Cotton cord or cotton twine: Manufacturing
Fire hose: Manufacturing from linen thread
Fishing rod wrappings: Manufacturing
Life preservers and canvas goods: Manufacturing, N.O.C.
Linoleum, oil cloth or imitation leather: Manufacturing
Match: Manufacturing
Mattress or box springs: Manufacturing - no manufacturing wire springs or excelsior
Nylon or synthetic goods: Manufacturing, N.O.C.
Parachutes, suspenders, fur goods and bandages: Manufacturing
Pillow, quilt or cushion: Manufacturing including stuffed animal or doll manufacturing
Spinning or weaving - natural or synthetic fibres, N.O.C.
Taxidermists and hide pelting
Textile: Manufacturing, N.O.C.
Wader, wet suit, and survival suit: Manufacturing
Wool combing or scouring.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-606 Classification 3802.

Artificial feather or flower: Manufacturing, N.O.C.
Clothing or cloth goods: Manufacturing, N.O.C.
Cloth printing
Computer covers and accessories: Manufacturing, N.O.C. - cotton, nylon, or other textiles
Dressmaking or tailoring
Fabric: Coating, impregnating or waterproofing, N.O.C.
Gloves: Manufacturing, N.O.C.
Handbags or packs: Manufacturing - cotton, nylon, or other textile
Hosiery: Manufacturing

Lace, embroidery, cloth hats, umbrella and draperies: Manufacturing
Millinery: Manufacturing
Textiles: Bleaching, dyeing, or finishing - new goods, not garments
Wig making.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-618 Classification 3905.

Cocktail and soft drink lounges
Commissaries and restaurants with construction, erection, logging or mine operations
Eating establishments, N.O.C., such as public lunch counters in stores, ice cream parlors, popcorn stores or stands, and retail candy stores with on premise manufacturing
Espresso/coffee stands and carts
Food, drink, candy, etc. concessionaires at parks, tracks and exhibitions including vending concessionaires dispensing food, drink, candy, etc. at ball parks, race tracks, theatres and exhibitions
Restaurants and taverns
This classification is not applicable to street vendors or route food services who shall be rated under class 1101 (WAC 296-17-536).

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-61804 Classification 3909.

Caterers
Meals on wheels
This classification excludes route food services reported separately, in risk classification 1101.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-646 Classification 4805.

Christmas tree sales from u-cut farms or retail sales lots
Nurseries(??) - including incidental greenhouse operations (~~incidental thereto~~)
This classification applies to all acreage devoted to nursery operations (~~and~~) including tree nurseries and sod growing
Classification 4805 and classification 5004 shall not be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses and each business has separate and distinct employees.

AMENDATORY SECTION (Amending WSR 91-12-014, filed 5/31/91, effective 7/1/91)

WAC 296-17-669 Classification 5109.

Heavy arms: Manufacturing or repair
Heavy machinery and equipment: Manufacturing or repair
Press rollers: Recoating or resurfacing
Locomotive engine: Manufacturing or repair.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-676 Classification 5207.

Bowling ((~~alleys~~)) centers

Skating rinks - ice or roller

This classification includes food and beverage operations.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-67601 Classification 5208.

Brass, bronze, iron-ornamental - shop fabricating, assembly and manufacturing

Iron or steel works, shop, fabricate or assemble structural iron or steel

Iron works - shop - fabricate, assemble or manufacture nonstructural iron or steel

Iron works - shop - manufacturing railings, staircases, fire escapes, etc.

~~((This is a shop or plant only classification but does contemplate work being performed in an adjacent yard when operated by an employer having operations subject to this classification~~

Unless outside activities are specifically provided for they are to be separately rated.)) Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. This classification excludes all activities away from the shop or plant.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-67602 Classification 5209.

Boilermaking, tank building (shop)

Metal goods manufacturing, N.O.C., from material 9 gauge or heavier

Wood stove manufacturing

~~((This is a shop or plant only classification but does contemplate)) Unless otherwise specified in the subclassification wording this is a shop or plant only classification. This classification includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification~~

((Unless outside activities are specifically provided for they are to be separately rated.)) This classification excludes all activities away from the shop or plant.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-686 Classification 6109.

Childbirth classes

Chiropractors, N.O.C.

Dental clinics, N.O.C.

Dentists, N.O.C.

Massage therapy services - This subclassification excludes massage practitioners employed by a health club,

gymnasium, saunas or bath house which are to be reported separately in classification 6204

Medical clinics, N.O.C.

Midwife services

Naturopaths, N.O.C.

Optometrists, N.O.C.

Physical therapists, N.O.C.

Physicians and surgeons, N.O.C.

Psychologists and psychiatrists, N.O.C.

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-690 Classification 6204.

Baths or saunas, N.O.C.

Exercise or health institutes

Gymnasiums

Health clubs,

~~((Massage parlors~~

~~This classification includes clerical office and sales personnel.))~~

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-700 Classification 6305.

Clothing stores - retail

Concessions for hat and coat checking

~~((Dry goods stores—retail))~~

Shoe stores - retail

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-704 Classification 6309.

Automobile, truck, motorcycle accessory or replacement parts stores, wholesale/retail - excluding repairs

Bicycle stores - wholesale/retail, including repairs

Custom picture or u-frame stores - wholesale/retail, including repairs

~~((Electrical hardware dealers—wholesale/retail, excluding repairs~~

~~Garden supply stores—wholesale/retail, excluding repairs))~~

Gun stores - wholesale/retail, including repairs

Hardware variety stores ((-)), N.O.C.: Wholesale/retail((;)) - excluding ((repairs)) any operation that sells lumber or building materials which will be separately reported in risk classification 2009 and small engine repair which is to be separately reported in classification 3402

Locksmiths, including repairs but excluding installation of dead bolt locks or similar activities which will be separately reported in risk classification 0607

Stained art glass stores - wholesale/retail, excluding manufacturing

Wood stove and accessory stores - wholesale/retail excluding installations or repairs

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-707 Classification 6403.

Coffee, tea or spice stores - retail

Dairy products stores - retail

~~((Delicatessens - retail, no fresh meat))~~

Fruit or vegetable stores - retail

Convenient grocery stores or mini markets - retail, N.O.C. excluding operations which include the sales of gasoline which are to be reported separately under classification 3410

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-708 Classification 6404.

Florists stores wholesale/retail

Balloon arrangement stores wholesale/retail

Plants: Interior household type - potted or planted, sales or leasing including plant watering and maintenance services associated with indoor plants

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 86-18, filed 5/30/86, effective 7/1/86)

WAC 296-17-710 Classification 6406.

Baseball card stores - retail

Book, record, video stores - retail

Camera/photo supplies stores - retail

Candy, cigarette and tobacco stores - retail

Coin and stamp stores - retail

Coin operated arcades, excluding repair rated under risk classification 0606 (WAC 296-17-526)

Drug stores - retail

Dry cleaning - coin operated self service

Fabric and yardage stores, yarn and needle work stores - retail

Floor covering stores, carpet sample stores, retail - excluding installation which will be rated in risk classification 0502 (WAC 296-17-517)

Laundromats, coin operated self service

Microwave oven and stereo component stores - retail

Musical instrument stores - retail, excluding piano or organ stores which will be rated in risk classification 6306 (WAC 296-17-701)

News butchers or news/magazine stands - retail

Office stationery stores, and office machinery stores including microcomputer and copy machines excluding repair

Paint/wallpaper stores - retail

Pawn shops

Pet shops - retail including incidental pet grooming

Private mailbox, safety deposit box or computer tape storage facilities

Retail stores, N.O.C.

Sewing machine stores - retail

Sporting goods stores - retail

Telephone stores - retail

Variety and five and ten cent stores - retail

Wine stores and retail liquor agencies; soft drink stores

This classification includes clerical office and sales personnel, but excludes all on premise manufacturing of any kind, repair work, delivery drivers, outside installation, lunch counters and restaurant operations which are to be separately rated.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-715 Classification 6502.

Banking

Check cashing services ~~((, provided that in the event such an operation is conducted as a part of or in connection with an operation rated in classification 6406, classification 6406 will be assigned to cover both operations))~~

Credit unions

Financial institutions, N.O.C.

Investment companies

Loan companies

Mortgage companies

Savings and loan associations

Stock brokers and escrow companies

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-721 Classification 6508.

Chore services

Domestic servants employed in or ~~((outside))~~ about the private residence(s) of ~~((homeowners))~~ their employer. This classification excludes all temporary or intermittent domestic (residential) cleaning or janitorial services which are to be reported separately on risk classification 6602.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-724 Classification 6602.

Janitorial cleaning services, N.O.C. - including contract window cleaning

Janitors, N.O.C.

Pest control. This category applies to operations involved in the control and extermination of pests by the use of pesticides, rodenticides and fumigants

Portable cleaning and washing, N.O.C. - includes auto and truck washing, recreational vehicles and mobile homes.

This category will include roof cleaning and washing of single story buildings, but only if the washing is not incidental to painting or roof repair

Residential cleaning or residential janitorial services

Swimming pool cleaning

Termite control. This category applies to operations involved in the control and extermination of termites and other wood-destroying pests or organisms by fumigation or spraying of poisonous insecticides. Does not include structural repair

Window washing services.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-747 Classification 6902.

Logging railroad construction or maintenance

Logging road construction or maintenance

For the purposes of this rule logging roads are roads for which the ~~((primary or initial usage))~~ basic use is for the transporting of logs by truck ~~((or rail and))~~. This classification includes roads constructed on public or private lands in connection with timber sales or logging, such as roads being constructed in accordance with the state department of natural resources or the United States Forest Service timber sales

~~((This classification))~~. Roads constructed subject to this classification are comprised of dirt and/or crushed rock. Operations covered include~~((+))~~ grading, grubbing, clearing of right-of-way and including culverts and bridges, but excludes falling, bucking of right-of-way timber or any of the other logging activities as enumerated under risk classification 5001 (WAC 296-17-659)

This classification excludes the construction of asphalt or concrete type roads which are to be reported separately in risk classification 0101 (WAC 296-17-501)

See risk classification 5206 (WAC 296-17-675) for permanent yard operations.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-758 Classification 7105.

Temporary help company: Office support services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged wholly in office work for such customers. This classification ~~((would))~~ includes occupations such as clerks, typists, receptionists, secretaries, accountants, actuaries, attorneys, bank tellers, bookkeepers, word processors, data entry and computer operators, programmers, drafters, designers, graphic artists, technical writers, technical illustrators, design engineers, library assistants, telemarketers, and dispatchers, prepress work for printers, bindery - collating by hand, and mail clerks who do not operate equipment. Mail clerks who operate equipment are to be reported separately in risk classification 7109. Employees subject to this classification are not required to physically be located in a clerical office. The test is whether or not they perform clerical office work as described in this classification. A division of worker hours is not permitted between this classification and any other classification.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-759 Classification 7106.

Temporary help company: Retail or wholesale store services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged in activities related to

a store operation as opposed to a warehouse or repackaging operation. Activities may include a combination of clerical type duties and those that require minimal physical lifting. This classification includes occupations such as cashiering, stocking, beauticians, gift wrappers, buyers, product demonstration, booth aids, modeling, outside sales, and inventory taking.

For the purposes of this section, inventory taking is limited to those services provided to store operations which are performed exclusively at ground level. Inventory taking utilizing ladders, step stools, or at any height or when performed for customers not engaged in store operations are to be reported separately in risk classification 7114 provided they do not operate equipment or machinery.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-761 Classification 7108.

Temporary help company: ~~((Warehousing))~~ Packaging and repackaging of ~~((soft goods, retail products, and pharmaceuticals))~~ dry goods such as clothing, wearing apparel, textile, and related articles of trade; retail products such as books, china, and glassware; and pharmaceuticals as part of the distribution and preshipping process

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged in warehousing or repackaging of items such as clothing, fabric, yarn, shoes, glassware, art, linens, kitchenware, drugs and pharmaceutical preparations, computer discs, bulk film or cassette tapes and records. This classification excludes any assembly or freight handling of wood, metal, plastic, or masonry products to be reported separately in risk classification 7114 provided they do not operate equipment or machinery.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-762 Classification 7109.

Temporary help company: Electronic, precision, and scientific equipment assembly and nonfield technician services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers ~~((and who are))~~ engaged ~~((in tailoring or dressmaking or))~~ in the assembly of electronic or biomedical equipment and employees engaged in printing and bindery work. This classification includes occupations such as electronic assemblers, mechanical assemblers, electro-mechanical assemblers, quality control inspectors, test technicians, kit pullers, storekeepers, upholsterers, laboratory technicians, printers, offset operators, lead typesetters, and bindery workers.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-76201 Classification 7110.

Temporary help company: Field engineer and field technician services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who are engaged in duties away from the customers premises and who are providing field engineering, field technician, traffic counters and surveying services, telephone installation and service within buildings, vending machine service and parking lot or garage attendants, weigh scale attendants, and service station attendants excluding mechanics.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-76202 Classification 7111.

Temporary help company: Health care, medical laboratory, quality control services, testing laboratories, N.O.C., homemaker services and home health services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are providing health care services and includes such employments as therapists, nurses, nurses aides, physicians, dental hygienists, laboratory technicians and assistants.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-76204 Classification 7113.

Temporary help company: Janitorial, plant or facility supplemental maintenance and groundskeeping services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in janitorial work, preoccupancy building cleanup, plant maintenance, and groundskeeping ~~((work))~~ or grounds maintenance work to an existing landscape such as mowing lawns, pruning shrubs and weeding ~~((or grounds maintenance of existing landscape))~~ as compared to new landscape construction work. Landscape workers involved exclusively in hand labor work such as raking, digging, using wheel barrow to haul soil, beauty bark or decorative rock, whether performed as maintenance of existing landscape or new landscape work are subject to this risk classification (7113). Separately report employees engaged in exterior window cleaning, debris or building material cleanup and removal, and new landscape construction (i.e., clearing of land, installation of underground sprinkler systems, moving boulders) in risk classification 7118. Tree removal to be reported separately in risk classification 7121. A division of worker hours is not permitted between this classification and any other classification.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-76205 Classification 7114.

Temporary help company: Assembly work~~((N.O.C.))~~ and freight handling~~((bulk merchandise))~~, N.O.C.

This classification applies to employees of a temporary help company assigned on a temporary basis to ~~((its))~~ customers ~~((and who are))~~ of a temporary help company engaged in the assembly of wood, metal, ~~((or))~~ plastic, or masonry products ~~((and freight handling of bulk merchandise who do not operate power driven machinery or equipment. Employees assigned to this classification may, however, use small power driven hand tools in the assembly process and hand trucks for moving bulk merchandise))~~ during shipping or receiving; and freight handling such as furniture, tires, and other products made of wood, metal, plastic, or masonry products during shipping and receiving. Employees assigned this classification could use small power driven hand tools in the assembly process, and nonpower pallet jacks and hand trucks for the freight handling activity. This classification also includes inventory takers, N.O.C. Employees whose duties include the operation of power driven equipment or machinery, although they may also be engaged in assembly work or freight handling activities, are to be reported without division of hours in risk classification 7117.

AMENDATORY SECTION (Amending Order 89-22, filed 12/1/89, effective 1/1/90)

WAC 296-17-777 Classification 7307.

Christmas tree farms - all operations including planting, pruning, harvesting, baling, packing and delivery ~~((Report))~~ Retail operations (i.e., cashiers, parking attendants, customer assistants, etc.) of Christmas tree u-cut farms or retail sales lots are to be reported separately in ~~((risk))~~ classification 4805 ~~(("Christmas tree sales."))~~ Classification 7307 and classification 5004 shall not be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses and each business has separate and distinct employees.

AMENDATORY SECTION (Amending WSR 92-24-063, filed 11/30/92, effective 1/1/93)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the losses which would be expected for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to mitigate the effects of losses which may be considered catastrophic or of doubtful statistical significance, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification shall be calculated from the formula:

$$\text{MODIFICATION} = \frac{A_p + W A_e + (1-W) E_e + B}{E + B}$$

The components A_p , $W A_e$, and $(1-W) E_e$ are values which shall be charged against an employer's experience record. The component, E , shall be the expected value of these charges for an average employer reporting the same exposures in each classification. The meaning and function of each symbol in the formula is specified below.

" A_p " signifies "primary actual losses." For each claim the primary actual loss is defined as that portion of the claim which is considered completely rateable for all employers and which is to enter the experience modification calculation at its full value. For each claim in excess of (~~(\$7,548)~~) \$8,348 the primary actual loss shall be determined from the formula:

$$\text{PRIMARY LOSS} = \frac{20,870}{\text{Total loss} + 12,522} \times \text{total loss}$$

Primary actual losses for selected claim values are shown in Table I. For each claim less than \$8,348 the full value of the claim shall be considered a primary loss.

" A_e " signifies "excess actual losses." For each claim the excess actual loss is defined as that portion of the claim which is not considered completely rateable for all employers. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss.

" W " signifies "W value." For each employer, the W value determines the portion of the actual excess losses which shall be included in the calculation of his experience modification, due consideration being given to the volume of his experience. This amount is represented by the symbol " $W A_e$ " in the experience modification formula. W values are set forth in Table II.

" E " signifies "expected losses." An employer's expected losses shall be determined by multiplying his reported exposure in each classification during the experience period by the classification expected loss rate. Expected loss rates are set forth in Table III.

" E_e " signifies "expected excess losses." Expected losses in each classification shall be multiplied by the classification "D-Ratio" to obtain "expected primary losses." Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses. Each employer shall have a statistical charge included in the calculation of his experience modification, said charge to be actuarially equivalent to the amount forgiven an average employer because of the exclusion of a portion of his excess actual losses. This charge is represented by " $(1-W) E_e$ " in the experience modification formula. D-Ratios are set forth in Table III.

" B " signifies "B value" or "ballast." In order to limit the effect of a single severe accident on the modification of a small employer, a stabilizing element (B value) shall be added to both actual and expected losses. B values are set forth in Table II.

AMENDATORY SECTION (Amending WSR 90-20-092, filed 10/1/90, effective 11/1/90)

WAC 296-17-873 Responsibility for past experience. WAC 296-17-87301 through (~~(296-17-87308)~~) 296-17-87306 shall be used to determine the assignment of past loss experience associated with a change in business ownership for experience rating purposes. It is the intent of these rules that every firm (business) shall be responsible for its past experience irrespective of ownership as long as the firm (business) continues to conduct operations which are subject to Washington Workers' Compensation Act. When a business or portion of a business is sold, the new owner or owners of such business or portion thereof shall also take over the past loss experience associated with the business unless another treatment is specified in these rules.

AMENDATORY SECTION (Amending WSR 92-24-063, filed 11/30/92, effective 1/1/93)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, 1993	
	Accident Fund	Medical Aid Fund
0101	1.3562	0.8068
0102	1.1831	0.7772
0103	1.2746	0.9604
0104	1.9171	0.9649
0105	1.0710	0.8129
0106	3.4704	2.9709
0107	1.2079	0.7104
0108	1.2131	0.7262
0109	4.1863	2.2000
0201	2.6905	1.2297
0202	2.3937	1.8065
0206	1.9933	0.9746
0301	0.5046	0.4480
0302	1.8512	1.0096
0306	1.0027	0.6812
0307	0.7735	0.5221
0403	1.1169	0.9198
0502	1.0907	0.6713
0504	1.4330	0.8373
0506	3.7193	2.3116
0507	3.0587	1.8660
0508	3.2851	1.7153
0509	1.9305	1.2039
0510	1.4215	0.9776
0511	1.1511	0.8003
0512	1.7616	1.0393
0513	0.7006	0.5424
0514	1.4215	0.9776
0515	2.2631	1.2488
0516	1.4215	0.9776
0517	1.8693	1.3690
0518	1.6814	0.9454

PERMANENT

0519	1.5426	1.1417	3101	0.6926	0.4546
0601	0.5910	0.4429	((3102	0.5444	0.4043))
0602	0.3802	0.2722	<u>3102</u>	<u>0.2475</u>	<u>0.2497</u>
0603	0.7728	0.5291	3103	0.5444	0.4043
0604	0.9382	0.8080	3104	0.4703	0.4040
0606	0.2050	0.2311	3105	0.8577	0.6457
0607	0.2200	0.2447	3303	0.1969	0.1982
0608	0.2268	0.2090	3304	0.5450	0.5319
0701	2.5730	0.9821	3309	0.2534	0.3459
0803	0.3153	0.2777	3401	0.3549	0.3146
0804	0.8980	0.6033	3402	0.3594	0.3395
0901	1.7522	1.0563	3403	0.1490	0.1455
1002	0.9038	0.6860	3404	0.3420	0.3629
1003	0.5654	0.4370	3405	0.2719	0.2458
1004	0.5654	0.4370	3406	0.1515	0.1826
1005	4.0436	2.3656	3407	0.3139	0.2478
1007	0.2421	0.2384	3408	0.0775	0.0710
1101	0.4723	0.4404	3409	0.0881	0.0935
1102	1.2247	0.7593	<u>3410</u>	<u>0.1414</u>	<u>0.1957</u>
1103	0.3845	0.3793	3501	0.7793	0.6066
1104	0.4984	0.4649	3503	0.1717	0.2461
1106	0.1533	0.2121	3506	0.7736	0.5232
1108	0.3693	0.3736	3509	0.3711	0.3813
1109	0.5929	0.6501	3510	0.3709	0.3978
1301	0.2687	0.2363	3511	0.5551	0.5364
1303	0.1918	0.1526	3512	0.2989	0.3326
1304	0.0189	0.0222	3602	0.0747	0.1000
1305	0.2642	0.2723	3603	0.3031	0.3318
1401	0.6025	0.5784	3604	1.1878	0.9317
1404	0.4791	0.3804	3605	0.3959	0.3525
1405	0.4462	0.4280	3701	0.2261	0.2129
1501	0.3391	0.2901	3702	0.4754	0.4003
1507	0.2631	0.2662	3707	0.3693	0.3431
1701	1.7173	0.8602	3708	0.2475	0.2497
1702	1.7173	0.8602	3801	0.1903	0.1769
1703	0.4367	0.2968	3802	0.1610	0.1542
1704	0.8728	0.6119	3808	0.2392	0.2305
1801	1.0271	0.6125	3901	0.1223	0.1457
1802	0.7018	0.5944	3902	0.3959	0.4150
2002	0.4838	0.4897	3903	0.8778	1.0268
2003	0.3505	0.3678	3905	0.1075	0.1619
2004	0.6646	0.5938	3906	0.4096	0.4052
2005	0.2516	0.3213	3909	0.2169	0.2573
2007	0.3194	0.3778	4002	0.5957	0.4928
2008	0.2300	0.1923	4101	0.1771	0.1847
<u>2009</u>	<u>0.2284</u>	<u>0.2433</u>	4103	0.1835	0.2240
2101	0.5513	0.4904	4107	0.0950	0.1192
2102	0.3505	0.3678	4108	0.1771	0.1847
2104	0.2462	0.2812	4109	0.1771	0.1847
2105	0.5569	0.4010	4201	0.2166	0.1787
2106	0.3632	0.3451	4301	0.6725	0.6281
2201	0.2144	0.2087	4302	0.6441	0.4673
2202	0.4112	0.4415	4304	0.4854	0.5138
2203	0.2545	0.2382	4305	1.0515	0.7161
2401	0.3774	0.3714	4401	0.5035	0.4278
2903	0.5581	0.5669	4402	0.5774	0.5677
2904	0.5260	0.5016	4404	0.5112	0.4093
2905	0.4082	0.4302	4501	0.1172	0.1137
2906	0.3971	0.3111	4502	0.0388	0.0364
2907	0.4261	0.3937	4504	0.0592	0.0883
2908	0.8144	0.7543	4601	0.5230	0.5781
2909	0.5044	0.4881	4802	0.2727	0.2507

4803	0.2205	0.2646	6309	0.0961	0.1199
4804	0.3959	0.4257	6402	0.2113	0.2085
4805	0.2433	0.2814	6403	0.1414	0.1957
4806	0.0709	0.0804	6404	0.1102	0.1507
4808	0.3953	0.3911	6405	0.4774	0.4437
4809	0.2039	0.2425	6406	0.0585	0.0779
4810	0.1396	0.1527	6407	0.1403	0.1764
4811	0.2007	0.2320	6408	0.2707	0.2833
4812	0.4289	0.3582	6409	0.3787	0.3492
4813	0.2297	0.2026	6410	0.1232	0.1429
4901	0.0421	0.0407	6501	0.0647	0.0714
4902	0.0373	0.0343	6502	0.0170	0.0198
4903	0.0421	0.0407	6503	0.0667	0.0501
4904	0.0134	0.0169	6504	0.2801	0.4300
4905	0.2187	0.2879	6505	0.0817	0.1052
4906	0.0492	0.0520	6506	0.0526	0.0679
4907	0.0599	0.0565	6508	0.2881	0.3195
4908	0.0594	0.1449	6509	0.1511	0.1962
4909	0.0594	0.1449	6601	0.1512	0.1855
4910	0.2861	0.3199	6602	0.3373	0.3638
5001	4.8736	2.6222	6603	0.2194	0.2509
5002	0.4677	0.3939	6604	0.0533	0.0506
5003	1.5978	0.7891	6605	0.2912	0.3338
5004	3.7047	2.4216	6607	0.0946	0.1388
5101	0.6044	0.6010	6608	0.2516	0.1668
5103	0.6836	0.6582	6614	242.9600**	243.0000**
5106	0.4113	0.4833	6615	181.4600**	181.5000**
5108	0.6829	0.5278	6616	23.9600**	24.0000**
5109	0.4801	0.3780	6617	17.9600**	18.0000**
5201	0.3095	0.2841	6618	74.4600**	74.5000**
5204	0.9111	0.6399	6704	0.1150	0.1312
5206	0.3717	0.2776	6705	0.6658	0.8162
5207	0.0946	0.1388	6706	0.3072	0.3706
5208	0.8212	0.6878	6707	10.92*	14.04*
5209	0.5615	0.5805	6708	2.9840	4.7390
5301	0.0176	0.0208	6709	0.1240	0.1980
5305	0.0317	0.0351	6801	0.2533	0.2070
5306	0.0333	0.0335	6802	0.2315	0.3004
5307	0.3235	0.2948	6803	1.7944	0.3742
6103	0.0356	0.0559	6804	0.1698	0.1703
6104	0.2093	0.2243	6809	1.7223	4.3701
6105	0.1512	0.1682	6901	0.0000	0.0514
6107	0.0936	0.1200	6902	0.6124	0.3647
6108	0.3786	0.4339	6903	5.5078	3.0977
6109	0.0346	0.0392	6904	0.1955	0.1759
6110	0.3772	0.3829	6905	0.2067	0.2229
6201	0.1398	0.1504	6906	0.0000	0.2229
6202	0.4615	0.4221	6907	1.1261	0.8476
6203	0.0613	0.0777	6908	0.2960	0.3045
6204	0.1251	0.1677	6909	0.0515	0.0623
6205	0.1251	0.1677	7101	0.0255	0.0242
6206	0.1251	0.1677	7102	14.92*	35.74*
6207	0.7034	1.0241	7103	0.2266	0.1823
6208	0.2091	0.2493	7104	0.0180	0.0244
6209	0.1463	0.2103	7105	0.0326	0.0308
6301	0.0984	0.0836	7106	0.1864	0.1694
6302	0.1289	0.1334	7107	0.2049	0.1806
6303	0.0508	0.0564	7108	0.1951	0.2102
6304	0.1020	0.1581	7109	0.2295	0.2386
6305	0.0462	0.0599	7110	0.3002	0.2572
6306	0.1819	0.2112	7111	0.4784	0.3941
6308	0.0365	0.0356	7112	0.6000	0.4314

7113	0.7207	0.4911
7114	0.4900	0.6102
7115	0.5678	0.4252
7116	0.5975	0.4644
7117	1.2033	1.5882
7118	2.5149	2.1891
7119	1.9203	1.4793
7120	5.4453	4.7457
7121	5.4051	4.7085
7201	0.6643	0.4982
7202	0.0331	0.0356
7203	0.0873	0.1437
7204	0.0000	0.0000
7301	0.5502	0.4881
7302	0.5181	0.6348
7307	0.7514	0.7246
7308	0.1583	0.2148
7309	0.1238	0.1980

* Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

** These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

NEW SECTION

WAC 296-17-89501 Average hourly wage effective July 1, 1993. The following table represents the average hourly wage rate to be used when computing worker hours in accordance with WAC 296-17-350(6).

Class	Average hourly wage
4802	6.50
4803	6.50
4804	7.50
4805	7.50
4806	5.00
4808	7.50
4809	7.00
4810	6.00
4811	6.00
4812	12.00
4813	5.50
4910	8.50
7301	9.00
7302	7.50
7307	6.50
7309	6.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-896 Christmas tree industry base rate revision.

**WSR 93-12-107
PERMANENT RULES
DEPARTMENT OF ECOLOGY**
[Filed June 2, 1993, 8:10 a.m.]

Date of Adoption: June 1, 1993.

Purpose: Adoption of revised shoreline master program for the city of Olympia into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-4203 City of Olympia shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 93-11-061 on May 18, 1993.

Effective Date of Rule: Thirty-one days after filing.
June 1, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 90-07, filed 5/16/90, effective 6/16/90)

WAC 173-19-4203 Olympia, city of. City of Olympia master program approved May 21, 1976. Revision approved March 29, 1984. Revision approved April 30, 1984. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved June 1, 1993.

**WSR 93-12-125
PERMANENT RULES
DEPARTMENT OF HEALTH**
[Order 366—Filed June 2, 1993, 10:08 a.m.]

Date of Adoption: June 1, 1993.

Purpose: Increase in identified fees is required to support the licensing and regulation of registered nurses in Washington state. The revenue increase would support existing level of expenditures authorized to the board and is collected to the health professions account. Due to continued incidences of practice while registered nurse license has expired, the late renewal fee is increased to a level intended to encourage timely renewal.

Citation of Existing Rules Affected by this Order: Amending WAC 246-839-990.

Statutory Authority for Adoption: RCW 18.88.080.

Pursuant to notice filed as WSR 93-08-080 on April 6, 1993.

Effective Date of Rule: Thirty-one days after filing.
June 1, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 132, filed 3/18/91, effective 4/18/91)

WAC 246-839-990 Registered nurse fees. The following fees shall be charged by the professional licensing division of the department of health:

PERMANENT

Title of Fee	Fee
Application - examination	\$40.00
License renewal	((20.00)) <u>35.00</u>
Late renewal penalty	((20.00)) <u>100.00</u>
Inactive license renewal	10.00
Inactive late renewal penalty	5.00
Endorsement	((25.00)) <u>40.00</u>
Duplicate license	((15.00)) <u>20.00</u>
Examination retake	40.00
Verification of licensure/education	((15.00)) <u>25.00</u>
ARNP application	25.00
ARNP renewal	((20.00)) <u>30.00</u>
ARNP late renewal penalty	((15.00)) <u>100.00</u>
ARNP with prescriptive authorization application	((30.00)) <u>45.00</u>
ARNP with prescriptive authorization renewal	((40.00)) <u>50.00</u>
ARNP with prescriptive late renewal penalty	((15.00)) <u>100.00</u>

WSR 93-12-126

PERMANENT RULES

DEPARTMENT OF HEALTH

(Veterinary Board of Governors)

[Order 368B—Filed June 2, 1993, 10:10 a.m.]

Date of Adoption: May 17, 1993.

Purpose: Expand the criteria for qualifying individuals for the animal technicians examination.

Citation of Existing Rules Affected by this Order: Amending WAC 246-935-060.

Statutory Authority for Adoption: RCW 18.92.030.

Pursuant to notice filed as WSR 93-08-081 on April 6, 1993.

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

May 17, 1993

Jerry A. Harsch, D.V.M.
Chairman

AMENDATORY SECTION (Amending Order 221B, filed 12/4/91, effective 1/4/92)

~~WAC 246-935-060 ((Approval of post high school courses.)) Eligibility for examination as animal technician. ((The board, pursuant to RCW 18.92.030, hereby adopts the accreditation standards of the American Veterinary Medical Association (AVMA), "Accreditation policies and procedures" of the committee on veterinary technician education and activities (CVTEA), in effect as of July 31, 1983, or as subsequently amended, and approved by the board. The board approves all and only those institutions accredited by, and in good standing with, the AVMA in accordance with these standards. Other institutions which apply for the board's approval and which meet the standards to the board's satisfaction may be approved, but it is the responsibility of an institution to apply for approval and of a student to ascertain whether or not a school has been approved by the board.~~

~~The board reserves the right to withdraw approval of any post high school course which ceases to meet the~~

~~approval of the board and/or the AVMA after notifying the institution in writing and granting it an opportunity to contest the board's proposed withdrawal.)~~

Applicants must meet one of the following criteria to be eligible for the examination.

(1) Completion of a post high school course for animal or veterinary technology approved by the Committee on Veterinary Technician Education and Activities (CVTEA) of the American Veterinary Medical Association (AVMA). The board approves all those institutions accredited by, and in good standing with, the AVMA. Other institutions which may apply for the board's approval and which meet the accreditation standards of the CVTEA to the board's satisfaction may be approved, but it is the responsibility of an institution to apply for approval and of a student to ascertain whether or not a school has been approved by the board. The examination may not be taken prior to two months preceding graduation from the course of instruction.

(2) Graduation from a two-year curriculum in animal health or veterinary technology which is not accredited by the CVTEA plus a minimum of thirty-six months of full-time experience under the supervision of a licensed veterinarian(s) who shall attest to the completion of that experience.

(3) Award of a D.V.M. or V.M.D. degree or equivalent from an American Veterinary Medical Association accredited or listed college of veterinary medicine.

(4) Applicant is registered, certified, or licensed as an animal health or veterinary technician in one or more states and has obtained thirty-six months of full-time experience under the supervision of a licensed veterinarian(s).

(5) Completion of a course in veterinary technician education as a member of the United States military and completion of a tour of active duty as a veterinary animal technician or specialist.

(6) Five years full-time animal technician experience under the supervision of a licensed veterinarian(s) who shall attest to the completion of that experience.

WSR 93-12-133

PERMANENT RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed June 2, 1993, 11:10 a.m.]

Date of Adoption: May 14, 1993.

Purpose: To amend the Puget Sound pilotage tariff.

Citation of Existing Rules Affected by this Order: Amending WAC 296-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Pursuant to notice filed as WSR 93-12-009 on May 19, 1993.

Changes Other than Editing from Proposed to Adopted Version: The adopted version represents a decrease of 6.89% from the proposed version. Downward adjustments were made to five transportation area charges.

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

May 20, 1993

Thomas F. Heinan
Chair

PERMANENT

AMENDATORY SECTION (Amending WSR 92-14-007, filed 6/19/92, effective 7/20/92)

WAC 296-116-300 Pilotage rates for the Puget Sound pilotage district.

CLASSIFICATION RATE

Ship length overall (LOA) Charges: per LOA rate schedule in this section

Boarding fee: ~~(\$ 31.00)~~ \$ 32.00
Per each boarding/deboarding at the Port Angeles pilot station.

Harbor shift - Live ship (Seattle Port) LOA Zone 1
Harbor shift - Live ship (other than Seattle Port) LOA Zone 1

Harbor shift - Dead ship Double LOA Zone I

Dead ship towing charge: Double LOA Zone
LOA of tug + LOA of tow + beam of tow
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges:
Ships up to 90' beam:
A charge of ~~(\$167.00)~~ \$172.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ~~(\$80.00)~~ \$82.00 per bridge.

Ships 90' beam and/or over:
A charge of ~~(\$225.00)~~ \$232.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ~~(\$157.00)~~ \$162.00 per bridge.
(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:
In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment ~~(\$224.00)~~ \$231.00
Radio direction finder calibration ~~(\$224.00)~~ \$231.00
Launching vessels ~~(\$337.00)~~ \$347.00

Trial trips, 6 hours or less (Minimum ~~(\$635.00)~~ \$654.00) ~~(\$106.00)~~ \$109.00 per hr.

Trial trips, over 6 hours (two pilots) ~~(\$212.00)~~ \$218.00 per hr.

Shilshole Bay — Salmon Bay ~~(\$131.00)~~ \$135.00
Salmon Bay — Lake Union ~~(\$103.00)~~ \$106.00

Lake Union — Lake Washington (plus LOA zone from Webster Point) ~~(\$131.00)~~ \$135.00

Cancellation charge LOA Zone I

Cancellation charge — Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.) LOA Zone II

Docking delay after anchoring: ~~(\$106.00)~~ \$109.00 per hr.

Applicable harbor shift rate to apply, plus ~~(\$106.00)~~ \$109.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~(\$106.00)~~ \$109.00 for every hour or fraction thereof.

Sailing delay: ~~(\$106.00)~~ \$109.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~(\$106.00)~~ \$109.00 for every hour or fraction thereof.

Slowdown: ~~(\$106.00)~~ \$109.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ~~(\$106.00)~~ \$109.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Super ships:
20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of ~~(\$0.0559)~~ \$0.0576 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be ~~(\$0.0669)~~ \$0.0689 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: ~~(\$106.00)~~ \$109.00 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ~~(\$106.00)~~ \$109.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound: ~~(\$114.00)~~ \$144.00

March Point or Anacortes	(\$114.00) <u>\$144.00</u>
Bangor	(67.00) <u>84.00</u>
Bellingham	(126.00) <u>158.00</u>
Bremerton	(36.00) <u>44.00</u>
Cherry Point	(148.00) <u>175.00</u>
Dupont	(67.00) <u>85.00</u>
Edmonds	(25.00) <u>27.00</u>
Everett	(44.00) <u>52.00</u>
Ferndale	(126.00) <u>173.00</u>
Manchester	(53.00) <u>66.00</u>
Mukilteo	(43.00) <u>52.00</u>
Olympia	(86.00) <u>108.00</u>
Point Wells	(25.00) <u>27.00</u>
Port Gamble	(62.00) <u>77.00</u>
Port Townsend (Indian Island)	(87.00) <u>109.00</u>
Seattle	(12.00) <u>15.00</u>
Semiahmoo (Blaine)	(155.00) <u>196.00</u>
Tacoma	(45.00) <u>56.00</u>
Tacoma Smelter	(51.00) <u>66.00</u>
Winslow	(36.00) <u>42.00</u>

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - ~~(\$12.00)~~ \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.

PERMANENT

- (c) Intraharbor shifts: Transportation to be paid both ways.
If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x ~~(\$1.60)~~ \$1.80 per mile.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
((Up to 449	157	247	428	641	864	1124
450 - 459	162	252	431	649	878	1129
460 - 469	166	255	436	660	891	1133
470 - 479	171	262	442	675	894	1136
480 - 489	176	267	444	687	899	1140
490 - 499	179	270	449	699	909	1146
500 - 509	187	275	457	709	916	1154
510 - 519	190	281	462	717	926	1158
520 - 529	192	291	469	721	934	1169
530 - 539	199	295	475	729	949	1180
540 - 549	202	299	485	738	965	1191
550 - 559	206	309	488	748	971	1203
560 - 569	214	321	498	755	982	1215
570 - 579	218	325	502	758	991	1222
580 - 589	227	331	512	764	998	1236
590 - 599	238	337	515	768	1012	1249
600 - 609	247	347	522	771	1023	1256
610 - 619	261	350	532	775	1035	1267
620 - 629	271	355	538	782	1046	1281
630 - 639	285	363	544	784	1054	1293
640 - 649	297	370	549	787	1066	1303
650 - 659	317	378	559	794	1078	1315
660 - 669	325	381	564	797	1089	1326
670 - 679	335	391	571	811	1102	1334
680 - 689	341	399	577	820	1111	1347
690 - 699	350	405	585	835	1124	1374
700 - 719	367	418	597	843	1144	1391
720 - 739	389	431	611	855	1169	1414
740 - 759	405	449	624	864	1191	1439
760 - 779	421	467	639	878	1215	1459
780 - 799	442	486	649	891	1236	1484
800 - 819	460	502	663	896	1256	1506
820 - 839	475	518	677	909	1281	1525
840 - 859	496	540	691	919	1303	1551
860 - 879	513	559	705	945	1326	1572
880 - 899	532	576	717	966	1347	1596
900 - 919	547	593	730	989	1374	1619
920 - 939	565	611	748	1012	1391	1639

940 - 959	585	628	759	1035	1414	1661
960 - 979	600	646	773	1054	1439	1684
980 - 999	621	663	785	1078	1459	1706
1000 & over	639	685	799	1102	1484	1730
Up to 449	162	254	441	660	890	1158
450 - 459	167	260	444	669	905	1163
460 - 469	171	263	449	680	918	1167
470 - 479	176	270	455	695	921	1170
480 - 489	181	275	457	708	926	1175
490 - 499	184	278	463	720	937	1181
500 - 509	193	283	471	730	944	1189
510 - 519	196	290	476	739	954	1193
520 - 529	198	300	483	743	962	1204
530 - 539	205	304	489	751	978	1216
540 - 549	208	308	500	760	994	1227
550 - 559	212	318	503	771	1000	1239
560 - 569	220	331	513	778	1012	1252
570 - 579	225	335	517	781	1021	1259
580 - 589	234	341	528	787	1028	1273
590 - 599	245	347	531	791	1043	1287
600 - 609	254	358	538	794	1054	1294
610 - 619	269	361	548	798	1066	1305
620 - 629	279	366	554	806	1078	1320
630 - 639	294	374	560	808	1086	1332
640 - 649	306	381	566	811	1098	1342
650 - 659	327	389	576	818	1111	1355
660 - 669	335	393	581	821	1122	1366
670 - 679	345	403	588	836	1135	1374
680 - 689	351	411	594	845	1145	1388
690 - 699	361	417	603	860	1158	1416
700 - 719	378	431	615	869	1179	1433
720 - 739	401	444	630	881	1204	1457
740 - 759	417	463	643	890	1227	1483
760 - 779	434	481	658	905	1252	1503
780 - 799	455	501	669	918	1273	1529
800 - 819	474	517	683	923	1294	1552
820 - 839	489	534	698	937	1320	1571
840 - 859	511	556	712	947	1342	1598
860 - 879	529	576	726	974	1366	1620
880 - 899	548	593	739	995	1388	1644
900 - 919	564	611	752	1019	1416	1668
920 - 939	582	630	771	1043	1433	1689
940 - 959	603	647	782	1066	1457	1711
960 - 979	618	666	796	1086	1483	1735
980 - 999	640	683	809	1111	1503	1758
1000 & over	658	706	823	1135	1529	1782

PERMANENT

WSR 93-12-002
EMERGENCY RULES
WILDLIFE COMMISSION

[Order 609—Filed May 19, 1993, 2:44 p.m., effective June 1, 1993]

Date of Adoption: May 18, 1993.

Purpose: To minimize harassment of National Marine Fisheries Service (NMFS) listed Tucannon River spring chinook.

Summary: This regulation change would establish an emergency 120-day fishing closure of the Tucannon River between the Tucannon Hatchery Bridge and a point 400 feet upstream of the hatchery intake dam.

Reasons Supporting Proposal: Since the listing of spring chinook by the National Marine Fisheries Service, the Washington Department of Fisheries has seen a concerted effort by several resource agencies to minimize human impact by way of access restrictions and regulation modifications. Last year, at the request of the Department of Fisheries, the Wildlife Commission closed a critical section of the river to fishing to protect milling spring chinook. The Department of Wildlife and the USDA Forest Service has moved camp and picnic grounds away from the river to reduce pedestrian traffic. These actions along with a public information campaign seems to have helped the situation significantly.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this emergency closure is to protect spawning spring chinook from fishing pressure and harassment.

Current Regulation and Proposed Change:

Current Regulation:

TUCANNON RIVER, from the Tucannon Hatchery Bridge to a point 400 feet upstream of the hatchery intake dam.

Under general stream season June 1 through October 31.

Proposed Regulations:

TUCANNON RIVER, from the Tucannon Hatchery Bridge to a point 400 feet upstream of the hatchery intake dam:
CLOSED WATERS, June 1 - October 1, 1993.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: See above.

Effective Date of Rule: June 1, 1993.

May 19, 1993
 Dean A. Lydig
 Chair

NEW SECTION

WAC 232-28-61936 1992-94 Washington game fish seasons and catch limits - Tucannon River in Region I. Notwithstanding the provisions of WAC 232-28-619, the game fish seasons for the Tucannon River are as follows:

TUCANNON RIVER, from the Tucannon Hatchery Bridge to a point 400 feet upstream of the hatchery intake dam: **CLOSED WATERS, June 1 - October 1, 1993.**

All other provisions of the Tucannon River regulations remain unchanged and in effect.

WSR 93-12-004
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Order 362—Filed May 19, 1993, 4:02 p.m.]

Date of Adoption: May 19, 1993.

Purpose: To allow boarding homes to provide nursing care for temporary acute illness of residents.

Citation of Existing Rules Affected by this Order: Amending WAC 246-316-240 and 246-316-260.

Statutory Authority for Adoption: RCW 18.20.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Reduces response time to care for temporary acute illness of boarding home residents.

Effective Date of Rule: Immediately.

May 19, 1993
 Bruce A. Miyahara
 Secretary

AMENDATORY SECTION (Amending Order 121 [224], filed 12/27/90 [12/23/91], effective 1/31/91 [1/23/92])

WAC 246-316-240 Admission, placement and retention of residents. (1) Prior to admission or acceptance as resident, boarding homes shall obtain sufficient information to evaluate whether or not a resident/applicant can be safely housed and provided domiciliary care in the particular facility, including information in reference to:

(a) Resident/applicant's ability to function with respect to the physical premises, equipment, and staff of the boarding home;

(b) Space, equipment, and furniture requirements;

(c) Ambulatory status;

(d) Currently demonstrated overt behavior dangerous to self or others;

(e) Need for care in a hospital, nursing home, or other licensed facility under chapters 18.51, 70.41, and 71.12 RCW;

(f) Requirements for assistance in obtaining or administering medications; and

(g) Need or desire for nursing care exceeding that provided by the boarding home in accordance with WAC 246-316-260 (1) and (2)(a), periodic visits by staff of a home health care agency or a licensed nurse employed by an individual resident.

(2) Boarding homes shall accept, admit, and retain persons as residents only when:

(a) Ambulatory unless the boarding home is approved by the Washington state director of fire protection to:

(i) Care for semi-ambulatory residents; or

(ii) Care for nonambulatory residents not needing medical or nursing care as specified in subsection (2)(f)(ii) and (iii) of this section.

(b) Nonsmoking residents can be accommodated with smoke-free rooms and smoke-free common-use areas to prevent contact with smoke;

(c) Smoking residents can be accommodated by areas meeting the requirements in WAC 246-316-140(2);

(d) The individual resident can be accommodated by:

(i) Physical plant, facilities, and spaces;

(ii) Furniture and equipment; and

(iii) Staff who are available and sufficient to provide nature of domiciliary care required and desired by the resident.

(e) The amount and nature of needed assistance with medication or medication service is available in the boarding home under RCW 18.20.160 and WAC 246-316-300; and

(f) Individuals do not:

(i) Exhibit continuing overt behavior which is a danger to others or self;

(ii) Need inpatient care in a hospital, nursing home, or other facility licensed under chapters 18.51, 70.12, or 70.41 RCW; or

(iii) Need ~~((continuous))~~ nursing care exceeding that required for periodic temporary acute illness provided by: ~~((periodic or short term services from))~~:

(A) The boarding home nursing staff; or

(B) Staff of a home health care agency; or

~~((B))~~ (C) A licensed nurse retained by an individual resident.

(3) Upon admission or acceptance of an individual as a resident, boarding homes shall determine a resident's choice regarding:

(a) Definite arrangements with a health care practitioner; and

(b) Who to call in case of resident illness or death.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-260 Boarding home resident services.

(1) Boarding homes may provide nursing care for residents only to the extent and duration required for temporary acute illness.

(2) Boarding homes shall:

(a) Assure nursing care, if provided, is consistent with Chapters 18.78 and 18.88 RCW;

(b) Observe and note changes in physical, mental, and emotional functioning; and

~~((b))~~ (c) Assist with arrangements for appropriate transfer as needed.

~~((2))~~ (3) Boarding homes shall provide basic domiciliary care including, but not limited to:

(a) Assisting each resident to maintain his or her highest functional ability possible and compatible with individual safety and welfare;

(b) Providing general health supervision if required by resident including:

(i) Encouraging resident to self-administer medically prescribed drugs and treatment;

(ii) Encouraging resident to follow any medically prescribed modified diet, rest or activity regimen;

(iii) Encouraging and assisting a resident with arrangements to keep appointments for health care services, e.g., physicians, dentists, home health care services, or clinics;

(iv) Encouraging and assisting resident with arrangements to see his or her health care practitioner when the resident shows signs or describes symptoms of an illness or abnormality for which medical diagnosis and treatment may be indicated; and

(v) Encouraging, supervising, or assisting resident with:

(A) Personal hygienic care, dressing, grooming, and other activities;

(B) Functional aids or equipment, such as glasses, hearing aids, canes, crutches, walker, or wheelchair;

(C) Clothing and other personal effects;

(D) Personal living quarters in a manner conducive to safety and comfort.

(c) Encouraging, guiding, or assisting residents with arrangements to participate in social, recreational, diversional, vocational, church, or other activities within the boarding home and the community in accordance with his or her interests, tolerance, and abilities.

~~((3))~~ (4) Boarding homes shall post a calendar of daily social or recreational activities and events for residents.

WSR 93-12-010

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-39—Filed May 19, 1993, 4:40 p.m.]

Date of Adoption: May 19, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500C; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available for a subsistence fishery. This conforms state rules with Yakima Indian Nation regulations.

Effective Date of Rule: Immediately.

May 19, 1993

Judith Merchant

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-32-05500D Columbia River tributaries—Subsistence. Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakima treaty to take or possess salmon taken for subsistence purposes from the Yakima River, the Klickitat River, Icicle Creek, the Wind River, the Little White Salmon River (Drano Lake) or the Columbia River in the vicinity of Ringold Hatchery, except under the following provisions:

(1) the Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6 p.m. Saturday of each week from April 13 through June 26.

(2) the Klickitat River from the Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6 p.m. Saturday of each week from April 7 through May 29.

(3) Icicle Creek where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open 9 p.m. Wednesday to noon Saturday of each week from May 5 through June 26.

(4) the Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls is open 6 a.m. Monday to 6 p.m. Saturday of each week from April 1 through June 12.

(5) the Wind River from 200 feet above Shipperd Falls upstream to the outlet stream for Carson National Fish Hatchery is open 6 a.m. Monday to 6 p.m. Saturday of each week from June 1 through June 26.

(6) Columbia River from a marker approximately 1/2 mile upstream of Ringold Hatchery rearing pond outlet downstream to a marker approximately 1/4 mile downstream of Ringold wasteway outlet is open 6 a.m. Monday to 6 p.m. Saturday of each week from April 1 through July 31.

(7) Little White Salmon River (Drano Lake) from the highway bridge at the outlet to the orange markers near the mouth of the Little White Salmon River is open

9 p.m. May 19 to 9 a.m. May 20, and
9 p.m. May 20 to 9 a.m. May 21, 1993.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500C Columbia River tributaries—subsistence. (93-29)

WSR 93-12-012**EMERGENCY RULES****DEPARTMENT OF ECOLOGY**

[Order 92-38—Filed May 20, 1993, 12:45 p.m.]

Date of Adoption: May 10, 1993.

Purpose: Establish an agricultural burning permit fee while the permanent rule is being developed, increase grass seed production permit fee to the level identified in statute, change the title of the WAC chapter to agricultural burning and add on agricultural burning definition.

Citation of Existing Rules Affected by this Order: Amending chapter 173-430 WAC.

Statutory Authority for Adoption: RCW 70.94.650.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The statute identifies that agricultural burning permit fees are to be set by rules and that the Department of Ecology or a local air authority is to maintain a statewide permit system to protect public health from the effects of agricultural burning.

Effective Date of Rule: Immediately.

May 5, 1993

Mary Riveland

Director

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-010 Purpose. (1) This chapter, promulgated under chapter 70.94 RCW, as amended, is to assume state jurisdiction over and to control emissions from agricultural burning including the burning of field and forage, and turf grasses grown for seed and for the proper development of the state's natural resources.

(2) Authority to enforce all provisions of this regulation, including establishing permit conditions and issuing permits, is delegated to and shall be carried out by all activated air pollution control authorities or ecology for those areas not under the jurisdiction of an authority.

(3) The purpose of this chapter is to:

(a) Minimize adverse effects on air quality from ~~((the open burning of field and forage, and turf grasses grown for seed))~~ agricultural burning;

(b) Provide for implementation of a research program to explore and identify economical and practical ~~((alternative agricultural practices to the open burning of field and forage, and turf grasses grown for seed))~~ alternatives to agricultural burning;

(c) Provide for interim regulation of such burning until practical alternatives are found.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) Agricultural burning: Burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

(2) Field and forage grasses: Canarygrass, brome grass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.

~~((2))~~ (3) Straw: All material, other than seed, removed by swathing, combining, or cutting.

~~((3))~~ (4) Tear-out: Any operation that destroys the existing crop and prepares the area for next year's planting.

~~((4))~~ (5) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-030 Permits, conditions, and restrictions. (1) No agricultural burning including open burning of field or forage grasses, or turf grasses shall be undertaken unless a permit has been obtained from ecology or an authority, as appropriate. ~~((The issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution interest in the environment. Permits will be conditioned to minimize air pollution. Until approved alternatives become available, ecology or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions.))~~ Local air agencies (and ecology where no local air agencies exist) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

(2) For open burning of field or forage grasses, or turf grasses, the issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution interest in the environment. Permits will be conditioned to minimize air pollution. Until approved alternatives become available, ecology or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions.

Burning of acreage not previously under permit may be banned or subject to more restrictive conditions. Burning of field and forage grasses may be restricted, and other measures may be required to minimize air pollution.

Permits issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land and is established only for the maximum amount of acreage included in any permit issued before 1978. Land transferred to a spouse, son, or daughter, will retain a permit history as established by the original applicant.

Any permit denial or restriction may first be applied to applicants without a permit history and to amounts of acreage not included in an applicant's permit history.

Applicants who received permits before 1978 may be given priority for burning the amount of acreage cited in the permit history.

(3) Open burning of field and forage grasses shall be prohibited. However, a permit using restrictions or conditions, may be issued to burn field and forage grasses for

disease, pest, or weed control, if such need is certified by a county agent or other agricultural authority; or if such grasses were planted as part of a soil erosion control plan approved by a conservation district.

(4) Open burning of all grasses scheduled for tear-out shall be prohibited unless a permit specifically allows such burning.

(5) Practical alternative production methods and disease controls which would reduce or eliminate ~~((open))~~ agricultural burning shall be used when reasonably available. These methods and controls shall be used regardless of specific provisions of the compliance program described in this section.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-040 Mobile field burners. Mobile field burners, and other methods of incineration not classified as ~~((open))~~ outdoor burning, shall not be prohibited by the restrictions in WAC 173-430-030: *Provided*, That emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20 percent for more than three minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-060 Study of alternatives. Ecology shall conduct, cause to be conducted, or approve of a study or studies to explore and identify economical and practical alternative practices to agricultural burning including open burning of field and forage, and turf grasses. To conduct any such study, ecology may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. Ecology shall annually review the progress of such studies, review provisions of this regulation and available alternatives to ~~((open))~~ burning and determine if continuing agricultural burning including open burning of field and forage, and turf grasses is justified.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-070 Fees. (1) To support the study or studies described in WAC 173-430-060, ecology or an authority shall collect a fee ~~((of fifty cents per acre of crop to be burned before any permit is issued under WAC 173-430-030.))~~:

(a) For field and forage, and turf grasses grown for seed, the fee is one dollar per acre of crop. The fee is to be collected before any permit is issued under WAC 173-430-030. This fee shall be submitted with individual permit applications.

(b) For all other agricultural practices, a twenty dollar nonrefundable permit/application fee shall be assessed and submitted with the general agricultural burning permit application. This twenty dollar fee is effective for the interim period ending when the agricultural burning practices

and research task force establishes a permanent fee level (pursuant to RCW 70.94.650), or January 1, 1995, whichever occurs first.

(2) When a permit is granted to burn fewer acres of field and forage, and turf grasses grown for seed than requested in the permit application, ecology or the authority shall refund to the permit applicant the unused part of the permit fee.

(3) No part of the permit fee will be refunded if a grower decides to burn fewer acres than the permit allows.

(4) After granting any permit and making any refund required under WAC 173-430-070(2), the authority shall transfer the permit fee to ecology.

(5) Ecology shall deposit all permit fees in ~~((a special grass seed burning research account in the general fund))~~ the air pollution control account.

(6) Ecology shall allocate moneys annually from this account to support approved studies provided for in WAC 173-430-060, up to the amount appropriated to ecology for such purpose.

(7) When ecology concludes that enough reasonably available alternative practices to the open burning of field and forage, and turf grasses grown for seed have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved. Any money remaining in the account shall revert to the general fund.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-080 Certification of alternatives. When enough information on alternative practices to open burning of field and forage, and turf grasses grown for seed becomes available, ecology shall conduct public hearings to receive testimony from interested parties. If ecology then concludes that any procedure, program, technique, or device is a practical alternative to the open burning of field and forage and turf grasses grown for seed, ecology shall, by order, approve such alternative. After approval, any alternative that is reasonably available shall be used; and open burning of field and forage, and turf grasses grown for seed shall not be allowed.

**WSR 93-12-038
EMERGENCY RULES**

DEPARTMENT OF AGRICULTURE

[Filed May 24, 1993, 4:10 p.m.]

Date of Adoption: May 24, 1992 [1993].

Purpose: Additional restrictions on the use of microencapsulated methyl parathion in chapter 16-230 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-230-280 and 16-230-300; and amending WAC 16-230-250, 16-230-260, 16-230-270, and 16-230-290.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time

requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Emergency rules were adopted in 1992 as the result of numerous bee kills involving microencapsulated methyl parathion. It is anticipated that microencapsulated methyl parathion will again be widely used to control orchard pests, therefore, additional restrictions are needed. This emergency will remain in effect during the application period. Hearings will be held to consider the permanent adoption of these rules.

Effective Date of Rule: Immediately.

May 24, 1993

Peter J. Goldmark

Director

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-250 Microencapsulated methyl parathion—Area under order. ~~((This order will))~~ WAC 16-230-260 through 16-230-290 shall be in effect in all counties of the state of Washington.

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-260 Microencapsulated methyl parathion—Definitions. (1) "~~Blossoming ((erops)) plants~~" as used in ~~((this order))~~ WAC 16-230-270 through 16-230-290 shall mean

(a) When there are five or more blooms per square yard on the average in a given field((:)); or

(b) When there are one or more open blooms per tree or vine in an orchard or vineyard((-and)); or

(c) When there are five or more open weed blooms per square yard on the average for the area being measured for ground cover ((erops)) in orchards or vineyards, fence lines, ditch banks, or field, vineyard or orchard edges: *Provided*, That ~~((white blossomed pea plants and second bloom of pears shall be exempt from this definition this definition shall not apply to blossoming plants that are not attractive to bees such as barley, lentils, white blossomed peas, second bloom of pears, potatoes, and wheat.~~

(2) "~~Pollen shedding corn~~" shall mean that stage of growth when ~~((40))~~ ten percent or more of the corn plants in any one quarter portion of that field are showing spike anthers.

(3) "~~Properly marked honey bee apiaries~~" shall mean apiaries marked in accordance with RCW 15.60.030 and rules adopted thereunder. See WAC 16-602-040. ((as follows: "Each person owning or having bees in his possession shall register with the director the location of the bee yard, name, address, and phone number of the owner, and post at the bee yard a registration number as provided for herein, on or before April 1st each year. The director shall issue to each apiarist owning or operating more than twenty-five colonies in the state who is registered with the department a registration number, transferable, which shall be posted conspicuously at the entrance of each apiary at all times, not more than one hundred fifty feet from the bees. Bees placed in orchards for pollination shall be exempt from posting during placement."))

(4) "Full bloom" shall be ~~((those dates as established by the state department of agriculture plant industry division for full bloom of red delicious apples))~~ mean when there are three open blooms per spur cluster on the north side of an apple tree or when eighty percent of the king blossoms are open.

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

AMENDATORY SECTION (Amending Order 1595, filed 3/16/79)

WAC 16-230-270 Microencapsulated methyl parathion—Restrictions~~((—Exemptions))~~. (1) Microencapsulated methyl parathion is hereby declared to be a restricted use pesticide and the use or application of the formulation, either directly or through drift, shall be prohibited on all blossoming ~~((crops))~~ plants and on pollen shedding corn ~~((—PROVIDED, That (1) on or after October 15 through May 15 of the following year, applications of microencapsulated methyl parathion shall be allowed (using label restrictions) on winter wheat for aphid control in the wheat growing areas of Eastern Washington.~~

~~((2))~~ (2) The application of microencapsulated methyl parathion shall be allowed (using label restrictions) in the Palouse area of Spokane or Whitman counties. This area shall be bounded on the north by an east west line along longitude 47 30', in the southern portion of Spokane County, to the southern boundary of Whitman County. Applications of microencapsulated methyl parathion on white blooming peas in this area shall be prohibited within 1/2 mile of the breaks of the Snake River Canyon).

~~((3))~~ (2) Applications ((of microencapsulated formulations of methyl parathion shall be prohibited on orchards up to thirty days after full bloom of each year in the area under order.

~~((4))~~ (4) The use)) of microencapsulated methyl parathion shall be ((allowed, (using label restrictions) during the period starting)) prohibited until thirty days after full bloom ((to sixty days after full bloom)) in all ((orchards within designated areas in the Wenatchee River Valley area from the mouth of the Wenatchee River through Leavenworth, excluding Mission Creek and Brender canyons; Entiat proper and the Entiat Valley area from the mouth of the Entiat River through Ardenvoir; and the Howard Flats area and the Chelan Manson area from the mouth of the Chelan River to the town of Lake Chelan on the south side of Lake Chelan and to Antilon Creek on the north side of Lake Chelan)) fruit growing districts: PROVIDED, That applications of microencapsulated methyl parathion shall be further prohibited on orchards until fifty days after full bloom of red delicious apples in each year in Yakima and Benton Counties.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 16-230-281 Microencapsulated methyl parathion—Emergency clause—Permits. (1) In the event of an emergency, as declared by the director, the department may issue permits for the use of microencapsulated methyl parathion that is otherwise prohibited in WAC 16-230-270. An emergency under this section may be declared if the director determines the risk and amount of economic harm to any agricultural crop substantially outweighs the risk and amount of damage likely to occur if a permit is issued.

(2) Application for a permit may be made by mail or in person to the Washington State Department of Agriculture, Pesticide Management Division, 2015 S. 1st Street, Yakima, WA 98903-2231. Applications may also be by facsimile ((509) 575-2210). Permits will not be granted by telephone.

(3) Any permit issued shall be subject to terms and Conditions as prescribed by the director to prevent damage to apiaries. Conditions may include but not be limited to on-site monitoring by the department. A representative of the department may deny or revoke a permit at any time if the representative determines that the situation at the application site creates an unreasonable risk. Any denial or revocation of a permit is subject to the provisions outlined in RCW 34.05.479.

AMENDATORY SECTION (Amending Order 1573, filed 4/21/78)

WAC 16-230-290 Microencapsulated methyl parathion—Distribution. (1) Microencapsulated methyl parathion shall not be distributed ~~((only by licensed pesticide dealers to certified applicators or their authorized representative. Microencapsulated methyl parathion shall be applied only by certified applicators or by persons under the direct supervision of a certified applicator))~~ unless the purchaser has obtained a written recommendation: PROVIDED, That this shall not apply to applications performed by a licensed commercial applicator or public operator.

(2) A written recommendation shall be prepared by a licensed commercial pest control consultant, or public pest control consultant, and shall include the following information:

- (a) Customer name;
- (b) Crop or site to be treated;
- (c) Number of acres to be treated;
- (d) Legal description (to the nearest quarter/quarter section) or other clearly identifiable description of physical location;
- (e) Tentative date of application;
- (f) Pest(s) to be controlled;
- (g) Rate per acre and dilution of microencapsulated methyl parathion to be used;
- (h) Special precautions to be followed (e.g., bloom removal, drift control); and
- (i) Name and license number of the person making the recommendation.

(3) Pesticide dealers shall keep a copy of the written recommendation on file for a period of three years from the date of distribution. Written recommendations shall be available to the director immediately upon request.

(4) Pesticide dealers shall provide a copy of the micro-encapsulated methyl parathion rules to the purchaser at the time of distribution.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-230-280 Six-mile radius.
WAC 16-230-300 Supersedure.

WSR 93-12-039

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed May 24, 1993, 4:12 p.m.]

Date of Adoption: May 24, 1993.

Purpose: Identification on hives will enhance communication between growers, beekeepers and pesticide applicators.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 16-602-040.

Statutory Authority for Adoption: Chapter 15.60 RCW, Apiaries.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are adopted on an emergency basis in conjunction with rules in chapter 16-320 WAC, Additional restrictions on the use of microencapsulated methyl parathion, to protect honeybees in the affected areas from damage while foraging. The closeness of the pollination season when bees are present does not allow sufficient time for normal adoption procedures. Rules will assist applicators in identifying apiaries that may potentially be damaged and allow notification of beekeepers.

Effective Date of Rule: Immediately.

May 24, 1993
Peter J. Goldmark
Director

NEW SECTION

WAC 16-602-040 Apiary marking. Properly marked honey bee apiaries shall mean apiaries marked in accordance with RCW 15.60 and the rules adopted thereunder.

Each person owning or having bees in their possession shall identify their apiary(ies) by placing a sign so it is visible to passersby. Sign lettering shall be a minimum of two inches in height and shall include the name, apiarist's identification number and telephone number. Signs shall be placed in a manner to make them conspicuous to anyone approaching the apiary location. In lieu of signing, hives may be identified by displaying the assigned apiarist identification number and telephone number in at least two-inch characters on the side and top of some colonies in each apiary. The identification shall be in a color which contrasts

with the color of the hive. This identification shall be in a manner to make it conspicuous to anyone approaching the apiary location.

Provided that apiaries located at the bee keepers residence are exempt from the marking requirements.

WSR 93-12-041

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-40—Filed May 25, 1993, 11:38 a.m.]

Date of Adoption: May 25, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

Effective Date of Rule: Immediately.

May 25, 1993
Robert Turner
Director

NEW SECTION

WAC 220-33-03000E Commercial shad—Columbia river Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad for commercial purposes except as provided for in this section:

FISHING PERIODS

(1) Shad Area 2S is open:

4:00 a.m. to 10:00 p.m. May 20, 1993;
4:00 a.m. to 10:00 p.m. May 21, 1993;
4:00 a.m. to 10:00 p.m. May 24, 1993;
4:00 a.m. to 10:00 p.m. May 25, 1993;
4:00 a.m. to 10:00 p.m. May 26, 1993;
4:00 a.m. to 10:00 p.m. May 27, 1993;
4:00 a.m. to 10:00 p.m. May 28, 1993;
4:00 a.m. to 10:00 p.m. June 1, 1993;
4:00 a.m. to 10:00 p.m. June 2, 1993;
4:00 a.m. to 10:00 p.m. June 3, 1993;
4:00 a.m. to 10:00 p.m. June 4, 1993;
4:00 a.m. to 10:00 p.m. June 7, 1993;
4:00 a.m. to 10:00 p.m. June 8, 1993;
4:00 a.m. to 10:00 p.m. June 9, 1993;
4:00 a.m. to 10:00 p.m. June 10, 1993; and
4:00 a.m. to 10:00 p.m. June 11, 1993.

(2) The Camas-Washougal Reef Area is open:

4:00 a.m. May 20 to 10:00 p.m. May 21, 1993;
4:00 a.m. May 24 to 10:00 p.m. May 28, 1993;
4:00 a.m. June 1 to 10:00 p.m. June 4, 1993; and
4:00 a.m. June 7 to 10:00 p.m. June 11, 1993.

GEAR

(3) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

GENERAL

(4) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

WSR 93-12-042
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Examining Board of Psychology)
[Order 364B—Filed May 25, 1993, 3:45 p.m.]

Date of Adoption: April 29, 1993.

Purpose: Adopt model procedural rules for adjudicative proceedings as adopted by the Department of Health and contained in chapter 246-11 WAC including subsequent amendments.

Statutory Authority for Adoption: RCW 18.83.050(5).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Model procedural rules have been adopted by the Department of Health. These rules must be adopted by reference immediately so that efficient processing of disciplinary matters can be effected to ensure that adjudicative proceedings are handled quickly and fairly.

Effective Date of Rule: Immediately.

April 29, 1993
Kathleen O'Shaunessy, Ph.D.
Chair

NEW SECTION

WAC 246-924-475 Procedural rules for adjudicative proceedings for Examining Board of Psychology. The board adopts the Model Procedural Rules for Adjudicative Proceedings as adopted by the Department of Health and contained in chapter 246-11 WAC, including subsequent amendments, with the following exceptions:

1. WAC 246-11-290 is hereby changed to read as follows:

WAC 246-11-290 Scheduling Orders

(1) Within thirty days after receipt of the application for adjudicative proceeding, the disciplinary authority shall:

- (a) Examine the application;
- (b) Notify the respondent of any obvious errors or omissions;
- (c) Request any additional information the disciplining authority wishes or is permitted by law to require; and

(d) Notify the respondent of the name, mailing address, and telephone number of an office that may be contacted regarding the application.

(2) Within ninety days after receipt of any additional information required to be submitted under subsection (1)(c) of this section or receipt of an application without obvious errors or omissions, whichever comes later, the disciplinary authority shall:

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a scheduling order specifying:

- (i) The date, time and place of settlement conference, a prehearing conference and the hearing;
- (ii) The deadlines for completion of discovery and submission of prehearing motions; and
- (iii) The name, address and telephone number of the assistant attorney general or other department representative who will represent the state in the matter; or

(b) Deny the application in accord with RCW 34.05.416.

(3) A request for a change in the Scheduling Order shall be made by motion showing good cause to the administrative hearings unit within thirty (30) days after service of the Scheduling Order. Copies of the request shall be served on the opposing party and upon the disciplining authority. Any changes granted shall be by written order and served on the parties.

(4) The Scheduling Order may be modified by order of the presiding officer or hearings officer.

2. WAC 246-11-370 is hereby changed to read as follows:

WAC 246-11-370 Discovery

(1) Methods, scope and limits shall be as follows.

(a) Parties may obtain discovery by the following methods: production of records, documents or things; deposition upon oral examination; requests for admission; or, if ordered by the presiding officer or hearings officer, written interrogatories.

(b) Unless otherwise limited by order of the presiding officer or hearings officer in accord with these rules, the scope of discovery shall be as follows.

(i) Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action. It is not grounds for objection that the information sought will be inadmissible at the adjudicative proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(ii) The frequency or extent of use of the discovery methods set forth in these rules shall be limited by the presiding officer or designee if the presiding officer or designee determines that:

(A) The discovery sought is unreasonable cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; or

(B) The party seeking discovery has had an ample opportunity by discovery to obtain the information sought; or

(C) The discovery is unduly burdensome or expensive, taking into account the needs of the case, limitations of the parties; resources, and the importance of the issues at stake.

EMERGENCY

(iii) The presiding officer or hearings officer may limit discovery upon his or her own initiative after reasonable notice or pursuant to a motion submitted by a party.

(2) Production of records, documents or things shall be as follows.

(a) Upon written request of a party the opposing party shall identify experts and other witnesses to be called at hearing and shall provide other information necessary to enable the opposing party to conduct depositions of the witnesses.

(b) Any party may serve on any other party a request, which must be signed by the party or designated representative:

(i) to produce and permit the party making the request or designee to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served: or

(ii) to permit entry onto designated land or other property which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or designated object or operation thereon which is within the scope of discovery.

(c) Any party who produces documents for inspection shall produce them as they are kept in the usual course of business or may, if the parties agree, organize and label them to correspond with the categories in the request.

(d) The party upon whom a request is made may, by motion to the presiding officer or designee, move for an order denying the request to produce or modifying the conditions of the request. Denial of the request or change in the conditions of the request shall be within the discretion of the presiding officer or designee and shall be made by written order.

(3) Depositions may be taken subject to the following conditions.

(a) Within the United States or a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held. Within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the disciplining authority or agreed upon by the parties by stipulation in writing filed with the disciplining authority. Except by stipulation, no deposition shall be taken before a person who is a party or a privy of a party, or a privy of any representative of a party, or who is financially interested in the proceeding.

(b) A party desiring to take the deposition of a person upon oral examination shall give reasonable notice of not less than five days in writing to the person to be deposed and to the opposing party. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a description sufficient to identify the person to be examined or the particular class or group to which the person to be examined belongs. On motion of a party upon

whom the notice is served, the presiding officer or hearings officer may for cause shown, lengthen or shorten the time.

(c) After notice is served for taking a deposition, upon his/her motion or upon motion reasonable made by any party or by the person to be examined, and upon notice and for good cause, the presiding officer may issue an order that the deposition shall not be taken or that it may be taken subject to specified restrictions, conditions, or limitations.

(d) Depositions shall be recorded.

(i) The officer before whom the deposition is taken shall put the witness on oath or affirmation and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony.

(ii) The officer or person acting under the officer's direction shall transcribe the testimony at the request of any party, provided that any expenses shall be paid by the requesting party.

(iii) The transcribed testimony shall be submitted to the person deposed for review and signature, unless review and signature are waived by that person. The officer shall append to the transcript any changes in form or substance that may be submitted by the parties.

(iv) Copies of the transcribed and, unless review and signature has been waived, signed testimony shall be served upon the person deposed and upon the parties.

(e) If the parties so stipulate in writing or on the record, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken, may be used as any other depositions.

(4) Following motion of a party and opportunity for response by the opposing party, the presiding officer or hearings officer may order a party to respond to written interrogatories and may order that the interrogatories be subject to specified restrictions, conditions or limitations.

3. WAC 246-11-403 is hereby changed to read as follows:

WAC 246-11-403 Motions

(1) The presiding officer shall rule on motions or may appoint a hearings officer to rule on motions. The presiding officer or hearings officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer or hearings officer.

(2) All prehearing motions, including discovery and evidentiary motions, shall be made in writing to the residing officer or designated hearings officer prior to the dates set in the scheduling order.

(3) Motions for continuance must be made in writing within forty five (45) days following service of the scheduling order. If the adjudicative proceeding is scheduled to take place less than forty five (45) days from service of the scheduling order, motions for continuance must be made within ten (10) days of service of the scheduling order, but in no event less than five (5) days prior to the hearing.

(4) The decision of the hearings officer shall be final unless a party appeals the decision or requests reconsideration from the presiding officer.

(a) The appeal must be filed with the disciplining authority within ten (10) days of service of the ruling or order on the parties, but in no event less than three (3) days

prior to hearing. If the prehearing order is served on the parties less than ten (10) days prior to the hearing, the appeal must be served on the department no less than three (3) days prior to the hearing.

(b) The presiding officer shall afford the party opposing the appeal an opportunity for written response, shall review the documents submitted by the parties and the transcript or recording of the proceedings, if submitted by the parties and relevant to the appeal, and shall issue a written ruling.

(c) If the presiding officer determines that there has been an error of fact or law, or that the matter is not within the jurisdiction or authority of the hearings officer, the presiding officer may reverse or modify a hearings officer's ruling.

(d) Appeal or request for reconsideration under this subsection is not necessary to preserve the record for judicial review.

(5) The presiding officer or hearings officer may grant a continuance when a motion for continuance is not submitted within the time limits contained of subsection (3) in a bona fide emergency.

4. WAC 246-11-404 is hereby changed to read as follows:

WAC 246-11-404 Prehearing Conference

(1) Unless waived by the presiding officer or hearings officer, a prehearing conference shall be held prior to the hearing. Parties shall be notified of the time and place of the conference in the scheduling order.

(2) The presiding officer or hearings officer shall conduct the prehearing conference and shall issue rulings related to prehearing motions and evidentiary issues. The rulings shall govern the conduct of subsequent proceedings.

(3) The prehearing conference shall be recorded unless recording is waived by the parties. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

(4) Following the prehearing conference, the presiding officer or hearings officer shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing and those which may, by agreement, be distributed prior to hearing;

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) Accept amendments to the pleadings;

(g) Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

(h) Rule on objections made in any preserved testimony.

(5) Following the prehearing conference, the presiding officer or hearings officer may issue an order directing that the matter be heard as a brief adjudicative proceeding.

(6) Documentary evidence not offered in the prehearing conference and witnesses not identified at the prehearing conference shall not be received into evidence at the adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

(7) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents shall be deemed authentic. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

(8) Any ruling in a prehearing order of a hearings officer may be appealed to the presiding officer as provided in WAC 246-11-403(4).

(9) Nothing in these rules shall prohibit the presiding officer or hearings officer from conducting a conference at any time, including during the hearing. The presiding officer or hearings officer shall state on the record the results of such conference.

(10) A party bound by a stipulation or admission or record may withdraw it in whole or in part only upon a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

(11) In an appeal to superior court relating to issues addressed in the prehearing order, the record of the prehearing conference, the prehearing order and any orders issued by the presiding officer or hearings officer pursuant to WAC 246-11-403, shall be the record.

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

WSR 93-12-078

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-41—Filed May 27, 1993, 4:27 p.m., effective June 2, 1993, 12:01 a.m.]

Date of Adoption: May 27, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-44-05000D.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations were adopted by the Pacific Fisheries Management Council and will be implemented by the National Marine Fisheries Service. This regulation is intended to control harvest and promote conservation of West coast groundfish stocks and to maintain consistency between state and federal regulations.

Effective Date of Rule: June 2, 1993, 12:01 a.m.

May 27, 1993

Robert Turner

Director

NEW SECTION

WAC 220-44-05000E Coastal bottomfish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. June 2, 1993, until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

(1) The following definitions apply to this section:

(a) Fixed two-week fishing period. Each of the following is defined as a fixed, two-week fishing period (hours given are on a 24-hour basis):

0001 hours May 19 to 2400 hours June 1;
 0001 hours June 2 to 2400 hours June 15;
 0001 hours June 16 to 2400 hours June 29;
 0001 hours June 30 to 2400 hours July 13;
 0001 hours July 14 to 2400 hours July 27;
 0001 hours July 28 to 2400 hours August 10;
 0001 hours August 11 to 2400 hours August 24;
 0001 hours August 25 to 2400 September 7;
 0001 hours September 8 to 2400 hours October 5;
 0001 hours October 6 to 2400 hours October 19;
 0001 hours October 20 to 2400 hours November 2;
 0001 hours November 3 to 2400 hours November 16;
 0001 hours November 17 to 2400 hours November 30;
 0001 hours December 1 to 2400 hours December 14;
 0001 hours December 15 to 2400 hours December 31;

(b) Fixed four-week periods. Each of the following is defined as a fixed, four-week fishing period (hours given are on a 24-hour basis):

0001 hours May 19 to 2400 hours June 15;
 0001 hours June 16 to 2400 hours July 13;
 0001 hours July 14 to 2400 hours August 10;
 0001 hours August 11 to 2400 hours September 7;
 0001 hours September 8 to 2400 hours October 5;
 0001 hours October 6 to 2400 hours November 2;
 0001 hours November 3 to 2400 hours November 30;
 0001 hours December 1 to 2400 hours December 31;

(c) Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips.

(d) Vessel trip - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(e) Vessel trip limit - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(f) Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

(g) Week - Wednesday through the following Tuesday.

(2) Widow rockfish - Cumulative trip limit of 30,000 pounds in a fixed four-week period. No minimum size. Unless the fishery for widow rockfish is closed, a vessel which has landed its four week, cumulative trip limit may begin to fish on the limit for the next four-week period so long as the fish are not landed until the next four-week period.

(3) Shortbelly rockfish - No maximum poundage per two-week or four-week fishing period. No minimum size.

(4) Pacific ocean perch - No limit on the number of vessel trips landings less than 1,000 pounds per vessel trip. Landings greater than 1,000 pounds but not to exceed 3,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of fish aboard per vessel trip. No landings of more than 3,000 pounds per vessel trip. No minimum size.

(5) Sebastes complex - All other species of rockfish except widow, shortbelly, Pacific ocean perch and thornyhead or idiot rockfish (*Sebastolobus* spp.) - Cumulative trip limit of 50,000 pounds per fixed two-week period. No more than 6,000 pounds of this amount may be yellowtail rockfish. No minimum size. Unless the fishery for the Sebastes complex or yellowtail rockfish is closed, a vessel which has landed its two-week, cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period.

(6) Black rockfish - the trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(7) Deepwater complex - Sablefish, Dover sole, and thornyhead rockfish - Cumulative trip limit of 60,000 pounds per fixed four week period. No more than 35,000 pounds of this amount may be thornyheads. Unless the fishery for the deepwater complex is closed, a vessel which has landed its two-week, cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period. The following limits apply to sablefish taken under this subsection:

(a) Trawl vessels - Landings above 1,000 pounds of sablefish are allowed only if sablefish represent 25 percent or less of the total combined weight of the legal deepwater complex onboard. To determine the amount of sablefish allowed, multiply Dover sole and thornyhead by .33. No more than 5,000 pounds of sablefish may be smaller than 22 inches in length in any landing. Minimum size for dressed sablefish is 15.5 inches from the anterior insertion of the first dorsal fin to the tip of the tail. To convert from dressed weight to round weight, multiply the dressed weight by 1.6.

(b) Non-trawl vessels - Effective 0001 hours June 5, until further notice, 250 pounds (round weight) daily trip limit. To convert round weight from dressed weight, multiply the dressed weight by 1.6.

Non-trawl sablefish landings are prohibited from 0001 hours June 2 to 2400 hours June 4. Fishing gear may remain in the water during this period.

(8) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of

bottomfish having a cumulative trip limit, vessel trip limit or daily trip limit.

(9) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000D Coastal bottomfish catch limits. (93-31)

**WSR 93-12-079
EMERGENCY RULES
DEPARTMENT OF FISHERIES**
[Order 93-42—Filed May 27, 1993, 4:28 p.m.]

Date of Adoption: May 27, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500X.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There is still a harvestable shrimp population available for a recreational fishery.

Effective Date of Rule: Immediately.

May 27, 1993
Robert Turner
Director

NEW SECTION

WAC 220-56-32500Y Shrimp and crab—Hood Canal. Notwithstanding the provisions of WAC 220-56-310, 220-56-315, 220-56-320, 220-56-325 and 220-56-330, effective immediately until further notice, it is unlawful to fish for or possess shrimp or crab taken from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:

(1) Fishing for shrimp and crab is allowed 9:00 a.m. to 2:00 p.m. on the following dates:
May 29 and 30.

This subsection does not pertain to harvest of crab taken by hand while wading from shore; such harvest is permitted at any time.

(2) Each shrimp fisher must have their own shrimp pot, and no shrimp fisher may use more than one shrimp pot, which shrimp pot must conform to the Hood Canal shrimp pot gear requirements set forth in WAC 220-56-320(4). Fishers may leave their gear in the water from 9:00 a.m. May 29 until 2:00 p.m. May 30.

(3) All unattended shrimp gear must be buoyed, and the buoy must conform with the requirements and be marked as

provided for in WAC 220-56-320(1). It is lawful to have more than one shrimp pot attached on a single line to the surface, but in such case there must be a separate buoy for each pot, and all fishers whose pots are so attached must be present when the gear is retrieved.

(4) The daily shrimp bag limit is seven pounds of whole shrimp per fisher.

(5) Crab pot gear is prohibited. No crab fisher may use more than one ring net or one star trap. Fishers may leave their gear in the water from 9:00 May 29 until 2:00 p.m. May 30.

(6) All unattended crab gear must be buoyed, and the buoy must conform with the requirements and be marked as provided for in WAC 220-56-320(1).

(7) The daily crab bag limit is six male crab not less than 6 inches in width, as measured at the widest party of the shell immediately in front of the points (tips).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500X Shrimp and crab—Hood Canal.

**WSR 93-12-081
EMERGENCY RULES
DEPARTMENT OF ECOLOGY**

[Order 93-14—Filed May 28, 1993, 8:48 a.m., effective June 1, 1993]

Date of Adoption: May 28, 1993.

Purpose: To reduce the motor vehicle emission inspection fee from \$16 to \$12.

Citation of Existing Rules Affected by this Order: Amending chapter 173-422 WAC, Motor vehicle emission inspection.

Statutory Authority for Adoption: Chapter 70.120 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: State law, RCW 70.120.170 (4)(a), specifies how the motor vehicle emission inspection fee is to be determined.

Effective Date of Rule: June 1, 1993.

May 27, 1993
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 91-46, filed 5/3/93, effective 6/3/93)

WAC 173-422-130 Inspection fees. The fee for the first emission test on each vehicle applicable to a vehicle license year shall be ((~~sixteen~~)) twelve dollars. If the vehicle fails, one retest will be provided free of charge at any inspection station operated under contract to the state, provided that the retest is applicable to the same vehicle license year. Any additional retests of a failed vehicle

EMERGENCY

applicable to the same vehicle license year will require the payment of ~~((sixteen))~~ twelve dollars.

~~((Inspection station operators shall forward to the state treasurer within ten working days, the amount of fees due to the state for inspections conducted during the previous month.~~

~~The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees.))~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-12-124
EMERGENCY RULES
DEPARTMENT OF HEALTH
[Order 370—Filed June 2, 1993, 10:05 a.m.]

Date of Adoption: June 1, 1993.

Purpose: To establish fee for retired active physician license.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-917-990.

Statutory Authority for Adoption: RCW 43.70.250.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule expired before it was adopted, it is necessary to the public health and safety that it be in effect.

Effective Date of Rule: Immediately.

June 1, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 258, filed 3/27/92, effective 4/27/92)

WAC 246-917-990 Physician and surgeon fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Physician and surgeons:	
Application with examination or reexamination (both components)	\$600.00
Examination or reexamination (component I)	295.00
Examination or reexamination (component II)	320.00
Applicants (without full examination)	300.00
<u>Retired active physician license</u>	<u>125.00</u>
Renewal	107.50
Renewal effective April 1, 1991	100.00

Late renewal penalty	50.00
Disciplinary assessment	107.50
Disciplinary assessment effective April 1, 1991	100.00
Surcharge-impaired physician	25.00
Certification	50.00
Duplicate license	15.00
Temporary permit	50.00
Limited license:	
Limited license application	200.00
Renewal	107.50
Renewal effective April 1, 1991	100.00
Duplicate license	15.00
Disciplinary assessment	107.50
Disciplinary assessment effective April 1, 1991	100.00
Surcharge-impaired physician	25.00

WSR 93-12-136
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Filed June 2, 1993, 11:23 a.m., effective July 1, 1993]

Date of Adoption: June 2, 1993.

Purpose: To implement a system for changing the funding of the office pursuant to legislative mandate.

Statutory Authority for Adoption: Chapter 195, Laws of 1993.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Legislative mandate for implementation on July 1, 1993.

Effective Date of Rule: July 1, 1993.

June 2, 1993
James A. Medina
Director

Chapter 326-02 WAC
GENERAL PROVISIONS

NEW SECTION

WAC 326-02-031 Office of minority and women's business enterprises account-Created-Purpose. The Office of Minority and Women's Business Enterprises account is created in the custody of the State Treasurer for the purpose of defraying costs of the office in administering Chapter 39.19 RCW. Only the director or the director's designee may authorize expenditures from the account. Money in the account may be spent only after appropriation. The revolving fund account is subject to the allotment procedures provided under Chapter 43.88 RCW. The director of the Office of Financial Management shall prescribe appropriate accounting procedures to accurately record payments to the fund from businesses, state agencies

and educational institutions, and political subdivisions and expenditures from the fund.

NEW SECTION

WAC 326-02-032 Certification fee. The office shall charge businesses a twenty dollar processing fee for certification and recertification applications. Businesses must submit the fee with all applications for certification or recertification received in the office on or after July 1, 1993, before processing will occur.

NEW SECTION

WAC 326-02-033 State agency and educational institution fees. The office shall charge a fee to each state agency and educational institution to assist in the support of the state's Minority and Women's Business Enterprise program. The fee will be apportioned according to the state agency and educational institution's expenditure level of funds which are subject to Chapter 39.19 RCW and Title 326 WAC.

State agency and educational institution's charges that are five-hundred dollars or less will be billed once in a biennium. Charges over five hundred dollars will be billed at least yearly to limit administrative expenditures. The office will submit invoices to state agencies and educational institutions and payments will be due on or before July 15 unless, the state agency or educational institution is billed more frequently that yearly.

NEW SECTION

WAC 326-02-034 Political subdivision fees. The office is the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises and women's business enterprises throughout the state of Washington. Certification by the office allows these firms to participate in programs administered by the state and political subdivisions.

The office shall charge a fee to Washington political subdivisions for a portion of the office's certification program, to be prorated on the relative benefit to the political subdivision. The determination of the specific fee for a political subdivision will be based upon the number of certification and recertification applicants who indicate on their applications an intent to do business with that political subdivision.

The calculation of the first payment amount, due July 31, 1993, is based upon the number of certification and recertification applications received from November 1992 to June 30, 1993. Payments are due to the office within thirty calendar days after the receipt of the invoice. The office will calculate the fee and bill each political subdivision on a quarterly basis.

EMERGENCY

WSR 93-11-020
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
 [Filed May 6, 1993, 10:31 a.m.]

Reviser's note: The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

Notice of hearing and proposed adoption of rule 350-70.

In the matter of adopting administrative rules relating to appeals from decisions under gorge commission ordinances.

The Columbia River Gorge Commission proposes to adopt rules relating to appeals from decisions under gorge commission ordinances, 350-70, at its regularly scheduled meeting on July 27, 1993, 10:00 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

The chair of the commission will preside over and conduct the hearing.

Adoption: Rule 350-70, the commission is the proponent of these proposed rules.

No prior notice given.

Summary of Rules: The rules set forth the process in which an affected party may appeal to the Columbia River Gorge Commission a decision made by the executive director implementing the Columbia River Gorge National Scenic Area Management Plan through gorge commission land use ordinances.

Statement of Need: The National Scenic Area Act contemplates the gorge commission shall act in an appellate role once land use ordinances have been adopted by counties in the gorge or, when the gorge commission has adopted such ordinances to implement the act; and the public needs a detailed process for appeals to the Columbia River Gorge Commission.

Statutory Authority: Authority to adopt the rules as proposed derives from the Scenic Area Act (16 U.S.C. § 544 et seq. and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. as well as state law.

Documents Relied Upon: The proposed rule is based on the Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act (16 U.S.C. § 544 et seq). Copies of these documents are available at the Columbia River Gorge Commission office.

Statement of Anticipated Effects: The proposed rule provides an appeal process from decisions made by the executive director in implementing the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinances as required by the National Scenic Area Act.

Fiscal Impact Statement: The proposed rule will not have an adverse fiscal impact on the public or local government. The rule provides a process for appeals from decisions of the executive director which will ensure an efficient review process consistent with the act.

Availability of Rule: The proposed rule is available on request from Jan Brending, Rules Coordinator, Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

Public Comment: Interested persons may comment orally or in writing at the hearing. Written comment received at the commission's office by July 23, 1993, will also be considered. Comment may be made to Jan Brending, Rules Coordinator, Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

COLUMBIA RIVER GORGE COMMISSION
PROPOSED PERMANENT RULE

Chapter 350

Division 70

Appeals From Decisions Under Gorge Commission Ordinances

350-70-000. Purpose.

The purpose of this division is to define the process and standards used by the Columbia River Gorge Commission in hearing appeals from decisions relating to the implementation of the Columbia River Gorge National Scenic Area Act ("National Scenic Act" or "Act"). The rule applies to appeals from decisions by the Executive Director under ordinances adopted by the Gorge Commission.

350-70-010. Authority.

The National Scenic Act authorizes appeals to the Gorge Commission by a person or entity adversely affected by a final action or order, and this includes decisions by the Executive Director under a land use ordinance for a county adopted by the Gorge Commission.

350-70-020. Scope.

Scope of Rules: All proceedings commenced by Notice of Intent to Appeal and Petition shall be governed by these rules.

Appeals commenced by a Notice of Appeal filed under the Final Interim Guidelines shall continue to be governed by Commission Rule 350-20 as adopted December 1, 1987, and the Final Interim Guidelines.

350-70-030. Application.

These rules are intended to promote the efficient review of land use decisions in accordance with the National Scenic Act while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice.

350-70-040. Definitions.

In these rules, unless the context or subject matter requires otherwise:

(1) "Applicant" means the person who requested that the Executive Director of the Gorge Commission take an action which resulted in a land use decision.

(2) "Commission" means the Columbia River Gorge Commission or any member thereof.

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

(4) "Days" means calendar days.

(5) "Executive Director" means the director of the Gorge Commission.

(6) "File" means to deliver to Commission offices by personal delivery or by mail, not by fax. To be considered filed, a document must be received at Commission offices by 5:00 p.m.

(7) "Final decision": A decision is final when it is reduced to writing and bears the signature of the Executive Director of the Gorge Commission.

(8) "Land use decision" means a final decision by the Executive Director based on the National Scenic Act.

(9) "Notice" means the Notice of Intent to Appeal and Petition and refers to the document which must be filed with the Commission in order to begin a review proceeding.

(10) "Party" means the petitioner, the applicant if different from the petitioner, the Executive Director, and any person who intervenes.

(11) "Transmit" means to send with the United States Postal Service by first class mail or to deliver in person.

350-70-050. Notice of Intent to Appeal and Petition.

(1) Filing: The Notice of Intent to Appeal and Petition from a decision by the Director shall be filed with the Commission on or before the 30th day after the date the decision sought to be reviewed becomes final. A Notice filed thereafter shall not be deemed timely filed and the appeal shall be dismissed.

(2) Service of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be filed with the Commission and served on all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice of Intent to Appeal and Petition is required to be filed.

(3) Contents of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be substantially in the form set forth in Exhibit 1 and shall contain:

(a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and Executive Director, identifying the Executive Director as respondent;

(b) Below the caption the heading "Notice of Intent to Appeal and Petition";

(c) The full title of the decision to be reviewed as it appears on the final decision;

(d) The date the decision to be reviewed became final;

(e) A concise description of the decision to be reviewed;

(f) The name, address and telephone number of each of the following:

(A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner.

(B) The Executive Director and the Director's legal counsel;

(C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the Executive Director, the applicant's address and telephone number may be omitted and the name, address and telephone number of the applicant's attorney shall be included;

(D) Any other person to whom written notice of the land use decision was mailed as shown on the Executive Director's records. The telephone number may be omitted for any such person.

(g) A statement advising all persons, other than the Executive Director, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to 350-70-170.

(h) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: A filing fee and deposit for costs may be charged by the Columbia River Gorge Commission.

350-70-060. Special Review Process.

(1) In any development review decision by the Executive Director under any rule adopting ordinances, where the applicant contends the result eliminates all beneficial use of the property, the applicant must request reconsideration of the decision of the Executive Director and special review as follows:

(a) The request for reconsideration shall be in writing.

(b) The request for reconsideration shall set forth all pertinent facts in support of the applicant's position.

(c) The request for reconsideration shall be accompanied by copies of all relevant documents (maps, deeds, easements, reports, etc.) that support the position taken by the applicant.

(d) The request for reconsideration shall be served on the Executive Director and all parties as a separate section of the Notice of Intent to Appeal and Petition from the Executive Director's decision along with proof of service.

(2) The Director, on receipt of a request for reconsideration, shall take the following steps:

(a) Review the request for reconsideration.

(b) Issue a written decision that addresses the specific portions of the request related to use of the property within 30 days of receipt of the request for reconsideration.

(c) Specify the factual or legal principles relied on in support of the written decision.

(d) Where appropriate, propose options for use for the property owner, or other options available to the property owner.

(e) Approve, where appropriate, based on the specific facts and circumstances of the case, a use to ensure the property is not subject to what would otherwise constitute a taking if the Forest Service or the federal government does not provide just compensation for a designation it made.

(f) The time period for submission of the Request for Review to the Gorge Commission shall not begin to run until the day after the decision on the request for reconsideration is issued.

(g) The applicant and anyone who intervened may pursue the appeal process below once the special review process is completed.

MISCELLANEOUS

350-70-070. Record.

(1) Contents of Record: The record shall include the following:

(a) The final decision including findings of fact and conclusions of law of the Director's decision;

(b) All evidence, exhibits, maps, documents or other written materials included as part of the record during the course of the Executive Director's proceeding;

(c) Minutes of any meetings conducted by the Executive Director as required by law.

(2) Transmittal of Record: The Executive Director shall within 30 days after service of the Notice, transmit to the Commission the original or a certified copy, and two copies of the record of the proceeding under review. The Executive Director may, however, retain any large maps or documents which are difficult to duplicate, until the date of the hearing.

(3) Service of Record: Contemporaneously with transmittal, the Executive Director shall serve a copy of the record, exclusive of large maps and other documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated, and all other parties.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice, and the Commission's numerical designation for the case, and shall indicate the numerical designation given the land use decision by the Executive Director;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map or document retained by the Executive Director under subsection (2) of this rule;

(C) Be securely fastened;

(D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item on top.

(b) A record which does not conform to the preceding requirements shall not be accepted by the Commission.

350-70-080. Objections to the Record.

(1) Before filing an objection to the record, a party shall attempt to resolve the matter with the Executive Director's legal counsel and the other parties. If the Executive Director amends the record in response to an objection, the date the amendment is received by the Commission shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

(2) An objection to the record shall be filed with the Commission within 10 days following service of the record on the person filing the objection. Objections may be made on the following grounds:

(a) The record does not include all materials included as part of the record during the proceedings before the Executive Director. The omitted item(s) shall be specified, as well as the basis for the claim that the item(s) are part of the record.

(b) The record contains material not included as part of the record during the proceedings before the Executive Director. The item(s) not included as part of the record

during the proceedings before the Executive Director shall be specified, as well as the basis for the claim that the item(s) are not part of the record.

(c) The minutes or transcripts of meetings or hearings are incomplete or do not accurately reflect the proceedings.

(3) An objection on grounds that the minutes or transcripts are incomplete or inaccurate shall demonstrate with particularity how the minutes or transcripts are defective and shall explain with particularity why the defect is material. Upon such demonstration, the Commission shall require the Executive Director to produce additional evidence to prove the accuracy of the contested minutes or transcripts. If the evidence regarding contested minutes is an audiotape recording, a transcript of the relevant portion shall be submitted.

(4) The Commission or its staff may conduct a telephone conference with the parties to consider and resolve any objections to the record.

(5) If an objection to the record is filed, the time limits for all further procedures under these rules shall be suspended. When the objection is resolved, the Commission shall issue a letter or order declaring the record complete and setting forth the schedule for subsequent events. Unless otherwise provided by the Commission, the date of the Commission's letter or order shall be deemed the date of receipt of the record for purposes of computing subsequent time limits.

350-70-090. Request for Review.

(1) Filing and Service of Request: The Request for Review shall be filed with the Commission within 30 days after the date the record is received by the Commission. The Request shall also be served on the Executive Director and any party who has filed a motion to intervene. Failure to file a Request for Review within the time required by this section shall result in dismissal of the appeal and forfeiture of the filing fee and deposit for costs to the Gorge Commission.

(2) Specifications of Request: The Request for Review shall

(a) Begin with a table of contents;

(b) Not exceed 50 pages, exclusive of appendices, unless permission for a longer petition is given by the Commission. If a Request for Review exceeding the 50 page limit is filed without permission, the Commission shall notify the author, and a revised brief satisfying the 50 pages limit shall be filed within three (3) days of notification by the Commission.

(c) Have a blue cover page, stating the full title of the proceeding, and the names, addresses and telephone numbers of all parties unrepresented by attorney. If a party is represented by an attorney, the name, address and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify the petitioner(s) are filing the Request. An intervenor shall be designated as either petitioner or respondent.

(d) Be typewritten, in pica type, and double spaced;

(e) Be signed on the last page by the author.

(3) Contents of Request: The Request for Review shall:

(a) State the facts that establish petitioner's standing;

(b) Present a clear and concise statement of the case, in the following order, with separate section headings:

(A) The nature of the land use decision and the relief sought by petitioner;

(B) A summary of the arguments appearing under the assignments of error in the body of the Request;

(C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found.

(c) State why the challenged decision is a land use decision subject to the Commission's jurisdiction;

(d) Set forth each assignment of error under a separate heading. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;

(e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law;

(f) Contain a copy of any management plan provision, comprehensive plan provision, ordinance or other provision of local law cited in the request, unless the provision is quoted verbatim in the Request.

350-70-100. Respondent's Submission.

(1) Filing and Service of Submission: Respondent's submission and/or brief shall be filed within 30 days after the Request for Review is received by the Commission. A copy of the respondent's submission shall be served on the petitioner or lead petitioner and all intervenors.

(2) Specifications of Submission: Respondent's submission shall conform to the specifications of the petition for review, except that it shall have a red cover. If there is more than one respondent, the cover page shall specify which respondent is filing the brief.

(3) Contents of Submission:

(a) The respondent's submission shall follow the form prescribed for the Request for Review. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where support for the facts alleged are found.

(b) Respondent shall accept or challenge petitioner's statement of the Commission's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

350-70-110. Reply Brief.

A reply brief shall not be filed.

350-70-120. Prehearing Conference.

The Commission, on its own motion or at the request of any party, may call a prehearing conference to consider:

(1) Simplification of the issues;

(2) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;

(3) Limitation of the number of witnesses;

(4) The form and substance of any prehearing order;

(5) Such other matters as may aid in the disposition of the appeal.

350-70-130. Proposed Prehearing Order.

The Commission with or without a prehearing conference, may require that the parties prepare and sign a proposed prehearing order to be filed with the Commission on or before a date specified by the Commission. The order shall contain:

(1) A statement of contentions of law of each party;

(2) A concise statement of all contentions of fact to be proved by each party;

(3) A statement of all agreed facts;

(4) A list of witnesses and a summary of their testimony;

(5) A list of exhibits and a statement of the contents of each;

(6) Such other matters as the Commission may require in order to expedite the hearing and appeal.

350-70-140. Hearing.

(1) The hearing before the Commission shall be "de novo" but shall include the record submitted by the Executive Director.

(2) Conduct of hearing:

(a) The hearing shall be conducted in the following order:

(A) The petitioner shall present its evidence including that of any witnesses;

(B) The other party(ies) shall have the opportunity to present evidence disputing that of the petitioner;

(C) The petitioner shall present rebuttal evidence as permitted by the Commission, limited to specific issues;

(b) Any witness is subject to cross examination by opposing parties;

(c) Any member of the Commission may question any witness;

(d) The burden of presenting evidence in support of a fact or proposition rests on the proponent of the fact or proposition;

(e) The Commission may continue a hearing and may set time limits for any hearing;

(f) Exhibits shall be marked to identify the party offering the exhibits. The exhibits shall be preserved by the Commission as part of the record.

(3) Evidentiary Rules:

(a) Evidence of a type commonly relied upon reasonably prudent person in conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All evidence not objected to, shall be received by the Commission, subject to the Commission's power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the Commission. Rulings on the admissibility of such evidence, if not made at the hearing, shall be made at or before the time a final order is issued.

350-70-150. Depositions.

On petition of any party, the Commission may order testimony of any witness to be taken by deposition in the same manner prescribed for depositions in civil actions. Depositions may also be taken by the use of audio or audio visual recordings. The petition for deposition shall set forth:

- (1) The name and address of the witness whose testimony is desired;
- (2) A showing of relevance and materiality of the testimony;
- (3) A request for an order that the testimony of the witness be taken.

350-70-160. Subpoenas.

The Commission shall issue subpoenas to any party to the appeal upon written request and upon a showing that the witness or the documents to be subpoenaed will provide relevant evidence generally not available without subpoena. Subpoenas may also be issued under the signature of the attorney of record of a party. Witnesses appearing pursuant to subpoena, other than parties or employees of the Commission, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

350-70-170. Intervention.

(1) Standing to Intervene: The applicant and any person who appeared before the Executive Director may intervene in a review proceeding before the Commission. Status as an intervenor shall be recognized by letter or order of the Commission when a motion to intervene is filed.

(2) Motion to Intervene: In the interests of promoting timely resolution of appeals, a motion to intervene shall be filed within 10 days after the Notice of Intent to Appeal and Petition is filed pursuant to 350-70-050. The motion to intervene (exhibit 3) shall:

- (a) State whether the party is intervening on the side of the petitioner or the respondent;
- (b) State the facts which show the party is entitled to intervene, supporting the statement with affidavits, citations to the record or other proof;
- (c) Be served upon the Commission and all parties.

(3) Intervenor's Submission:

(a) If intervention is sought as a petitioner, the submission (or brief) shall be filed within the time limit for filing the Request for Review, and shall satisfy the requirements for a Request for Review in 350-70-090.

(b) If intervention is sought as a respondent, the submission (or brief) shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in 350-70-100.

(4) Objections to a motion to intervene shall be filed within 7 days of the filing of the motion.

350-70-180. Amicus Participation.

(1) A person or organization may appear as amicus only by permission of the Commission on written motion. The motion shall set forth the specific interest of the movant and state reasons why a review of relevant issues would be significantly aided by participation of the amicus. A copy of the motion shall be served on all parties to the proceeding.

(2) Appearance as amicus shall be by submission and/or brief only. An amicus brief shall be subject to the same rules as those governing briefs of parties to the appeal and shall be filed within the time required for filing respondent's brief. No filing fee is required. An amicus brief shall have a green cover.

(3) An amicus brief shall be submitted at the time the respondent's brief is due.

350-70-190. Consolidation.

The Commission, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s).

350-70-200. Extensions of Time.

(1) In no event shall the time limit for the filing of the Notice of Intent to Appeal and Petition be extended.

(2) In no event shall the time limit for the filing of the Request for Review be extended without good cause shown, written consent by all parties and approval of the Gorge Commission.

(3) In the event the Commission extends the deadline for issuance of its final order without consent of the parties, it shall enter the specific findings to explain such action.

350-70-210. Stays.

(1) A motion for a stay of a land use decision shall include:

- (a) A statement setting forth movant's right to standing to appeal the decision;
- (b) A statement explaining why the challenged decision is subject to the Commission's jurisdiction;
- (c) A statement of facts and reasons for issuing a stay, demonstrating a colorable claim of error in the decision and specifying how the movant will suffer irreparable harm if a stay is not granted;
- (d) A suggested expedited briefing schedule;
- (e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.

(2) A copy of a motion for stay shall be served on the Executive Director and the applicant for the land use decision, as well as any other parties, if any, on the same day the motion is filed with the Commission.

(3) Unless otherwise ordered by the Commission, a response to a motion for a stay of a land use decision shall be filed within 10 days after the motion is filed and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.

(4) The Commission shall base its decision on the stay, including the right to a stay, or conditions of any stay order, upon the motion presented. Documents may be attached to the motion in the form of affidavits, maps or other materials, or presented at a hearing which may be convened at the discretion of the Commission and follow the process in 350-70-140.

350-70-220. Final Order of Commission.

(1) An Order of the Commission is final when the cover page of the order containing the caption of the appeal:

- (a) States "Final Opinion and Order";
- (b) Contains findings of fact and conclusions of law or incorporates them from the record below.
- (c) Indicates whether the decision being reviewed is dismissed, affirmed, reversed or remanded;
- (d) Contains the date of the final order; and
- (e) Is date stamped by the Commission.

(2) The order shall be mailed to all parties.
(3) When an order of the Commission becomes final it shall be made available to interested members of the public. The Commission may charge a reasonable fee for copies of its final orders or other orders furnished to members of the public.

(4) Notwithstanding subsections (1)(a) and (b) of this section, an order granting a motion to dismiss an appeal is a final order.

350-70-230. Reversal or Remand of Land Use Decisions.

(1) The Commission shall reverse a land use decision when:

- (a) The Executive Director exceeded his/her jurisdiction;
- (b) The decision is unconstitutional;
- (c) The decision violates a provision of applicable law and is prohibited as a matter of law; or
- (d) The decision was clearly erroneous or arbitrary and capricious.

(2) The Commission shall remand a land use decision for further proceedings when:

- (a) The findings are insufficient to support the decision;
- (b) The decision is not supported by substantial evidence in the whole record;
- (c) The decision is flawed by errors that prejudice the substantial rights of the petitioner(s); or
- (d) The decision improperly construes the applicable law.

**EXHIBIT 1
(350-70-050)**

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,)
)
 Petitioner,)
)
 vs.) CRGC No.
)
 Executive Director,)
)
 Respondent.)

NOTICE OF INTENT TO APPEAL AND PETITION
I.

Notice is hereby given that petitioner intends to appeal that land use decision of respondent entitled [INDICATE TITLE OF LAND USE DECISION], which became final on [INDICATE DATE] and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE OF THE DECISION]

II.

Petitioner, Jane Clark, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Respondent, Executive Director, has as its mailing address and telephone number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER] and has, as its legal counsel: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER].

III.

Applicant, John Developer, was represented in the proceeding below by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Other persons mailed written notice of the land use decision by Executive Director, as indicated by its records in this matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE NUMBER OF ALL PERSONS WHOM THE EXECUTIVE DIRECTOR'S RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND USE DECISION. THE TELEPHONE NUMBERS OF SUCH PERSONS MAY BE OMITTED].

NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding as required by CR 350-70-130.

Petitioner (each petitioner must sign)

or

Attorney for Petitioner(s)

CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal and Petition on all persons listed in paragraphs II and III of this Notice pursuant to CR 350-70-050(2) by (a) first class mail or (b) personal delivery. [INDICATE WHICH]

Dated: _____

Signature

**EXHIBIT 2
(350-70-070)**

**TABLE OF CONTENTS
OF RECORD**

<u>ITEM</u>	<u>PAGE</u>
1. Notice of Intent to Appeal and Petition	1
2. Notice of Intervention, Friends of the Columbia Gorge	2
3. Notice of Intervention, Columbia Gorge United	3
4. Final decision, including findings of fact and conclusions	2

MISCELLANEOUS

Gorge Commission a decision made by the executive director implementing the Columbia River Gorge National Scenic Area Management Plan through gorge commission land use ordinances.

Statement of Need: The National Scenic Area Act contemplates the gorge commission shall act in an appellate role once land use ordinances have been adopted by counties in the gorge or, when the gorge commission has adopted such ordinances to implement the act; and the public needs a detailed process for appeals to the Columbia River Gorge Commission

Statutory Authority: Authority to adopt the rules derives from the Scenic Area Act (16 U.S.C. § 544 et seq. and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The temporary rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. as well as state law.

Documents Relied Upon: The rule is based on the Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act (16 U.S.C. § 544 et seq.). Copies of these documents are available at the Columbia River Gorge Commission office.

Statement of Anticipated Effects: The rule provides an appeal process from decisions made by the executive director in implementing the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act.

Fiscal Impact Statement: The rule will not have an adverse fiscal impact on the public or local government. The rule provides a process for appeals from decisions of the executive director which will ensure an efficient review process consistent with the act.

COLUMBIA RIVER GORGE COMMISSION PROPOSED PERMANENT RULE

Chapter 350 Division 70

Appeals From Decisions Under Gorge Commission Ordinances

350-70-000. Purpose.

The purpose of this division is to define the process and standards used by the Columbia River Gorge Commission in hearing appeals from decisions relating to the implementation of the Columbia River Gorge National Scenic Area Act ("National Scenic Act" or "Act"). The rule applies to appeals from decisions by the Executive Director under ordinances adopted by the Gorge Commission.

350-70-010. Authority.

The National Scenic Act authorizes appeals to the Gorge Commission by a person or entity adversely affected by a final action or order, and this includes decisions by the Executive Director under a land use ordinance for a county adopted by the Gorge Commission.

350-70-020. Scope.

Scope of Rules: All proceedings commenced by Notice of Intent to Appeal and Petition shall be governed by these rules.

Appeals commenced by a Notice of Appeal filed under the Final Interim Guidelines shall continue to be governed by Commission Rule 350-20 as adopted December 1, 1987, and the Final Interim Guidelines.

350-70-030. Application.

These rules are intended to promote the efficient review of land use decisions in accordance with the National Scenic Act while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice.

350-70-040. Definitions.

In these rules, unless the context or subject matter requires otherwise:

(1) "Applicant" means the person who requested that the Executive Director of the Gorge Commission take an action which resulted in a land use decision.

(2) "Commission" means the Columbia River Gorge Commission or any member thereof.

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

(4) "Days" means calendar days.

(5) "Executive Director" means the director of the Gorge Commission.

(6) "File" means to deliver to Commission offices by personal delivery or by mail, not by fax. To be considered filed, a document must be received at Commission offices by 5:00 p.m.

(7) "Final decision": A decision is final when it is reduced to writing and bears the signature of the Executive Director of the Gorge Commission.

(8) "Land use decision" means a final decision by the Executive Director based on the National Scenic Act.

(9) "Notice" means the Notice of Intent to Appeal and Petition and refers to the document which must be filed with the Commission in order to begin a review proceeding.

(10) "Party" means the petitioner, the applicant if different from the petitioner, the Executive Director, and any person who intervenes.

(11) "Transmit" means to send with the United States Postal Service by first class mail or to deliver in person.

350-70-050. Notice of Intent to Appeal and Petition.

(1) **Filing:** The Notice of Intent to Appeal and Petition from a decision by the Director shall be filed with the Commission on or before the 30th day after the date the decision sought to be reviewed becomes final. A Notice filed thereafter shall not be deemed timely filed and the appeal shall be dismissed.

(2) **Service of Notice of Intent to Appeal and Petition:** The Notice of Intent to Appeal and Petition shall be filed

with the Commission and served on all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice of Intent to Appeal and Petition is required to be filed.

(3) Contents of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be substantially in the form set forth in Exhibit 1 and shall contain:

(a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and Executive Director, identifying the Executive Director as respondent;

(b) Below the caption the heading "Notice of Intent to Appeal and Petition";

(c) The full title of the decision to be reviewed as it appears on the final decision;

(d) The date the decision to be reviewed became final;

(e) A concise description of the decision to be reviewed;

(f) The name, address and telephone number of each of the following:

(A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner.

(B) The Executive Director and the Director's legal counsel;

(C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the Executive Director, the applicant's address and telephone number may be omitted and the name, address and telephone number of the applicant's attorney shall be included;

(D) Any other person to whom written notice of the land use decision was mailed as shown on the Executive Director's records. The telephone number may be omitted for any such person.

(g) A statement advising all persons, other than the Executive Director, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to 350-70-170.

(h) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: A filing fee and deposit for costs may be charged by the Columbia River Gorge Commission.

350-70-060. Special Review Process.

(1) In any development review decision by the Executive Director under any rule adopting ordinances, where the applicant contends the result eliminates all beneficial use of the property, the applicant must request reconsideration of the decision of the Executive Director and special review as follows:

(a) The request for reconsideration shall be in writing.

(b) The request for reconsideration shall set forth all pertinent facts in support of the applicant's position.

(c) The request for reconsideration shall be accompanied by copies of all relevant documents (maps, deeds, easements, reports, etc.) that support the position taken by the applicant.

(d) The request for reconsideration shall be served on the Executive Director and all parties as a separate section of the Notice of Intent to Appeal and Petition from the Executive Director's decision along with proof of service.

(2) The Director, on receipt of a request for reconsideration, shall take the following steps:

(a) Review the request for reconsideration.

(b) Issue a written decision that addresses the specific portions of the request related to use of the property within 30 days of receipt of the request for reconsideration.

(c) Specify the factual or legal principles relied on in support of the written decision.

(d) Where appropriate, propose options for use for the property owner, or other options available to the property owner.

(e) Approve, where appropriate, based on the specific facts and circumstances of the case, a use to ensure the property is not subject to what would otherwise constitute a taking if the Forest Service or the federal government does not provide just compensation for a designation it made.

(f) The time period for submission of the Request for Review to the Gorge Commission shall not begin to run until the day after the decision on the request for reconsideration is issued.

(g) The applicant and anyone who intervened may pursue the appeal process below once the special review process is completed.

350-70-070. Record.

(1) Contents of Record: The record shall include the following:

(a) The final decision including findings of fact and conclusions of law of the Director's decision;

(b) All evidence, exhibits, maps, documents or other written materials included as part of the record during the course of the Executive Director's proceeding;

(c) Minutes of any meetings conducted by the Executive Director as required by law.

(2) Transmittal of Record: The Executive Director shall within 30 days after service of the Notice, transmit to the Commission the original or a certified copy, and two copies of the record of the proceeding under review. The Executive Director may, however, retain any large maps or documents which are difficult to duplicate, until the date of the hearing.

(3) Service of Record: Contemporaneously with transmittal, the Executive Director shall serve a copy of the record, exclusive of large maps and other documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated, and all other parties.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder, the cover shall bear the title of the case as it appears in the Notice, and the Commission's numerical designation for the case, and shall indicate the numerical designation given the land use decision by the Executive Director;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map or document retained by the Executive Director under subsection (2) of this rule;

- (C) Be securely fastened;
 - (D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;
 - (E) Be arranged in inverse chronological order, with the most recent item on top.
- (b) A record which does not conform to the preceding requirements shall not be accepted by the Commission.

350-70-080. Objections to the Record.

(1) Before filing an objection to the record, a party shall attempt to resolve the matter with the Executive Director's legal counsel and the other parties. If the Executive Director amends the record in response to an objection, the date the amendment is received by the Commission shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

(2) An objection to the record shall be filed with the Commission within 10 days following service of the record on the person filing the objection. Objections may be made on the following grounds:

(a) The record does not include all materials included as part of the record during the proceedings before the Executive Director. The omitted item(s) shall be specified, as well as the basis for the claim that the item(s) are part of the record.

(b) The record contains material not included as part of the record during the proceedings before the Executive Director. The item(s) not included as part of the record during the proceedings before the Executive Director shall be specified, as well as the basis for the claim that the item(s) are not part of the record.

(c) The minutes or transcripts of meetings or hearings are incomplete or do not accurately reflect the proceedings.

(3) An objection on grounds that the minutes or transcripts are incomplete or inaccurate shall demonstrate with particularity how the minutes or transcripts are defective and shall explain with particularity why the defect is material. Upon such demonstration, the Commission shall require the Executive Director to produce additional evidence to prove the accuracy of the contested minutes or transcripts. If the evidence regarding contested minutes is an audiotape recording, a transcript of the relevant portion shall be submitted.

(4) The Commission or its staff may conduct a telephone conference with the parties to consider and resolve any objections to the record.

(5) If an objection to the record is filed, the time limits for all further procedures under these rules shall be suspended. When the objection is resolved, the Commission shall issue a letter or order declaring the record complete and setting forth the schedule for subsequent events. Unless otherwise provided by the Commission, the date of the Commission's letter or order shall be deemed the date of receipt of the record for purposes of computing subsequent time limits.

350-70-090. Request for Review.

(1) Filing and Service of Request: The Request for Review shall be filed with the Commission within 30 days after the date the record is received by the Commission. The Request shall also be served on the Executive Director and any party who has filed a motion to intervene. Failure to file a Request for Review within the time required by this section shall result in dismissal of the appeal and forfeiture of the filing fee and deposit for costs to the Gorge Commission.

(2) Specifications of Request: The Request for Review shall

(a) Begin with a table of contents;

(b) Not exceed 50 pages, exclusive of appendices, unless permission for a longer petition is given by the Commission. If a Request for Review exceeding the 50 page limit is filed without permission, the Commission shall notify the author, and a revised brief satisfying the 50 pages limit shall be filed within three (3) days of notification by the Commission.

(c) Have a blue cover page, stating the full title of the proceeding, and the names, addresses and telephone numbers of all parties unrepresented by attorney. If a party is represented by an attorney, the name, address and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify the petitioner(s) are filing the Request. An intervenor shall be designated as either petitioner or respondent.

(d) Be typewritten, in pica type, and double spaced;

(e) Be signed on the last page by the author.

(3) Contents of Request: The Request for Review shall:

(a) State the facts that establish petitioner's standing;

(b) Present a clear and concise statement of the case, in the following order, with separate section headings:

(A) The nature of the land use decision and the relief sought by petitioner;

(B) A summary of the arguments appearing under the assignments of error in the body of the Request;

(C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found.

(c) State why the challenged decision is a land use decision subject to the Commission's jurisdiction;

(d) Set forth each assignment of error under a separate heading. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;

(e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law;

(f) Contain a copy of any management plan provision, comprehensive plan provision, ordinance or other provision of local law cited in the request, unless the provision is quoted verbatim in the Request.

350-70-100. Respondent's Submission.

(1) Filing and Service of Submission: Respondent's submission and/or brief shall be filed within 30 days after the Request for Review is received by the Commission. A copy of the respondent's submission shall be served on the petitioner or lead petitioner and all intervenors.

(2) Specifications of Submission: Respondent's submission shall conform to the specifications of the petition for review, except that it shall have a red cover. If there is more than one respondent, the cover page shall specify which respondent is filing the brief.

(3) Contents of Submission:

(a) The respondent's submission shall follow the form prescribed for the Request for Review. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where support for the facts alleged are found.

(b) Respondent shall accept or challenge petitioner's statement of the Commission's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

350-70-110. Reply Brief.

A reply brief shall not be filed.

350-70-120. Prehearing Conference.

The Commission, on its own motion or at the request of any party, may call a prehearing conference to consider:

- (1) Simplification of the issues;
- (2) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (3) Limitation of the number of witnesses;
- (4) The form and substance of any prehearing order;
- (5) Such other matters as may aid in the disposition of the appeal.

350-70-130. Proposed Prehearing Order.

The Commission with or without a prehearing conference, may require that the parties prepare and sign a proposed prehearing order to be filed with the Commission on or before a date specified by the Commission. The order shall contain:

- (1) A statement of contentions of law of each party;
- (2) A concise statement of all contentions of fact to be proved by each party;
- (3) A statement of all agreed facts;
- (4) A list of witnesses and a summary of their testimony;
- (5) A list of exhibits and a statement of the contents of each;
- (6) Such other matters as the Commission may require in order to expedite the hearing and appeal.

350-70-140. Hearing.

(1) The hearing before the Commission shall be "de novo" but shall include the record submitted by the Executive Director.

- (2) Conduct of hearing:

(a) The hearing shall be conducted in the following order:

(A) The petitioner shall present its evidence including that of any witnesses;

(B) The other party(ies) shall have the opportunity to present evidence disputing that of the petitioner;

(C) The petitioner shall present rebuttal evidence as permitted by the Commission, limited to specific issues;

(b) Any witness is subject to cross examination by opposing parties;

(c) Any member of the Commission may question any witness;

(d) The burden of presenting evidence in support of a fact or proposition rests on the proponent of the fact or proposition;

(e) The Commission may continue a hearing and may set time limits for any hearing;

(f) Exhibits shall be marked to identify the party offering the exhibits. The exhibits shall be preserved by the Commission as part of the record.

(3) Evidentiary Rules:

(a) Evidence of a type commonly relied upon reasonably prudent person in conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All evidence not objected to, shall be received by the Commission, subject to the Commission's power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the Commission. Rulings on the admissibility of such evidence, if not made at the hearing, shall be made at or before the time a final order is issued.

350-70-150. Depositions.

On petition of any party, the Commission may order testimony of any witness to be taken by deposition in the same manner prescribed for depositions in civil actions. Depositions may also be taken by the use of audio or audio visual recordings. The petition for deposition shall set forth:

- (1) The name and address of the witness whose testimony is desired;
- (2) A showing of relevance and materiality of the testimony;
- (3) A request for an order that the testimony of the witness be taken.

350-70-160. Subpoenas.

The Commission shall issue subpoenas to any party to the appeal upon written request and upon a showing that the witness or the documents to be subpoenaed will provide relevant evidence generally not available without subpoena. Subpoenas may also be issued under the signature of the attorney of record of a party. Witnesses appearing pursuant to subpoena, other than parties or employees of the Commission, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

350-70-170. Intervention.

(1) Standing to Intervene: The applicant and any person who appeared before the Executive Director may intervene in a review proceeding before the Commission. Status as an intervenor shall be recognized by letter or order of the Commission when a motion to intervene is filed.

(2) Motion to Intervene: In the interests of promoting timely resolution of appeals, a motion to intervene shall be filed within 10 days after the Notice of Intent to Appeal and Petition is filed pursuant to 350-70-050. The motion to intervene (exhibit 3) shall:

(a) State whether the party is intervening on the side of the petitioner or the respondent;

(b) State the facts which show the party is entitled to intervene, supporting the statement with affidavits, citations to the record or other proof;

(c) Be served upon the Commission and all parties.

(3) Intervenor's Submission:

(a) If intervention is sought as a petitioner, the submission (or brief) shall be filed within the time limit for filing the Request for Review, and shall satisfy the requirements for a Request for Review in 350-70-090.

(b) If intervention is sought as a respondent, the submission (or brief) shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in 350-70-100.

(4) Objections to a motion to intervene shall be filed within 7 days of the filing of the motion.

350-70-180. Amicus Participation.

(1) A person or organization may appear as amicus only by permission of the Commission on written motion. The motion shall set forth the specific interest of the movant and state reasons why a review of relevant issues would be significantly aided by participation of the amicus. A copy of the motion shall be served on all parties to the proceeding.

(2) Appearance as amicus shall be by submission and/or brief only. An amicus brief shall be subject to the same rules as those governing briefs of parties to the appeal and shall be filed within the time required for filing respondent's brief. No filing fee is required. An amicus brief shall have a green cover.

(3) An amicus brief shall be submitted at the time the respondent's brief is due.

350-70-190. Consolidation.

The Commission, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s).

350-70-200. Extensions of Time.

(1) In no event shall the time limit for the filing of the Notice of Intent to Appeal and Petition be extended.

(2) In no event shall the time limit for the filing of the Request for Review be extended without good cause shown, written consent by all parties and approval of the Gorge Commission.

(3) In the event the Commission extends the deadline for issuance of its final order without consent of the parties, it shall enter the specific findings to explain such action.

350-70-210. Stays.

(1) A motion for a stay of a land use decision shall include:

(a) A statement setting forth movant's right to standing to appeal the decision;

(b) A statement explaining why the challenged decision is subject to the Commission's jurisdiction;

(c) A statement of facts and reasons for issuing a stay, demonstrating a colorable claim of error in the decision and specifying how the movant will suffer irreparable harm if a stay is not granted;

(d) A suggested expedited briefing schedule;

(e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.

(2) A copy of a motion for stay shall be served on the Executive Director and the applicant for the land use decision, as well as any other parties, if any, on the same day the motion is filed with the Commission.

(3) Unless otherwise ordered by the Commission, a response to a motion for a stay of a land use decision shall be filed within 10 days after the motion is filed and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.

(4) The Commission shall base its decision on the stay, including the right to a stay, or conditions of any stay order, upon the motion presented. Documents may be attached to the motion in the form of affidavits, maps or other materials, or presented at a hearing which may be convened at the discretion of the Commission and follow the process in 350-70-140.

350-70-220. Final Order of Commission.

(1) An Order of the Commission is final when the cover page of the order containing the caption of the appeal:

(a) States "Final Opinion and Order";

(b) Contains findings of fact and conclusions of law or incorporates them from the record below.

(c) Indicates whether the decision being reviewed is dismissed, affirmed, reversed or remanded;

(d) Contains the date of the final order; and

(e) Is date stamped by the Commission.

(2) The order shall be mailed to all parties.

(3) When an order of the Commission becomes final it shall be made available to interested members of the public. The Commission may charge a reasonable fee for copies of its final orders or other orders furnished to members of the public.

(4) Notwithstanding subsections (1)(a) and (b) of this section, an order granting a motion to dismiss an appeal is a final order.

350-70-230. Reversal or Remand of Land Use Decisions.

(1) The Commission shall reverse a land use decision when:

- (a) The Executive Director exceeded his/her jurisdiction;
- (b) The decision is unconstitutional;
- (c) The decision violates a provision of applicable law and is prohibited as a matter of law; or
- (d) The decision was clearly erroneous or arbitrary and capricious.

(2) The Commission shall remand a land use decision for further proceedings when:

- (a) The findings are insufficient to support the decision;
- (b) The decision is not supported by substantial evidence in the whole record;
- (c) The decision is flawed by errors that prejudice the substantial rights of the petitioner(s); or
- (d) The decision improperly construes the applicable law.

**EXHIBIT 1
(350-70-050)**

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,)
)
 Petitioner,)
)
 vs.) **CRGC No.**
)
 Executive Director,)
)
 Respondent.)

**NOTICE OF INTENT TO APPEAL AND PETITION
I.**

Notice is hereby given that petitioner intends to appeal that land use decision of respondent entitled [INDICATE TITLE OF LAND USE DECISION], which became final on [INDICATE DATE] and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE OF THE DECISION]

II.

Petitioner, Jane Clark, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Respondent, Executive Director, has as its mailing address and telephone number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER] and has, as its legal counsel: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER].

III.

Applicant, John Developer, was represented in the proceeding below by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Other persons mailed written notice of the land use decision by Executive Director, as indicated by its records in this matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE NUMBER OF ALL PERSONS WHOM THE EXECUTIVE DIRECTOR'S RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND USE DECISION. THE TELEPHONE NUMBERS OF SUCH PERSONS MAY BE OMITTED].

NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding as required by CR 350-70-130.

Petitioner (each petitioner must sign)

or

Attorney for Petitioner(s)

CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal and Petition on all persons listed in paragraphs II and III of this Notice pursuant to CR 350-70-050(2) by (a) first class mail or (b) personal delivery. [INDICATE WHICH]

Dated: _____

Signature

**EXHIBIT 2
(350-70-070)**

**TABLE OF CONTENTS
OF RECORD**

<u>ITEM</u>	<u>PAGE</u>
1. Notice of Intent to Appeal and Petition	1
2. Notice of Intervention, Friends of the Columbia Gorge	2
3. Notice of Intervention, Columbia Gorge United	3
4. Final decision, including findings of fact and conclusions	2
5. Application and supplemental documents submitted by the applicant	3
6. Notice of Application	4
7. Comments submitted to the Executive Director	
a. Comments from Gary K. Kahn, Friends of the Columbia Gorge, dated April 10, 1991	5
b. Comments from Esson H. Smith, Columbia Gorge United, dated April 4, 1991	6
c. Comments from Levi George, Confederated Tribes and Bands of the Yakima Indian Nation, dated April 15, 1991	7

**EXHIBIT 3
(350-70-1730)**

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,)
)
 Petitioner,)
)
 vs.) **CRGC No.**
)
 Executive Director,)
)
 Respondent.)

MOTION TO INTERVENE

I.

John Smith moves to intervene on the side of (a) Petitioner or (b) Respondent [INDICATE WHICH] in the above-captioned appeal. Mr. Smith's (or his attorney's) address

MISCELLANEOUS

and phone number are as follows: [INDICATE ADDRESS AND PHONE NUMBER].

II.

The facts establishing movant's right to intervene are as follows: [SET FORTH STATEMENT OF FACTS].

III. [OPTIONAL]

In support of this motion, John Smith relies on the attached affidavit, Memorandum of Law or both.

Date	John Smith
or	
	Barbara Neil, Attorney for John Smith

[Add Certificates of Filing and Service on separate page. See forms in Exhibits 4 and 5.]

EXHIBIT 4

CERTIFICATE OF FILING
[For Document Other Than
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I filed the original of this [IDENTIFY DOCUMENT], together with [INDICATE NUMBER OF COPIES] copies, with the Columbia River Gorge Commission, 288 E. Jewett Blvd., P.O. Box 730, White Salmon, WA 98672, by (a) first class mail or (b) personal delivery [INDICATE WHICH].

Dated: _____

Signature

EXHIBIT 5

CERTIFICATE OF SERVICE
[For Document Other Than
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this [IDENTIFY DOCUMENT] by (a) first class mail or (b) personal delivery [INDICATE WHICH] on the following persons: [LIST NAME AND ADDRESS OF EACH PARTY OR THE PARTY'S ATTORNEY].

Dated: _____

Signature

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

WSR 93-12-006
NOTICE OF PUBLIC MEETINGS
BELLEVUE COMMUNITY COLLEGE
[Memorandum—May 18, 1993]

The June 8, 1993, regular meeting of the board of trustees of Community College District VIII has been changed to a special meeting scheduled for June 15, 1993, at 10:00 a.m.

in the Garden Room, C118, Bellevue Campus, Bellevue, Washington.

WSR 93-12-036
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
(Library Commission)

[Memorandum—May 20, 1993]

Thursday, June 10, 1993, at 4:00 p.m., the Washington State Library Commission will meet for a special staff briefing in Boardroom #2, Cavannaugh's Inn at the Park, Spokane, Washington.

WSR 93-12-037
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
[Memorandum—May 20, 1993]

The June 1993 Washington State Transportation Commission meeting will be held at 1:00 p.m. on Wednesday, June 9, and 9:00 a.m. on Thursday, June 10, 1993, in the Transportation Commission Room (1D2) Transportation Building, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Wednesday, June 9, in the Transportation Building, Room 1D2 and 1D22, Olympia, Washington.

The July 1993 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, July 14, and 9:00 a.m. on Thursday, July 15, 1993, in the Fidalgo Elementary School Gymnasium, 1360 Gibraltar Road, Anacortes, Washington. There will be subcommittee meetings at 9:00 a.m., Wednesday, July 14, in the cafeteria and gymnasium of Fidalgo Elementary School.

WSR 93-12-045
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Title and Registration Advisory Committee)

[Memorandum—May 26, 1993]

DATE: July 15, 1993
TIME: 9:00 a.m. to 4:00 p.m.
PLACE: Room 500
Sea Tac Office Building
18000 Pacific Highway South
Seattle, WA

This is the initial meeting of the newly formed Title and Registration Advisory Committee (TRAC).

MISCELLANEOUS

WSR 93-12-061
NOTICE OF PUBLIC MEETINGS
CLOVER PARK
TECHNICAL COLLEGE
 [Memorandum—May 25, 1993]

The following dates have been adopted by the board of trustees of Clover Park Technical College for their meeting dates for January 1994 through December 1994:

<u>Date</u>	<u>Time</u>
Tuesday, January 18, 1994	3:00 p.m.
Tuesday, February 15, 1994	3:00 p.m.
Tuesday, March 15, 1994	3:00 p.m.
Tuesday, April 19, 1994	3:00 p.m.
Tuesday, May 17, 1994	3:00 p.m.
Tuesday, June 21, 1994	3:00 p.m.
Tuesday, July 19, 1994	3:00 p.m.
Tuesday, August 16, 1994	3:00 p.m.
Tuesday, September 20, 1994	3:00 p.m.
Tuesday, October 18, 1994	3:00 p.m.
Tuesday, November 15, 1994	3:00 p.m.
Tuesday, December 20, 1994	3:00 p.m.

These dates were adopted at the board's regular meeting held May 18, 1993.

WSR 93-12-082A
NOTICE OF PUBLIC MEETINGS
MARINE OVERSIGHT BOARD
 [Memorandum—May 28, 1993]

On May 5, 1993, WSR 93-10-105 was filed with your office with a change of time and location for the July 16, 1993, meeting. The location and time has been revised again.

Previous location and time (filed May 5): July 16, 1993, 11 a.m., Best Western Olympic Lodge, The Olympic Room, 140 Del Guzzi Drive, Port Angeles, WA.

New location and time: July 16, 1993, 9 a.m., Vern Burton Memorial Community Center, 308 East Fourth (4th and Peabody), Port Angeles, WA.

WSR 93-12-103
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—June 1, 1993]

The Washington State Human Rights Commission will hold its July 1993 regular commission meeting by telephone conference call on July 22, 1993, beginning at 10:00 a.m. The telephone conference call will originate at the office of the Washington State Human Rights Commission, 711 South Capitol Way, Suite 402, Olympia, (206) 753-4876, and is being held to close cases and to conduct a brief business meeting. An executive session will be convened if necessary.

WSR 93-12-130
RULES COORDINATOR
OFFICE OF THE
ATTORNEY GENERAL
 [Filed June 2, 1993, 10:40 a.m.]

The rules coordinator for the Attorney General's Office continues to be Ms. Jane Halligan. Her office address is: Jane Halligan, Rules Coordinator, Attorney General's Office, 1110 Capitol Way South, Suite 260, P.O. Box 40115, Olympia, WA 98504-0115.

Christine O. Gregoire
 Attorney General

WSR 93-12-131
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—June 2, 1993]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, June 17, 1993, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A. A study session to discuss budgetary matters will be held from 8-9 a.m., prior to the regular meeting.

MISCELLANEOUS

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-24-010	REP-P	93-08-089	4-25-360	REP	93-12-064	16-10-020	NEW-W	93-06-008
4-24-010	REP	93-12-064	4-25-400	NEW-P	93-08-090	16-10-020	NEW-P	93-06-076
4-24-020	REP-P	93-08-089	4-25-400	NEW	93-12-063	16-10-020	NEW	93-10-046
4-24-020	REP	93-12-064	4-25-510	NEW-P	93-08-091	16-10-030	NEW-P	93-04-113
4-24-021	REP-P	93-08-089	4-25-510	NEW	93-12-077	16-10-030	NEW-W	93-06-008
4-24-021	REP	93-12-064	4-25-511	NEW-P	93-08-092	16-10-030	NEW-P	93-06-076
4-24-030	REP-P	93-08-089	4-25-511	NEW	93-12-076	16-10-030	NEW	93-10-046
4-24-030	REP	93-12-064	4-25-520	NEW-P	93-08-093	16-201-010	NEW-P	93-12-044
4-24-040	REP-P	93-08-089	4-25-530	NEW-P	93-08-094	16-201-020	NEW-P	93-12-044
4-24-040	REP	93-12-064	4-25-530	NEW	93-12-075	16-201-025	NEW-P	93-12-044
4-24-041	REP-P	93-08-089	4-25-540	NEW-P	93-08-095	16-201-028	NEW-P	93-12-044
4-24-041	REP	93-12-064	4-25-540	NEW	93-12-074	16-201-030	NEW-P	93-12-044
4-24-050	REP-P	93-08-089	4-25-550	NEW-P	93-08-096	16-201-040	NEW-P	93-12-044
4-24-050	REP	93-12-064	4-25-550	NEW	93-12-073	16-201-050	NEW-P	93-12-044
4-24-060	REP-P	93-08-089	4-25-551	NEW-P	93-08-097	16-201-060	NEW-P	93-12-044
4-24-060	REP	93-12-064	4-25-551	NEW	93-12-072	16-201-070	NEW-P	93-12-044
4-24-070	REP-P	93-08-089	4-25-710	NEW-P	93-08-098	16-201-080	NEW-P	93-12-044
4-24-070	REP	93-12-064	4-25-710	NEW	93-12-071	16-201-100	NEW-P	93-12-044
4-24-080	REP-P	93-08-089	4-25-720	NEW-P	93-08-099	16-201-110	NEW-P	93-12-044
4-24-080	REP	93-12-064	4-25-720	NEW	93-12-070	16-201-120	NEW-P	93-12-044
4-24-090	REP-P	93-08-089	4-25-721	NEW-P	93-08-100	16-201-130	NEW-P	93-12-044
4-24-090	REP	93-12-064	4-25-721	NEW	93-12-069	16-201-140	NEW-P	93-12-044
4-24-101	REP-P	93-08-089	4-25-730	NEW-P	93-08-101	16-201-150	NEW-P	93-12-044
4-24-101	REP	93-12-064	4-25-730	NEW	93-12-068	16-201-160	NEW-P	93-12-044
4-24-110	REP-P	93-08-089	4-25-740	NEW-P	93-08-102	16-201-170	NEW-P	93-12-044
4-24-110	REP	93-12-064	4-25-740	NEW	93-12-067	16-201-180	NEW-P	93-12-044
4-24-120	REP-P	93-08-089	4-25-755	NEW-P	93-08-103	16-201-190	NEW-P	93-12-044
4-24-120	REP	93-12-064	4-25-755	NEW	93-12-066	16-201-200	NEW-P	93-12-044
4-24-131	REP-P	93-08-089	4-25-760	NEW-P	93-08-104	16-201-210	NEW-P	93-12-044
4-24-131	REP	93-12-064	4-25-760	NEW	93-12-065	16-201-220	NEW-P	93-12-044
4-24-140	REP-P	93-08-089	10-04-020	AMD-P	93-07-097	16-201-230	NEW-P	93-12-044
4-24-140	REP	93-12-064	10-04-020	AMD	93-10-098	16-201-240	NEW-P	93-12-044
4-24-150	REP-P	93-08-089	10-08-150	AMD-P	93-07-096	16-201-250	NEW-P	93-12-044
4-24-150	REP	93-12-064	10-08-150	AMD	93-10-097	16-201-260	NEW-P	93-12-044
4-25-010	REP-P	93-08-089	16-08-021	AMD-P	93-07-021	16-201-270	NEW-P	93-12-044
4-25-010	REP	93-12-064	16-08-021	AMD-E	93-07-022	16-201-280	NEW-P	93-12-044
4-25-040	REP-P	93-08-089	16-08-021	AMD	93-10-059	16-201-290	NEW-P	93-12-044
4-25-040	REP	93-12-064	16-08-022	NEW-P	93-07-021	16-218-001	AMD-P	93-12-134
4-25-140	REP-P	93-08-089	16-08-022	NEW-E	93-07-022	16-218-010	AMD-P	93-12-134
4-25-140	REP	93-12-064	16-08-022	NEW	93-10-059	16-218-02001	AMD-P	93-12-134
4-25-141	REP-P	93-08-089	16-08-141	AMD-P	93-07-021	16-218-030	NEW-P	93-12-134
4-25-141	REP	93-12-064	16-08-141	AMD-E	93-07-022	16-219-010	NEW-P	93-12-128
4-25-142	REP-P	93-08-089	16-08-141	AMD	93-10-059	16-219-015	NEW-P	93-12-128
4-25-142	REP	93-12-064	16-08-151	AMD-P	93-07-021	16-219-020	NEW-P	93-12-128
4-25-190	REP-P	93-08-089	16-08-151	AMD-E	93-07-022	16-219-025	NEW-P	93-12-128
4-25-190	REP	93-12-064	16-08-151	AMD	93-10-059	16-219-030	NEW-P	93-12-128
4-25-191	REP-P	93-08-089	16-10-010	NEW-P	93-04-113	16-228-900	REP-P	93-04-114
4-25-191	REP	93-12-064	16-10-010	NEW-W	93-06-008	16-228-900	REP-W	93-06-007
4-25-260	REP-P	93-08-089	16-10-010	NEW-P	93-06-076	16-228-900	REP-P	93-06-075
4-25-260	REP	93-12-064	16-10-010	NEW	93-10-046	16-228-900	REP	93-10-047
4-25-360	REP-P	93-08-089	16-10-020	NEW-P	93-04-113	16-228-905	NEW-P	93-04-114

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
16-228-905	NEW-W	93-06-007	16-230-290	AMD-P	93-12-129	51-11-0601	AMD-W	93-08-084
16-228-905	NEW-P	93-06-075	16-230-300	REP-E	93-12-038	51-11-0605	AMD-P	93-08-077
16-228-905	NEW	93-10-047	16-230-300	REP-P	93-12-129	51-11-0605	AMD-W	93-08-084
16-228-910	NEW-P	93-04-114	16-400-210	AMD-E	93-04-078	51-11-0606	AMD-P	93-08-077
16-228-910	NEW-W	93-06-007	16-400-210	AMD-P	93-04-103	51-11-0606	AMD-W	93-08-084
16-228-910	NEW-P	93-06-075	16-400-210	AMD	93-07-105	51-11-0607	AMD-P	93-08-077
16-228-910	NEW	93-10-047	16-409-015	AMD-W	93-05-022	51-11-0607	AMD-W	93-08-084
16-228-915	NEW-P	93-04-114	16-409-065	REP-W	93-05-022	51-11-0608	AMD-P	93-08-077
16-228-915	NEW-W	93-06-007	16-409-075	AMD-W	93-05-022	51-11-0608	AMD-W	93-08-084
16-228-915	NEW-P	93-06-075	16-415	PREP	93-07-053	51-11-0631	AMD-P	93-08-077
16-228-915	NEW	93-10-047	16-432	PREP	93-07-053	51-11-0631	AMD-W	93-08-084
16-228-920	NEW-P	93-04-114	16-461-011	NEW-P	93-08-060	51-11-0700	AMD-P	93-08-077
16-228-920	NEW-W	93-06-007	16-461-011	NEW-W	93-12-047	51-11-1000	AMD-P	93-08-077
16-228-920	NEW-P	93-06-075	16-532-120	AMD-P	93-06-083	51-11-1100	NEW-P	93-08-077
16-228-920	NEW	93-10-047	16-532-120	AMD	93-09-014	51-11-1101	NEW-W	93-08-084
16-228-925	NEW-P	93-04-114	16-555-010	AMD-P	93-04-094	51-11-1102	NEW-W	93-08-084
16-228-925	NEW-W	93-06-007	16-555-010	AMD	93-10-063	51-11-1103	NEW-W	93-08-084
16-228-925	NEW-P	93-06-075	16-555-020	AMD-P	93-04-094	51-11-1104	NEW-W	93-08-084
16-228-925	NEW	93-10-047	16-555-020	AMD	93-10-063	51-11-1105	NEW-W	93-08-084
16-228-930	NEW-P	93-04-114	16-570-040	AMD-P	93-07-085	51-11-1106	NEW-W	93-08-084
16-228-930	NEW-W	93-06-007	16-570-040	AMD	93-11-032	51-11-1107	NEW-W	93-08-084
16-228-930	NEW-P	93-06-075	16-602-040	NEW-E	93-12-039	51-11-1108	NEW-W	93-08-084
16-228-930	NEW	93-10-047	16-674-002	REP	93-03-079	51-11-1109	NEW-W	93-08-084
16-229-010	NEW-P	93-12-044	16-674-010	AMD	93-03-079	51-11-1110	NEW-P	93-08-077
16-229-015	NEW-P	93-12-044	16-674-020	REP	93-03-079	51-11-1120	NEW-P	93-08-077
16-229-020	NEW-P	93-12-044	16-674-060	NEW	93-03-079	51-11-1130	NEW-P	93-08-077
16-229-025	NEW-P	93-12-044	16-674-070	NEW	93-03-079	51-11-1131	NEW-P	93-08-077
16-229-030	NEW-P	93-12-044	16-674-080	NEW	93-03-079	51-11-1132	NEW-P	93-08-077
16-229-040	NEW-P	93-12-044	16-674-090	NEW	93-03-079	51-11-1133	NEW-P	93-08-077
16-229-050	NEW-P	93-12-044	16-674-100	NEW	93-03-079	51-11-1134	NEW-P	93-08-077
16-229-060	NEW-P	93-12-044	44-10-030	AMD-E	93-07-017	51-11-1140	NEW-P	93-08-077
16-229-070	NEW-P	93-12-044	50-14-020	AMD-P	93-11-087	51-11-1141	NEW-P	93-08-077
16-229-080	NEW-P	93-12-044	50-14-030	AMD-P	93-11-087	51-11-1142	NEW-P	93-08-077
16-229-090	NEW-P	93-12-044	50-14-040	AMD-P	93-11-087	51-11-1143	NEW-P	93-08-077
16-229-100	NEW-P	93-12-044	50-14-050	AMD-P	93-11-087	51-11-1144	NEW-P	93-08-077
16-229-110	NEW-P	93-12-044	50-14-060	AMD-P	93-11-087	51-11-1150	NEW-P	93-08-077
16-229-120	NEW-P	93-12-044	50-14-070	AMD-P	93-11-087	51-11-1160	NEW-P	93-08-077
16-229-130	NEW-P	93-12-044	50-14-080	AMD-P	93-11-087	51-11-1201	NEW-P	93-08-077
16-229-140	NEW-P	93-12-044	50-14-090	AMD-P	93-11-087	51-11-1201	NEW-W	93-08-084
16-229-150	NEW-P	93-12-044	50-14-100	AMD-P	93-11-087	51-11-1210	NEW-P	93-08-077
16-229-160	NEW-P	93-12-044	50-14-110	AMD-P	93-11-087	51-11-1301	NEW-P	93-08-077
16-229-170	NEW-P	93-12-044	50-14-130	AMD-P	93-11-087	51-11-1301	NEW-W	93-08-084
16-229-180	NEW-P	93-12-044	50-48-100	AMD-P	93-05-052	51-11-1302	NEW-P	93-08-077
16-229-200	NEW-P	93-12-044	50-48-100	AMD	93-07-113	51-11-1302	NEW-W	93-08-084
16-229-210	NEW-P	93-12-044	51-11-0101	AMD-P	93-08-077	51-11-1303	NEW-P	93-08-077
16-229-220	NEW-P	93-12-044	51-11-0101	AMD-W	93-08-084	51-11-1303	NEW-W	93-08-084
16-229-230	NEW-P	93-12-044	51-11-0200	AMD-P	93-08-077	51-11-1310	NEW-P	93-08-077
16-229-240	NEW-P	93-12-044	51-11-0201	AMD-P	93-08-077	51-11-1311	NEW-P	93-08-077
16-229-250	NEW-P	93-12-044	51-11-0401	AMD-P	93-08-077	51-11-1312	NEW-P	93-08-077
16-229-260	NEW-P	93-12-044	51-11-0401	AMD-W	93-08-084	51-11-1313	NEW-P	93-08-077
16-229-270	NEW-P	93-12-044	51-11-0502	AMD-P	93-08-077	51-11-1314	NEW-P	93-08-077
16-229-280	NEW-P	93-12-044	51-11-0502	AMD-W	93-08-084	51-11-1320	NEW-P	93-08-077
16-229-300	NEW-P	93-12-044	51-11-0503	AMD-P	93-08-077	51-11-1321	NEW-P	93-08-077
16-229-310	NEW-P	93-12-044	51-11-0503	AMD-W	93-08-084	51-11-1322	NEW-P	93-08-077
16-229-400	NEW-P	93-12-044	51-11-0505	AMD-P	93-08-077	51-11-1323	NEW-P	93-08-077
16-229-410	NEW-P	93-12-044	51-11-0505	AMD-W	93-08-084	51-11-1330	NEW-P	93-08-077
16-229-420	NEW-P	93-12-044	51-11-0528	AMD-P	93-08-077	51-11-1331	NEW-P	93-08-077
16-229-430	NEW-P	93-12-044	51-11-0528	AMD-W	93-08-084	51-11-1332	NEW-P	93-08-077
16-229-440	NEW-P	93-12-044	51-11-0529	AMD-P	93-08-077	51-11-1333	NEW-P	93-08-077
16-229-450	NEW-P	93-12-044	51-11-0529	AMD-W	93-08-084	51-11-1334	NEW-P	93-08-077
16-229-470	NEW-P	93-12-044	51-11-0531	AMD-P	93-08-077	51-11-1401	NEW-P	93-08-077
16-229-480	NEW-P	93-12-044	51-11-0531	AMD-W	93-08-084	51-11-1401	NEW-W	93-08-084
16-230-250	AMD-E	93-12-038	51-11-0532	AMD-P	93-08-077	51-11-1402	NEW-P	93-08-077
16-230-250	AMD-P	93-12-129	51-11-0532	AMD-W	93-08-084	51-11-1402	NEW-W	93-08-084
16-230-260	AMD-E	93-12-038	51-11-0538	AMD-P	93-08-077	51-11-1410	NEW-P	93-08-077
16-230-260	AMD-P	93-12-129	51-11-0538	AMD-W	93-08-084	51-11-1411	NEW-P	93-08-077
16-230-270	AMD-E	93-12-038	51-11-0539	AMD-P	93-08-077	51-11-1412	NEW-P	93-08-077
16-230-270	AMD-P	93-12-129	51-11-0539	AMD-W	93-08-084	51-11-1413	NEW-P	93-08-077
16-230-280	REP-E	93-12-038	51-11-0540	AMD-P	93-08-077	51-11-1414	NEW-P	93-08-077
16-230-280	REP-P	93-12-129	51-11-0540	AMD-W	93-08-084	51-11-1415	NEW-P	93-08-077
16-230-281	NEW-E	93-12-038	51-11-0542	AMD-P	93-08-077	51-11-1420	NEW-P	93-08-077
16-230-281	NEW-P	93-12-129	51-11-0542	AMD-W	93-08-084	51-11-1421	NEW-P	93-08-077
16-230-290	AMD-E	93-12-038	51-11-0601	AMD-P	93-08-077	51-11-1422	NEW-P	93-08-077

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
51-11-1423	NEW-P	93-08-077	51-13-302	AMD	93-02-056	132G-116-090	AMD	93-02-063
51-11-1424	NEW-P	93-08-077	51-13-303	AMD	93-02-056	132G-116-095	NEW	93-02-063
51-11-1430	NEW-P	93-08-077	51-13-304	AMD	93-02-056	132G-116-100	REP	93-02-063
51-11-1431	NEW-P	93-08-077	51-13-401	AMD	93-02-056	132G-116-105	NEW	93-02-063
51-11-1432	NEW-P	93-08-077	51-13-402	AMD	93-02-056	132G-116-110	REP	93-02-063
51-11-1433	NEW-P	93-08-077	51-13-502	AMD	93-02-056	132G-116-115	NEW	93-02-063
51-11-1434	NEW-P	93-08-077	51-13-503	AMD	93-02-056	132G-116-120	REP	93-02-063
51-11-1435	NEW-P	93-08-077	67-35-030	AMD-P	93-07-117	132G-116-125	NEW	93-02-063
51-11-1436	NEW-P	93-08-077	67-35-030	AMD	93-10-067	132G-116-130	REP	93-02-063
51-11-1437	NEW-P	93-08-077	67-35-040	AMD-P	93-06-048	132G-116-135	NEW	93-02-063
51-11-1440	NEW-P	93-08-077	67-35-040	AMD	93-09-013	132G-116-140	REP	93-02-063
51-11-1441	NEW-P	93-08-077	67-35-055	REP-P	93-06-048	132G-116-145	NEW	93-02-063
51-11-1442	NEW-P	93-08-077	67-35-055	REP	93-09-013	132G-116-150	REP	93-02-063
51-11-1450	NEW-P	93-08-077	67-35-056	REP-P	93-06-048	132G-116-155	NEW	93-02-063
51-11-1451	NEW-P	93-08-077	67-35-056	REP	93-09-013	132G-116-160	REP	93-02-063
51-11-1452	NEW-P	93-08-077	98-60-010	NEW-P	93-03-063	132G-116-170	REP	93-02-063
51-11-1453	NEW-P	93-08-077	98-60-010	NEW	93-07-040	132G-116-175	NEW	93-02-063
51-11-1454	NEW-P	93-08-077	98-60-020	NEW-P	93-03-063	132G-116-180	REP	93-02-063
51-11-1501	NEW-P	93-08-077	98-60-020	NEW	93-07-040	132G-116-185	NEW	93-02-063
51-11-1501	NEW-W	93-08-084	98-60-030	NEW-P	93-03-063	132G-116-190	REP	93-02-063
51-11-1502	NEW-W	93-08-084	98-60-030	NEW	93-07-040	132G-116-195	NEW	93-02-063
51-11-1503	NEW-W	93-08-084	98-60-040	NEW-P	93-03-063	132G-116-200	REP	93-02-063
51-11-1504	NEW-W	93-08-084	98-60-040	NEW	93-07-040	132G-116-205	NEW	93-02-063
51-11-1505	NEW-W	93-08-084	98-60-050	NEW-P	93-03-063	132G-116-210	REP	93-02-063
51-11-1510	NEW-P	93-08-077	98-60-050	NEW	93-07-040	132G-116-215	NEW	93-02-063
51-11-1511	NEW-P	93-08-077	98-70-010	AMD-P	93-03-062	132G-116-220	REP	93-02-063
51-11-1512	NEW-P	93-08-077	98-70-010	AMD	93-07-041	132G-116-225	NEW	93-02-063
51-11-1513	NEW-P	93-08-077	131-16-091	AMD-P	93-10-103	132G-116-230	REP	93-02-063
51-11-1520	NEW-P	93-08-077	131-16-092	AMD-P	93-10-103	132G-116-235	NEW	93-02-063
51-11-1521	NEW-P	93-08-077	131-16-093	AMD-P	93-10-103	132G-116-240	REP	93-02-063
51-11-1522	NEW-P	93-08-077	131-47-010	NEW-E	93-09-047	132G-116-245	NEW	93-02-063
51-11-1530	NEW-P	93-08-077	131-47-015	NEW-E	93-09-047	132G-116-250	REP	93-02-063
51-11-1531	NEW-P	93-08-077	131-47-020	NEW-E	93-09-047	132G-116-255	NEW	93-02-063
51-11-1532	NEW-P	93-08-077	131-47-025	NEW-E	93-09-047	132G-116-260	REP	93-02-063
51-11-1601	NEW-W	93-08-084	131-47-030	NEW-E	93-09-047	132G-116-265	NEW	93-02-063
51-11-1602	NEW-W	93-08-084	131-47-035	NEW-E	93-09-047	132G-116-270	AMD	93-02-063
51-11-1603	NEW-W	93-08-084	131-47-040	NEW-E	93-09-047	132G-116-275	NEW	93-02-063
51-11-1604	NEW-W	93-08-084	131-47-045	NEW-E	93-09-047	132G-116-280	REP	93-02-063
51-11-1605	NEW-W	93-08-084	131-47-050	NEW-E	93-09-047	132G-116-285	NEW	93-02-063
51-11-1606	NEW-W	93-08-084	131-47-055	NEW-E	93-09-047	132G-116-290	REP	93-02-063
51-11-1607	NEW-W	93-08-084	131-47-060	NEW-E	93-09-047	132G-116-295	NEW	93-02-063
51-11-1608	NEW-W	93-08-084	131-47-065	NEW-E	93-09-047	132G-116-300	REP	93-02-063
51-11-1701	NEW-P	93-08-077	131-47-070	NEW-E	93-09-047	132G-116-305	NEW	93-02-063
51-11-1701	NEW-W	93-08-084	131-47-075	NEW-E	93-09-047	132G-116-310	REP	93-02-063
51-11-1801	NEW-W	93-08-084	131-47-080	NEW-E	93-09-047	132G-116-315	NEW	93-02-063
51-11-1901	NEW-W	93-08-084	131-47-085	NEW-E	93-09-047	132G-116-320	REP	93-02-063
51-11-1902	NEW-W	93-08-084	131-47-090	NEW-E	93-09-047	132G-116-330	REP	93-02-063
51-11-2000	NEW-W	93-08-084	131-47-095	NEW-E	93-09-047	132G-116-340	AMD	93-02-063
51-11-2001	NEW-P	93-08-077	131-47-100	NEW-E	93-09-047	132G-116-350	REP	93-02-063
51-11-2001	NEW-W	93-08-084	131-47-105	NEW-E	93-09-047	132H-116-315	AMD-P	93-08-067
51-11-2002	NEW-P	93-08-077	131-47-110	NEW-E	93-09-047	132H-116-315	AMD	93-12-007
51-11-2002	NEW-W	93-08-084	131-47-115	NEW-E	93-09-047	132H-120-050	AMD-P	93-08-068
51-11-2003	NEW-P	93-08-077	131-47-120	NEW-E	93-09-047	132H-120-050	AMD	93-12-008
51-11-2003	NEW-W	93-08-084	131-47-125	NEW-E	93-09-047	132H-120-200	AMD-P	93-08-068
51-11-2004	NEW-P	93-08-077	131-47-130	NEW-E	93-09-047	132H-120-200	AMD	93-12-008
51-11-2004	NEW-W	93-08-084	131-47-135	NEW-E	93-09-047	132H-120-220	AMD-P	93-08-068
51-11-2005	NEW-P	93-08-077	131-47-140	NEW-E	93-09-047	132H-120-220	AMD	93-12-008
51-11-2005	NEW-W	93-08-084	131-47-145	NEW-E	93-09-047	132H-120-225	AMD-P	93-08-068
51-11-2006	NEW-P	93-08-077	131-47-150	NEW-E	93-09-047	132H-120-225	AMD	93-12-008
51-11-2006	NEW-W	93-08-084	131-47-155	NEW-E	93-09-047	132H-120-245	AMD-P	93-08-068
51-11-2007	NEW-P	93-08-077	131-47-160	NEW-E	93-09-047	132H-120-245	AMD	93-12-008
51-11-2007	NEW-W	93-08-084	137-47-165	NEW-E	93-09-047	132H-120-300	AMD-P	93-08-068
51-11-2008	NEW-P	93-08-077	132G-116-010	REP	93-02-063	132H-120-300	AMD	93-12-008
51-11-2008	NEW-W	93-08-084	132G-116-020	AMD	93-02-063	132H-120-335	AMD-P	93-08-068
51-11-2009	NEW-P	93-08-077	132G-116-025	NEW	93-02-063	132H-120-335	AMD	93-12-008
51-11-2009	NEW-W	93-08-084	132G-116-030	AMD	93-02-063	132H-120-475	AMD-P	93-08-068
51-11-99901	NEW-S	93-10-004	132G-116-035	NEW	93-02-063	132H-120-475	AMD	93-12-008
51-11-99902	NEW-S	93-10-004	132G-116-040	REP	93-02-063	132H-160-180	AMD-P	93-12-098
51-11-99903	NEW-S	93-10-004	132G-116-045	NEW	93-02-063	132H-160-185	NEW-P	93-12-097
51-11-99904	NEW-S	93-10-004	132G-116-050	REP	93-02-063	132J-108-020	AMD	93-04-022
51-13-101	AMD	93-02-056	132G-116-055	NEW	93-02-063	132J-108-050	AMD	93-04-022
51-13-202	AMD	93-02-056	132G-116-060	REP	93-02-063	132J-120-010	REP	93-04-022
51-13-300	AMD	93-02-056	132G-116-080	AMD	93-02-063	132J-120-020	REP	93-04-022

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
132J-120-030	REP	93-04-022	139-05-242	NEW-C	93-08-030	173-220-010	AMD-E	93-03-067
132J-120-040	REP	93-04-022	139-05-250	AMD-P	93-08-055	173-220-010	AMD	93-10-099
132J-120-050	REP	93-04-022	139-05-910	REP-P	93-10-029	173-220-020	AMD-P	93-03-066
132J-120-060	REP	93-04-022	139-05-912	NEW-P	93-10-030	173-220-020	AMD-E	93-03-067
132J-120-070	REP	93-04-022	139-10-220	AMD-W	93-05-040	173-220-020	AMD	93-10-099
132J-120-080	REP	93-04-022	139-10-220	AMD-P	93-07-120	173-220-030	AMD-P	93-03-066
132J-120-090	REP	93-04-022	139-10-222	NEW-C	93-03-085	173-220-030	AMD-E	93-03-067
132J-120-100	REP	93-04-022	139-10-222	NEW	93-07-119	173-220-030	AMD	93-10-099
132J-120-110	REP	93-04-022	173-19-2205	AMD-P	93-09-062	173-220-040	AMD-P	93-03-066
132J-120-120	REP	93-04-022	173-19-240	AMD-P	93-10-100	173-220-040	AMD-E	93-03-067
132J-120-130	REP	93-04-022	173-19-2401	AMD	93-07-116	173-220-040	AMD	93-10-099
132J-125-010	NEW	93-04-022	173-19-2401	AMD-P	93-10-100	173-220-045	REP-P	93-03-066
132J-125-020	NEW	93-04-022	173-19-2521	AMD	93-04-106	173-220-045	REP-E	93-03-067
132J-125-030	NEW	93-04-022	173-19-2521	AMD-P	93-05-043	173-220-045	REP	93-10-099
132J-125-055	NEW	93-04-022	173-19-2521	AMD	93-12-011	173-220-050	AMD-P	93-03-066
132J-125-060	NEW	93-04-022	173-19-350	AMD	93-02-048	173-220-050	AMD-E	93-03-067
132J-125-065	NEW	93-04-022	173-19-3503	AMD-C	93-04-064	173-220-050	AMD	93-10-099
132J-125-070	NEW	93-04-022	173-19-3503	AMD	93-08-026	173-220-060	AMD-P	93-03-066
132J-125-075	NEW	93-04-022	173-19-3903	AMD-P	93-03-091	173-220-060	AMD-E	93-03-067
132J-125-080	NEW	93-04-022	173-19-3911	AMD-P	93-06-051	173-220-060	AMD	93-10-099
132J-125-085	NEW	93-04-022	173-19-410	AMD-C	93-04-065	173-220-070	AMD-P	93-03-066
132J-125-090	NEW	93-04-022	173-19-410	AMD-C	93-07-091	173-220-070	AMD-E	93-03-067
132J-125-095	NEW	93-04-022	173-19-410	AMD-W	93-11-074	173-220-070	AMD	93-10-099
132J-125-100	NEW	93-04-022	173-19-4203	AMD-P	93-06-050	173-220-090	AMD-P	93-03-066
132J-125-105	NEW	93-04-022	173-19-4203	AMD-C	93-11-061	173-220-090	AMD-E	93-03-067
132J-125-110	NEW	93-04-022	173-19-4203	AMD	93-12-107	173-220-090	AMD	93-10-099
132J-125-115	NEW	93-04-022	173-19-450	AMD	93-04-063	173-220-100	AMD-P	93-03-066
132J-125-120	NEW	93-04-022	173-164-010	REP-P	93-09-064	173-220-100	AMD-E	93-03-067
132J-125-125	NEW	93-04-022	173-164-020	REP-P	93-09-064	173-220-100	AMD	93-10-099
132J-125-130	NEW	93-04-022	173-164-030	REP-P	93-09-064	173-220-110	AMD-P	93-03-066
132J-125-135	NEW	93-04-022	173-164-040	REP-P	93-09-064	173-220-110	AMD-E	93-03-067
132J-125-140	NEW	93-04-022	173-164-050	REP-P	93-09-064	173-220-110	AMD	93-10-099
132J-125-145	NEW	93-04-022	173-164-060	REP-P	93-09-064	173-220-225	AMD-P	93-03-066
132J-125-150	NEW	93-04-022	173-164-070	REP-P	93-09-064	173-220-225	AMD-E	93-03-067
132J-125-155	NEW	93-04-022	173-164-080	REP-P	93-09-064	173-220-225	AMD	93-10-099
132J-125-160	NEW	93-04-022	173-202-020	AMD-P	93-05-042	173-226-010	NEW-P	93-03-066
132J-125-165	NEW	93-04-022	173-202-020	AMD-E	93-07-090	173-226-010	NEW-E	93-03-067
132J-125-170	NEW	93-04-022	173-202-020	AMD	93-11-062	173-226-010	NEW	93-10-099
132J-125-180	NEW	93-04-022	173-205-010	NEW-P	93-08-085	173-226-020	NEW-P	93-03-066
132J-125-190	NEW	93-04-022	173-205-020	NEW-P	93-08-085	173-226-020	NEW-E	93-03-067
132J-125-200	NEW	93-04-022	173-205-030	NEW-P	93-08-085	173-226-020	NEW	93-10-099
132J-125-210	NEW	93-04-022	173-205-040	NEW-P	93-08-085	173-226-030	NEW-P	93-03-066
132J-125-220	NEW	93-04-022	173-205-050	NEW-P	93-08-085	173-226-030	NEW-E	93-03-067
132J-125-230	NEW	93-04-022	173-205-060	NEW-P	93-08-085	173-226-030	NEW	93-10-099
132J-125-240	NEW	93-04-022	173-205-070	NEW-P	93-08-085	173-226-040	NEW-P	93-03-066
132J-125-250	NEW	93-04-022	173-205-080	NEW-P	93-08-085	173-226-040	NEW-E	93-03-067
132J-125-260	NEW	93-04-022	173-205-090	NEW-P	93-08-085	173-226-040	NEW	93-10-099
132J-125-270	NEW	93-04-022	173-205-100	NEW-P	93-08-085	173-226-050	NEW-P	93-03-066
132J-125-280	NEW	93-04-022	173-205-110	NEW-P	93-08-085	173-226-050	NEW-E	93-03-067
132J-125-290	NEW	93-04-022	173-205-120	NEW-P	93-08-085	173-226-050	NEW	93-10-099
132J-125-300	NEW	93-04-022	173-205-130	NEW-P	93-08-085	173-226-060	NEW-P	93-03-066
132J-125-310	NEW	93-04-022	173-216-010	AMD-P	93-03-066	173-226-060	NEW-E	93-03-067
132L-133-020	NEW-P	93-06-067	173-216-010	AMD-E	93-03-067	173-226-060	NEW	93-10-099
132P-136-010	AMD-P	93-12-099	173-216-010	AMD	93-10-099	173-226-070	NEW-P	93-03-066
132P-136-020	AMD-P	93-12-099	173-216-030	AMD-P	93-03-066	173-226-070	NEW-E	93-03-067
132P-136-030	AMD-P	93-12-099	173-216-030	AMD-E	93-03-067	173-226-070	NEW	93-10-099
132P-136-040	AMD-P	93-12-099	173-216-030	AMD	93-10-099	173-226-080	NEW-P	93-03-066
132P-136-050	AMD-P	93-12-099	173-216-040	AMD-P	93-03-066	173-226-080	NEW-E	93-03-067
132P-136-060	AMD-P	93-12-099	173-216-040	AMD-E	93-03-067	173-226-080	NEW	93-10-099
132V-300-010	NEW	93-03-078	173-216-040	AMD	93-10-099	173-226-090	NEW-P	93-03-066
132V-300-020	NEW	93-03-078	173-216-050	AMD-P	93-03-066	173-226-090	NEW-E	93-03-067
132V-300-030	NEW	93-03-078	173-216-050	AMD-E	93-03-067	173-226-090	NEW	93-10-099
136-320-010	AMD-P	93-07-045	173-216-050	AMD	93-10-099	173-226-100	NEW-P	93-03-066
136-320-020	AMD-P	93-07-045	173-216-070	AMD-P	93-03-066	173-226-100	NEW-E	93-03-067
136-320-030	AMD-P	93-07-045	173-216-070	AMD-E	93-03-067	173-226-100	NEW	93-10-099
136-320-040	AMD-P	93-07-045	173-216-070	AMD	93-10-099	173-226-110	NEW-P	93-03-066
136-320-050	AMD-P	93-07-045	173-216-130	AMD-P	93-03-066	173-226-110	NEW-E	93-03-067
136-320-060	AMD-P	93-07-045	173-216-130	AMD-E	93-03-067	173-226-110	NEW	93-10-099
136-320-070	AMD-P	93-07-045	173-216-130	AMD	93-10-099	173-226-120	NEW-P	93-03-066
136-320-080	AMD-P	93-07-045	173-216-140	AMD-P	93-03-066	173-226-120	NEW-E	93-03-067
139-05-240	AMD-W	93-05-039	173-216-140	AMD-E	93-03-067	173-226-120	NEW	93-10-099
139-05-240	AMD-P	93-07-118	173-216-140	AMD	93-10-099	173-226-130	NEW-P	93-03-066
139-05-242	NEW-C	93-03-084	173-220-010	AMD-P	93-03-066	173-226-130	NEW-E	93-03-067

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-226-130	NEW	93-10-099	173-303-230	AMD-P	93-12-109	173-351-405	NEW-P	93-12-110
173-226-140	NEW-P	93-03-066	173-303-240	AMD-P	93-12-109	173-351-410	NEW-P	93-12-110
173-226-140	NEW-E	93-03-067	173-303-281	AMD-P	93-12-109	173-351-415	NEW-P	93-12-110
173-226-140	NEW	93-10-099	173-303-282	AMD-P	93-12-109	173-351-420	NEW-P	93-12-110
173-226-150	NEW-P	93-03-066	173-303-290	AMD-P	93-12-109	173-351-430	NEW-P	93-12-110
173-226-150	NEW-E	93-03-067	173-303-300	AMD-P	93-12-109	173-351-440	NEW-P	93-12-110
173-226-150	NEW	93-10-099	173-303-320	AMD-P	93-12-109	173-351-450	NEW-P	93-12-110
173-226-160	NEW-P	93-03-066	173-303-330	AMD-P	93-12-109	173-351-460	NEW-P	93-12-110
173-226-160	NEW-E	93-03-067	173-303-350	AMD-P	93-12-109	173-351-465	NEW-P	93-12-110
173-226-160	NEW	93-10-099	173-303-370	AMD-P	93-12-109	173-351-480	NEW-P	93-12-110
173-226-170	NEW-P	93-03-066	173-303-390	AMD-P	93-12-109	173-351-490	NEW-P	93-12-110
173-226-170	NEW-E	93-03-067	173-303-400	AMD-P	93-12-109	173-351-500	NEW-P	93-12-110
173-226-170	NEW	93-10-099	173-303-505	AMD-P	93-12-109	173-351-600	NEW-P	93-12-110
173-226-180	NEW-P	93-03-066	173-303-506	NEW-E	93-02-049	173-351-700	NEW-P	93-12-110
173-226-180	NEW-E	93-03-067	173-303-506	NEW	93-02-050	173-351-720	NEW-P	93-12-110
173-226-180	NEW	93-10-099	173-303-510	AMD-P	93-12-109	173-351-730	NEW-P	93-12-110
173-226-190	NEW-P	93-03-066	173-303-515	AMD-P	93-12-109	173-351-740	NEW-P	93-12-110
173-226-190	NEW-E	93-03-067	173-303-520	AMD-P	93-12-109	173-351-750	NEW-P	93-12-110
173-226-190	NEW	93-10-099	173-303-600	AMD-P	93-12-109	173-351-760	NEW-P	93-12-110
173-226-200	NEW-P	93-03-066	173-303-610	AMD-P	93-12-109	173-351-990	NEW-P	93-12-110
173-226-200	NEW-E	93-03-067	173-303-630	AMD-P	93-12-109	173-400	AMD-C	93-03-065
173-226-200	NEW	93-10-099	173-303-640	AMD-P	93-12-109	173-400-030	AMD-S	93-05-048
173-226-210	NEW-P	93-03-066	173-303-645	AMD-P	93-12-109	173-400-040	AMD-S	93-05-048
173-226-210	NEW-E	93-03-067	173-303-646	NEW-P	93-12-109	173-400-070	AMD-W	93-07-042
173-226-210	NEW	93-10-099	173-303-650	AMD-P	93-12-109	173-400-075	AMD	93-05-044
173-226-220	NEW-P	93-03-066	173-303-655	AMD-P	93-12-109	173-400-080	NEW-S	93-05-048
173-226-220	NEW-E	93-03-067	173-303-660	AMD-P	93-12-109	173-400-100	AMD-S	93-05-048
173-226-220	NEW	93-10-099	173-303-670	AMD-P	93-12-109	173-400-105	AMD-S	93-05-048
173-226-230	NEW-P	93-03-066	173-303-680	AMD-P	93-12-109	173-400-107	NEW-S	93-05-048
173-226-230	NEW-E	93-03-067	173-303-800	AMD-P	93-12-109	173-400-110	AMD-S	93-05-048
173-226-230	NEW	93-10-099	173-303-802	AMD-P	93-12-109	173-400-112	NEW-S	93-05-048
173-226-240	NEW-P	93-03-066	173-303-805	AMD-P	93-12-109	173-400-113	NEW-S	93-05-048
173-226-240	NEW-E	93-03-067	173-303-806	AMD-P	93-12-109	173-400-114	NEW-S	93-05-048
173-226-240	NEW	93-10-099	173-303-807	AMD-P	93-12-109	173-400-115	AMD	93-05-044
173-226-250	NEW-P	93-03-066	173-303-810	AMD-P	93-12-109	173-400-116	NEW-W	93-07-042
173-226-250	NEW-E	93-03-067	173-303-830	AMD-P	93-12-109	173-400-120	AMD-S	93-05-048
173-226-250	NEW	93-10-099	173-303-840	AMD-P	93-12-109	173-400-131	AMD-S	93-05-048
173-250-010	REP-P	93-09-064	173-303-900	AMD-P	93-12-109	173-400-136	AMD-S	93-05-048
173-250-020	REP-P	93-09-064	173-303-910	AMD-P	93-12-109	173-400-141	AMD-S	93-05-048
173-250-030	REP-P	93-09-064	173-303-9903	AMD-P	93-12-109	173-400-171	AMD-S	93-05-048
173-250-040	REP-P	93-09-064	173-303-9904	AMD-P	93-12-109	173-400-180	AMD-S	93-05-048
173-303-016	AMD-P	93-12-109	173-303-9905	AMD-P	93-12-109	173-400-230	AMD	93-05-044
173-303-020	AMD-P	93-12-109	173-303-9906	AMD-P	93-12-109	173-400-250	AMD-S	93-05-048
173-303-040	AMD-P	93-12-109	173-303-9907	AMD-P	93-12-109	173-401-100	NEW-P	93-07-062
173-303-045	AMD-P	93-12-109	173-303-9908	NEW-P	93-12-109	173-401-200	NEW-P	93-07-062
173-303-070	AMD-E	93-02-049	173-322-010	AMD-P	93-12-108	173-401-300	NEW-P	93-07-062
173-303-070	AMD	93-02-050	173-322-020	AMD-P	93-12-108	173-401-400	NEW-P	93-07-062
173-303-070	AMD-P	93-12-109	173-322-030	AMD-P	93-12-108	173-401-500	NEW-P	93-07-062
173-303-071	AMD-P	93-12-109	173-322-040	AMD-P	93-12-108	173-401-510	NEW-P	93-07-062
173-303-072	AMD-P	93-12-109	173-322-050	AMD-P	93-12-108	173-401-520	NEW-P	93-07-062
173-303-075	AMD-P	93-12-109	173-322-060	AMD-P	93-12-108	173-401-600	NEW-P	93-07-062
173-303-082	AMD-P	93-12-109	173-322-070	AMD-P	93-12-108	173-401-605	NEW-P	93-07-062
173-303-083	AMD-P	93-12-109	173-322-080	AMD-P	93-12-108	173-401-610	NEW-P	93-07-062
173-303-084	AMD-P	93-12-109	173-322-090	AMD-P	93-12-108	173-401-615	NEW-P	93-07-062
173-303-090	AMD-P	93-12-109	173-322-100	AMD-P	93-12-108	173-401-620	NEW-P	93-07-062
173-303-100	AMD-P	93-12-109	173-322-110	AMD-P	93-12-108	173-401-625	NEW-P	93-07-062
173-303-101	AMD-P	93-12-109	173-328-010	NEW	93-09-065	173-401-630	NEW-P	93-07-062
173-303-102	AMD-P	93-12-109	173-328-020	NEW	93-09-065	173-401-635	NEW-P	93-07-062
173-303-103	AMD-P	93-12-109	173-328-030	NEW	93-09-065	173-401-640	NEW-P	93-07-062
173-303-110	AMD-P	93-12-109	173-328-040	NEW	93-09-065	173-401-645	NEW-P	93-07-062
173-303-120	AMD-E	93-02-049	173-328-050	NEW	93-09-065	173-401-650	NEW-P	93-07-062
173-303-120	AMD	93-02-050	173-328-060	NEW	93-09-065	173-401-700	NEW-P	93-07-062
173-303-120	AMD-P	93-12-109	173-328-070	NEW	93-09-065	173-401-705	NEW-P	93-07-062
173-303-140	AMD-P	93-12-109	173-351-010	NEW-P	93-12-110	173-401-710	NEW-P	93-07-062
173-303-160	AMD-P	93-12-109	173-351-100	NEW-P	93-12-110	173-401-720	NEW-P	93-07-062
173-303-161	AMD-P	93-12-109	173-351-120	NEW-P	93-12-110	173-401-722	NEW-P	93-07-062
173-303-170	AMD-P	93-12-109	173-351-130	NEW-P	93-12-110	173-401-725	NEW-P	93-07-062
173-303-180	AMD-P	93-12-109	173-351-140	NEW-P	93-12-110	173-401-730	NEW-P	93-07-062
173-303-200	AMD-P	93-12-109	173-351-200	NEW-P	93-12-110	173-401-735	NEW-P	93-07-062
173-303-201	AMD-P	93-12-109	173-351-210	NEW-P	93-12-110	173-401-750	NEW-P	93-07-062
173-303-202	AMD-P	93-12-109	173-351-220	NEW-P	93-12-110	173-401-800	NEW-P	93-07-062
173-303-210	AMD-P	93-12-109	173-351-300	NEW-P	93-12-110	173-401-805	NEW-P	93-07-062
173-303-220	AMD-P	93-12-109	173-351-400	NEW-P	93-12-110	173-401-810	NEW-P	93-07-062

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
173-401-820	NEW-P	93-07-062	173-430-050	AMD-P	93-03-090	180-20-135	NEW-P	93-04-117
173-420-010	NEW	93-04-006	173-430-050	AMD-E	93-04-002	180-20-135	NEW	93-08-007
173-420-020	NEW	93-04-006	173-430-060	AMD-P	93-03-090	180-20-140	NEW-P	93-04-117
173-420-030	NEW	93-04-006	173-430-060	AMD-E	93-04-002	180-20-140	NEW	93-08-007
173-420-040	NEW	93-04-006	173-430-060	AMD-E	93-12-012	180-20-145	NEW-P	93-04-117
173-420-050	NEW	93-04-006	173-430-070	AMD-P	93-03-090	180-20-145	NEW	93-08-007
173-420-060	NEW	93-04-006	173-430-070	AMD-E	93-04-002	180-20-150	NEW-P	93-04-117
173-420-070	NEW	93-04-006	173-430-070	AMD-E	93-12-012	180-20-150	NEW	93-08-007
173-420-080	NEW	93-04-006	173-430-080	AMD-P	93-03-090	180-20-155	NEW-P	93-04-117
173-420-090	NEW	93-04-006	173-430-080	AMD-E	93-04-002	180-20-155	NEW	93-08-007
173-420-100	NEW	93-04-006	173-430-080	AMD-E	93-12-012	180-20-160	NEW-P	93-04-117
173-420-110	NEW	93-04-006	173-433-100	AMD	93-04-105	180-20-160	NEW	93-08-007
173-422-010	AMD-P	93-03-092	173-433-110	AMD	93-04-105	180-20-200	REP-P	93-04-117
173-422-010	AMD	93-10-062	173-433-170	AMD	93-04-105	180-20-200	REP	93-08-007
173-422-020	AMD-P	93-03-092	173-491-020	AMD-P	93-04-108	180-20-205	REP-P	93-04-117
173-422-020	AMD	93-10-062	173-491-040	AMD-P	93-04-108	180-20-205	REP	93-08-007
173-422-030	AMD-P	93-03-092	173-491-050	AMD	93-03-089	180-20-210	REP-P	93-04-117
173-422-030	AMD	93-10-062	173-491-050	AMD-P	93-04-108	180-20-210	REP	93-08-007
173-422-035	AMD-P	93-03-092	180-16-222	AMD-P	93-04-116	180-20-215	REP-P	93-04-117
173-422-035	AMD	93-10-062	180-16-222	AMD	93-07-102	180-20-215	REP	93-08-007
173-422-040	AMD-P	93-03-092	180-16-223	AMD-P	93-04-116	180-20-220	REP-P	93-04-117
173-422-040	AMD	93-10-062	180-16-223	AMD	93-07-102	180-20-220	REP	93-08-007
173-422-050	AMD-P	93-03-092	180-20-005	NEW-P	93-04-117	180-20-225	REP-P	93-04-117
173-422-050	AMD	93-10-062	180-20-005	NEW	93-08-007	180-20-225	REP	93-08-007
173-422-060	AMD-P	93-03-092	180-20-030	NEW-P	93-04-117	180-20-230	REP-P	93-04-117
173-422-060	AMD	93-10-062	180-20-030	NEW	93-08-007	180-20-230	REP	93-08-007
173-422-065	NEW-P	93-03-092	180-20-031	NEW-P	93-04-117	180-26-020	AMD-P	93-04-118
173-422-065	NEW	93-10-062	180-20-031	NEW	93-08-007	180-26-020	AMD	93-07-104
173-422-070	AMD-P	93-03-092	180-20-034	NEW-P	93-04-117	180-26-025	AMD-P	93-04-119
173-422-070	AMD	93-10-062	180-20-034	NEW	93-08-007	180-26-025	AMD-W	93-07-100
173-422-075	NEW-P	93-03-092	180-20-035	NEW-P	93-04-117	180-27-070	AMD-P	93-08-041
173-422-075	NEW	93-10-062	180-20-035	NEW	93-08-007	180-27-505	AMD	93-04-019
173-422-080	REP-P	93-03-092	180-20-040	NEW-P	93-04-117	180-51-005	AMD	93-04-115
173-422-080	REP	93-10-062	180-20-040	NEW	93-08-007	180-51-025	AMD	93-04-115
173-422-090	AMD-P	93-03-092	180-20-045	NEW-P	93-04-117	180-51-030	AMD	93-04-115
173-422-090	AMD	93-10-062	180-20-045	NEW	93-08-007	180-51-055	AMD	93-04-115
173-422-095	NEW-P	93-03-092	180-20-050	NEW-P	93-04-117	180-51-100	AMD	93-04-115
173-422-095	NEW	93-10-062	180-20-055	NEW-P	93-04-117	180-78-010	AMD-P	93-04-120
173-422-100	AMD-P	93-03-092	180-20-055	NEW	93-08-007	180-78-010	AMD	93-07-101
173-422-100	AMD	93-10-062	180-20-060	NEW-P	93-04-117	180-79-010	AMD-P	93-04-120
173-422-110	REP-P	93-03-092	180-20-060	NEW	93-08-007	180-79-010	AMD	93-07-101
173-422-110	REP	93-10-062	180-20-065	NEW-P	93-04-117	180-79-236	AMD	93-05-007
173-422-120	AMD-P	93-03-092	180-20-065	NEW	93-08-007	192-12-141	AMD-P	93-07-086
173-422-120	AMD	93-10-062	180-20-070	NEW-P	93-04-117	192-12-141	AMD	93-10-025
173-422-130	AMD-P	93-03-092	180-20-070	NEW	93-08-007	194-10-030	AMD	93-02-033
173-422-130	AMD	93-10-062	180-20-075	NEW-P	93-04-117	194-10-100	AMD	93-02-033
173-422-130	AMD-P	93-12-080	180-20-075	NEW	93-08-007	194-10-110	AMD	93-02-033
173-422-130	AMD-E	93-12-081	180-20-080	NEW-P	93-04-117	194-10-130	AMD	93-02-033
173-422-140	AMD-P	93-03-092	180-20-080	NEW	93-08-007	194-10-140	AMD	93-02-033
173-422-140	AMD	93-10-062	180-20-090	NEW-P	93-04-117	196-24-041	NEW-P	93-09-024
173-422-150	REP-P	93-03-092	180-20-090	NEW	93-08-007	196-24-097	NEW-P	93-09-022
173-422-150	REP	93-10-062	180-20-095	NEW-P	93-04-117	196-24-098	NEW-P	93-09-023
173-422-160	AMD-P	93-03-092	180-20-095	NEW	93-08-007	196-26-020	AMD-P	93-07-111
173-422-160	AMD	93-10-062	180-20-100	REP-P	93-04-117	196-26-020	AMD	93-10-057
173-422-170	AMD-P	93-03-092	180-20-100	REP	93-08-007	204-10-120	AMD-P	93-05-029
173-422-170	AMD	93-10-062	180-20-101	NEW-P	93-04-117	204-10-120	AMD	93-11-018
173-422-180	REP-P	93-03-092	180-20-101	NEW	93-08-007	204-44-040	NEW-P	93-05-028
173-422-180	REP	93-10-062	180-20-105	REP-P	93-04-117	204-44-040	NEW	93-11-017
173-430	AMD-P	93-03-090	180-20-105	REP	93-08-007	204-82A-070	AMD-P	93-10-002
173-430	AMD-E	93-04-002	180-20-106	REP-P	93-04-117	204-84-010	REP-P	93-05-029
173-430	AMD-C	93-09-063	180-20-106	REP	93-08-007	204-84-010	REP	93-11-018
173-430-010	AMD-P	93-03-090	180-20-111	NEW-P	93-04-117	204-84-020	REP-P	93-05-029
173-430-010	AMD-E	93-04-002	180-20-111	NEW	93-08-007	204-84-020	REP	93-11-018
173-430-010	AMD-E	93-12-012	180-20-115	NEW-P	93-04-117	204-84-030	REP-P	93-05-029
173-430-020	AMD-P	93-03-090	180-20-115	NEW	93-08-007	204-84-030	REP	93-11-018
173-430-020	AMD-E	93-04-002	180-20-120	NEW-P	93-04-117	204-84-040	REP-P	93-05-029
173-430-020	AMD-E	93-12-012	180-20-120	NEW	93-08-007	204-84-040	REP	93-11-018
173-430-030	AMD-P	93-03-090	180-20-123	NEW-P	93-04-117	204-84-050	REP-P	93-05-029
173-430-030	AMD-E	93-04-002	180-20-123	NEW	93-08-007	204-84-050	REP	93-11-018
173-430-030	AMD-E	93-12-012	180-20-125	NEW-P	93-04-117	204-84-060	REP-P	93-05-029
173-430-040	AMD-P	93-03-090	180-20-125	NEW	93-08-007	204-84-060	REP	93-11-018
173-430-040	AMD-E	93-04-002	180-20-130	NEW-P	93-04-117	204-84-070	REP-P	93-05-029
173-430-040	AMD-E	93-12-012	180-20-130	NEW	93-08-007	204-84-070	REP	93-11-018

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
204-84-080	REP-P	93-05-029	212-14-130	REP-E	93-04-061	212-28-070	REP	93-05-032
204-84-080	REP	93-11-018	212-14-130	REP	93-05-032	212-28-075	REP-E	93-04-061
204-84-090	REP-P	93-05-029	212-26-001	REP-E	93-04-061	212-28-075	REP	93-05-032
204-84-090	REP	93-11-018	212-26-001	REP	93-05-032	212-28-080	REP-E	93-04-061
204-84-100	REP-P	93-05-029	212-26-005	REP-E	93-04-061	212-28-080	REP	93-05-032
204-84-100	REP	93-11-018	212-26-005	REP	93-05-032	212-28-085	REP-E	93-04-061
212-12	NEW-C	93-04-060	212-26-010	REP-E	93-04-061	212-28-085	REP	93-05-032
212-12-001	NEW-E	93-04-061	212-26-010	REP	93-05-032	212-28-090	REP-E	93-04-061
212-12-001	NEW	93-05-032	212-26-015	REP-E	93-04-061	212-28-090	REP	93-05-032
212-12-005	NEW-E	93-04-061	212-26-015	REP	93-05-032	212-28-095	REP-E	93-04-061
212-12-005	NEW	93-05-032	212-26-020	REP-E	93-04-061	212-28-095	REP	93-05-032
212-12-011	NEW-E	93-04-061	212-26-020	REP	93-05-032	212-28-100	REP-E	93-04-061
212-12-011	NEW	93-05-032	212-26-025	REP-E	93-04-061	212-28-100	REP	93-05-032
212-12-015	NEW-E	93-04-061	212-26-025	REP	93-05-032	212-28-105	REP-E	93-04-061
212-12-015	NEW	93-05-032	212-26-030	REP-E	93-04-061	212-28-105	REP	93-05-032
212-12-020	NEW-E	93-04-061	212-26-030	REP	93-05-032	212-28-110	REP-E	93-04-061
212-12-020	NEW	93-05-032	212-26-035	REP-E	93-04-061	212-28-110	REP	93-05-032
212-12-025	NEW-E	93-04-061	212-26-035	REP	93-05-032	212-32-001	REP-E	93-04-061
212-12-025	NEW	93-05-032	212-26-040	REP-E	93-04-061	212-32-001	REP	93-05-032
212-12-030	NEW-E	93-04-061	212-26-040	REP	93-05-032	212-32-005	REP-E	93-04-061
212-12-030	NEW	93-05-032	212-26-045	REP-E	93-04-061	212-32-005	REP	93-05-032
212-12-035	NEW-E	93-04-061	212-26-045	REP	93-05-032	212-32-010	REP-E	93-04-061
212-12-035	NEW	93-05-032	212-26-050	REP-E	93-04-061	212-32-010	REP	93-05-032
212-12-040	NEW-E	93-04-061	212-26-050	REP	93-05-032	212-32-015	REP-E	93-04-061
212-12-040	NEW	93-05-032	212-26-055	REP-E	93-04-061	212-32-015	REP	93-05-032
212-12-044	NEW-E	93-04-061	212-26-055	REP	93-05-032	212-32-020	REP-E	93-04-061
212-12-044	NEW	93-05-032	212-26-060	REP-E	93-04-061	212-32-020	REP	93-05-032
212-14-001	REP-E	93-04-061	212-26-060	REP	93-05-032	212-32-025	REP-E	93-04-061
212-14-001	REP	93-05-032	212-26-065	REP-E	93-04-061	212-32-025	REP	93-05-032
212-14-005	REP-E	93-04-061	212-26-065	REP	93-05-032	212-32-030	REP-E	93-04-061
212-14-005	REP	93-05-032	212-26-070	REP-E	93-04-061	212-32-030	REP	93-05-032
212-14-010	REP-E	93-04-061	212-26-070	REP	93-05-032	212-32-035	REP-E	93-04-061
212-14-010	REP	93-05-032	212-26-075	REP-E	93-04-061	212-32-035	REP	93-05-032
212-14-015	REP-E	93-04-061	212-26-075	REP	93-05-032	212-32-040	REP-E	93-04-061
212-14-015	REP	93-05-032	212-26-080	REP-E	93-04-061	212-32-040	REP	93-05-032
212-14-020	REP-E	93-04-061	212-26-080	REP	93-05-032	212-32-045	REP-E	93-04-061
212-14-020	REP	93-05-032	212-26-085	REP-E	93-04-061	212-32-045	REP	93-05-032
212-14-025	REP-E	93-04-061	212-26-085	REP	93-05-032	212-32-050	REP-E	93-04-061
212-14-025	REP	93-05-032	212-26-090	REP-E	93-04-061	212-32-050	REP	93-05-032
212-14-030	REP-E	93-04-061	212-26-090	REP	93-05-032	212-32-055	REP-E	93-04-061
212-14-030	REP	93-05-032	212-26-095	REP-E	93-04-061	212-32-055	REP	93-05-032
212-14-035	REP-E	93-04-061	212-26-095	REP	93-05-032	212-32-060	REP-E	93-04-061
212-14-035	REP	93-05-032	212-26-100	REP-E	93-04-061	212-32-060	REP	93-05-032
212-14-040	REP-E	93-04-061	212-26-100	REP	93-05-032	212-32-065	REP-E	93-04-061
212-14-040	REP	93-05-032	212-26-105	REP-E	93-04-061	212-32-065	REP	93-05-032
212-14-045	REP-E	93-04-061	212-26-105	REP	93-05-032	212-32-070	REP-E	93-04-061
212-14-045	REP	93-05-032	212-28-001	REP-E	93-04-061	212-32-070	REP	93-05-032
212-14-050	REP-E	93-04-061	212-28-001	REP	93-05-032	212-32-075	REP-E	93-04-061
212-14-050	REP	93-05-032	212-28-010	REP-E	93-04-061	212-32-075	REP	93-05-032
212-14-055	REP-E	93-04-061	212-28-010	REP	93-05-032	212-32-080	REP-E	93-04-061
212-14-055	REP	93-05-032	212-28-015	REP-E	93-04-061	212-32-080	REP	93-05-032
212-14-060	REP-E	93-04-061	212-28-015	REP	93-05-032	212-32-085	REP-E	93-04-061
212-14-060	REP	93-05-032	212-28-020	REP-E	93-04-061	212-32-085	REP	93-05-032
212-14-070	REP-E	93-04-061	212-28-020	REP	93-05-032	212-32-090	REP-E	93-04-061
212-14-070	REP	93-05-032	212-28-025	REP-E	93-04-061	212-32-090	REP	93-05-032
212-14-080	REP-E	93-04-061	212-28-025	REP	93-05-032	212-32-095	REP-E	93-04-061
212-14-080	REP	93-05-032	212-28-030	REP-E	93-04-061	212-32-095	REP	93-05-032
212-14-090	REP-E	93-04-061	212-28-030	REP	93-05-032	212-32-100	REP-E	93-04-061
212-14-090	REP	93-05-032	212-28-035	REP-E	93-04-061	212-32-100	REP	93-05-032
212-14-100	REP-E	93-04-061	212-28-035	REP	93-05-032	212-32-105	REP-E	93-04-061
212-14-100	REP	93-05-032	212-28-040	REP-E	93-04-061	212-32-105	REP	93-05-032
212-14-105	REP-E	93-04-061	212-28-040	REP	93-05-032	212-32-110	REP-E	93-04-061
212-14-105	REP	93-05-032	212-28-045	REP-E	93-04-061	212-32-110	REP	93-05-032
212-14-110	REP-E	93-04-061	212-28-045	REP	93-05-032	212-32-115	REP-E	93-04-061
212-14-110	REP	93-05-032	212-28-050	REP-E	93-04-061	212-32-115	REP	93-05-032
212-14-115	REP-E	93-04-061	212-28-050	REP	93-05-032	212-32-120	REP-E	93-04-061
212-14-115	REP	93-05-032	212-28-055	REP-E	93-04-061	212-32-120	REP	93-05-032
212-14-120	REP-E	93-04-061	212-28-055	REP	93-05-032	212-32-125	REP-E	93-04-061
212-14-120	REP	93-05-032	212-28-060	REP-E	93-04-061	212-32-125	REP	93-05-032
212-14-12001	REP-E	93-04-061	212-28-060	REP	93-05-032	212-32-130	REP-E	93-04-061
212-14-12001	REP	93-05-032	212-28-065	REP-E	93-04-061	212-32-130	REP	93-05-032
212-14-125	REP-E	93-04-061	212-28-065	REP	93-05-032	212-32-135	REP-E	93-04-061
212-14-125	REP	93-05-032	212-28-070	REP-E	93-04-061	212-32-135	REP	93-05-032

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
212-65-060	REP-E	93-04-061	220-20-020	AMD-P	93-09-074
212-65-060	REP	93-05-032	220-20-02500A	NEW-E	93-11-040
212-65-065	REP-E	93-04-061	220-20-026	NEW-P	93-12-092
212-65-065	REP	93-05-032	220-24-02000T	NEW-E	93-10-043
212-65-070	REP-E	93-04-061	220-32-05100T	REP-E	93-04-073
212-65-070	REP	93-05-032	220-32-05100U	NEW-E	93-04-073
212-65-075	REP-E	93-04-061	220-32-05100U	REP-E	93-06-015
212-65-075	REP	93-05-032	220-32-05100V	NEW-E	93-06-015
212-65-080	REP-E	93-04-061	220-32-05100V	REP-E	93-06-069
212-65-080	REP	93-05-032	220-32-05100W	NEW-E	93-06-069
212-65-085	REP-E	93-04-061	220-32-05500C	NEW-E	93-10-061
212-65-085	REP	93-05-032	220-32-05500C	REP-E	93-12-010
212-65-090	REP-E	93-04-061	220-32-05500D	NEW-E	93-12-010
212-65-090	REP	93-05-032	220-33-01000M	REP-E	93-05-017
212-65-095	REP-E	93-04-061	220-33-01000N	NEW-E	93-05-017
212-65-095	REP	93-05-032	220-33-01000N	REP-E	93-06-014
212-65-100	REP-E	93-04-061	220-33-01000P	NEW-E	93-06-070
212-65-100	REP	93-05-032	220-33-01000P	REP-E	93-07-001
212-70-010	REP-E	93-04-061	220-33-01000Q	NEW-E	93-07-001
212-70-010	REP	93-05-032	220-33-03000E	NEW-E	93-12-041
212-70-020	REP-E	93-04-061	220-36-023	AMD-P	93-09-074
212-70-020	REP	93-05-032	220-40-027	AMD-P	93-09-074
212-70-030	REP-E	93-04-061	220-44-04000D	NEW-E	93-11-010
212-70-030	REP	93-05-032	220-44-050	AMD-P	93-04-095
212-70-040	REP-E	93-04-061	220-44-050	AMD	93-07-093
212-70-040	REP	93-05-032	220-44-05000B	REP-E	93-09-067
212-70-050	REP-E	93-04-061	220-44-05000C	NEW-E	93-09-067
212-70-050	REP	93-05-032	220-44-05000C	REP-E	93-10-094
212-70-060	REP-E	93-04-061	220-44-05000D	NEW-E	93-10-094
212-70-060	REP	93-05-032	220-44-05000D	REP-E	93-12-078
212-70-070	REP-E	93-04-061	220-44-05000E	NEW-E	93-12-078
212-70-070	REP	93-05-032	220-44-09000B	NEW-E	93-10-094
212-70-080	REP-E	93-04-061	220-47-302	AMD-P	93-09-073
212-70-080	REP	93-05-032	220-47-304	AMD-P	93-09-073
212-70-090	REP-E	93-04-061	220-47-307	AMD-P	93-09-073
212-70-090	REP	93-05-032	220-47-311	AMD-P	93-09-073
212-70-100	REP-E	93-04-061	220-47-401	AMD-P	93-09-073
212-70-100	REP	93-05-032	220-47-411	AMD-P	93-09-073
212-70-110	REP-E	93-04-061	220-48-005	AMD-P	93-12-092
212-70-110	REP	93-05-032	220-49-02000E	NEW-E	93-06-044
212-70-120	REP-E	93-04-061	220-52-019	AMD-P	93-12-092
212-70-120	REP	93-05-032	220-52-01901	AMD-P	93-12-092
212-70-130	REP-E	93-04-061	220-52-043	AMD-P	93-12-092
212-70-130	REP	93-05-032	220-52-046	AMD-P	93-12-092
212-70-140	REP-E	93-04-061	220-52-050	AMD-P	93-12-092
212-70-140	REP	93-05-032	220-52-051	AMD-P	93-12-092
212-70-150	REP-E	93-04-061	220-52-05100N	NEW-E	93-09-028
212-70-150	REP	93-05-032	220-52-05100P	NEW-E	93-11-057
212-70-160	REP-E	93-04-061	220-52-068	NEW-P	93-12-092
212-70-160	REP	93-05-032	220-52-069	AMD-P	93-12-092
212-70-170	REP-E	93-04-061	220-52-06900A	NEW-E	93-07-043
212-70-170	REP	93-05-032	220-52-071	AMD-P	93-12-092
212-70-180	REP-E	93-04-061	220-52-07100K	NEW-E	93-09-028
212-70-180	REP	93-05-032	220-52-07100K	REP-E	93-10-044
212-70-190	REP-E	93-04-061	220-52-07100L	NEW-E	93-10-044
212-70-190	REP	93-05-032	220-52-07300M	REP-E	93-05-006
212-70-200	REP-E	93-04-061	220-52-07300N	NEW-E	93-05-006
212-70-200	REP	93-05-032	220-52-07300N	REP-E	93-07-006
212-70-210	REP-E	93-04-061	220-52-075	AMD-P	93-12-092
212-70-210	REP	93-05-032	220-55-010	AMD-P	93-04-096
212-70-220	REP-E	93-04-061	220-55-010	AMD	93-08-034
212-70-220	REP	93-05-032	220-56-100	AMD-P	93-04-096
212-70-230	REP-E	93-04-061	220-56-105	AMD-P	93-04-096
212-70-230	REP	93-05-032	220-56-105	AMD	93-08-034
212-70-240	REP-E	93-04-061	220-56-10500B	NEW-E	93-08-016
212-70-240	REP	93-05-032	220-56-116	AMD-P	93-04-096
212-70-250	REP-E	93-04-061	220-56-124	NEW-P	93-04-096
212-70-250	REP	93-05-032	220-56-124	NEW	93-08-034
212-70-260	REP-E	93-04-061	220-56-126	AMD-P	93-04-096
212-70-260	REP	93-05-032	220-56-126	AMD	93-08-034
220-16-015	AMD-P	93-12-092	220-56-128	AMD-P	93-04-096
220-16-460	NEW-P	93-04-096	220-56-128	AMD	93-08-034
220-20-010	AMD-P	93-12-092	220-56-131	AMD-P	93-04-096
220-56-131	AMD	93-08-034	220-56-131	AMD-P	93-08-034
220-56-132	AMD-P	93-04-096	220-56-132	AMD-P	93-04-096
220-56-132	AMD	93-08-034	220-56-180	AMD-P	93-04-096
220-56-180	AMD-P	93-04-096	220-56-180	AMD	93-08-034
220-56-180	AMD	93-08-034	220-56-190	AMD-P	93-04-096
220-56-190	AMD-P	93-04-096	220-56-190	AMD-C	93-08-033
220-56-190	AMD-C	93-08-033	220-56-19000P	NEW-E	93-10-045
220-56-19000P	NEW-E	93-10-045	220-56-191	NEW-P	93-04-096
220-56-191	NEW-P	93-04-096	220-56-191	NEW-C	93-08-033
220-56-191	NEW-C	93-08-033	220-56-195	AMD-P	93-04-096
220-56-195	AMD-P	93-04-096	220-56-195	AMD-C	93-08-033
220-56-195	AMD-C	93-08-033	220-56-220	AMD-P	93-04-096
220-56-220	AMD-P	93-04-096	220-56-235	AMD-P	93-04-096
220-56-235	AMD-P	93-04-096	220-56-235	AMD	93-08-034
220-56-235	AMD	93-08-034	220-56-240	AMD-P	93-04-096
220-56-240	AMD-P	93-04-096	220-56-240	AMD	93-08-034
220-56-240	AMD	93-08-034	220-56-240	AMD-P	93-10-095
220-56-240	AMD-P	93-10-095	220-56-24000A	NEW-E	93-09-026
220-56-24000A	NEW-E	93-09-026	220-56-245	AMD-P	93-04-096
220-56-245	AMD-P	93-04-096	220-56-245	AMD	93-08-034
220-56-245	AMD	93-08-034	220-56-255	AMD-P	93-04-096
220-56-255	AMD-P	93-04-096	220-56-255	AMD	93-08-034
220-56-255	AMD	93-08-034	220-56-255	AMD-P	93-10-095
220-56-255	AMD-P	93-10-095	220-56-270	AMD-P	93-04-096
220-56-270	AMD-P	93-04-096	220-56-270	AMD	93-08-034
220-56-270	AMD	93-08-034	220-56-285	AMD-P	93-04-096
220-56-285	AMD-P	93-04-096	220-56-285	AMD	93-08-034
220-56-285	AMD	93-08-034	220-56-28500A	NEW-E	93-09-026
220-56-28500A	NEW-E	93-09-026	220-56-307	AMD-P	93-04-096
220-56-307	AMD-P	93-04-096	220-56-307	AMD	93-08-034
220-56-307	AMD	93-08-034	220-56-310	AMD-P	93-04-096
220-56-310	AMD-P	93-04-096	220-56-310	AMD	93-08-034
220-56-310	AMD	93-08-034	220-56-315	AMD-P	93-04-096
220-56-315	AMD-P	93-04-096	220-56-315	AMD	93-08-034
220-56-315	AMD	93-08-034	220-56-320	AMD-P	93-04-096
220-56-320	AMD-P	93-04-096	220-56-320	AMD	93-08-034
220-56-320	AMD	93-08-034	220-56-325	AMD-P	93-04-096
220-56-325	AMD-P	93-04-096	220-56-325	AMD	93-08-034
220-56-325	AMD	93-08-034	220-56-32500W	NEW-E	93-11-057
220-56-32500W	NEW-E	93-11-057	220-56-32500X	NEW-E	93-11-063
220-56-32500X	NEW-E	93-11-063	220-56-32500X	REP-E	93-12-079
220-56-32500X	REP-E	93-12-079	220-56-32500Y	NEW-E	93-12-079
220-56-32500Y	NEW-E	93-12-079	220-56-330	AMD-P	93-04-096
220-56-330	AMD-P	93-04-096	220-56-330	AMD	93-08-034
220-56-330	AMD	93-08-034	220-56-335	AMD-P	93-04-096
220-56-335	AMD-P	93-04-096	220-56-335	AMD	93-08-034
220-56-335	AMD	93-08-034	220-56-350	AMD-P	93-04-096
220-56-350	AMD-P	93-04-096	220-56-350	AMD	93-08-034
220-56-350	AMD	93-08-034	220-56-350	AMD-P	93-10-095
220-56-350	AMD-P	93-10-095	220-56-35000R	NEW-E	93-08-059
220-56-35000R	NEW-E	93-08-059	220-56-35000S	NEW-E	93-09-025
220-56-35000S	NEW-E	93-09-025	220-56-36000C	NEW-E	93-07-092
220-56-36000C	NEW-E	93-07-092	220-56-36000C	REP-E	93-08-017
220-56-36000C	REP-E	93-08-017	220-56-36000D	NEW-E	93-08-017
220-56-36000D	NEW-E	93-08-017	220-56-36000D	REP-E	93-10-096
220-56-36000D	REP-E	93-10-096	220-56-36000E	NEW-E	93-10-096
220-56-36000E	NEW-E	93-10-096	220-56-380	AMD-P	93-04-096
220-56-380	AMD-P	93-04-096	220-56-380	AMD	93-08-034
220-56-380	AMD	93-08-034	220-56-38000L	NEW-E	93-09-027
220-56-38000L	NEW-E	93-09-027	220-56-382	AMD-P	93-04-096
220-56-382	AMD-P	93-04-096	220-56-382	AMD	93-08-034
220-56-382	AMD	93-08-034	220-56-390	AMD-P	93-04-096
220-56-390	AMD-P	93-04-096	220-56-390	AMD	93-08-034
220-56-390	AMD	93-08-034	220-57-137	AMD-P	93-04-096
220-57-137	AMD-P	93-04-096	220-57-137	AMD	93-08-034
220-57-137	AMD	93-08-034	220-57-160	AMD-P	93-04-096
220-57-160	AMD-P	93-04-096	220-57-160	AMD	93-08-034
220-57-160	AMD	93-08-034	220-57-16000Q	NEW-E	93-04-043
220-57-16000Q	NEW-E	93-04-043	220-57-16000R	NEW-E	93-06-013
220-57-16000R	NEW-E	93-06-013	220-57-16000R	REP-E	93-06-068
220-57-16000R	REP-E	93-06-068	220-57-16000S	NEW-E	93-08-018
220-57-16000S	NEW-E	93-08-018	220-57-175	AMD-P	93-04-096
220-57-175	AMD-P	93-04-096			

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
220-57-175	AMD	93-08-034	222-46-020	AMD-P	93-05-010	232-28-235	REP	93-11-013
220-57-210	AMD-P	93-04-096	222-46-020	AMD	93-12-001	232-28-236	NEW-P	93-06-060
220-57-210	AMD-C	93-08-020	222-50-020	AMD-P	93-05-010	232-28-236	NEW	93-11-013
220-57-235	AMD-P	93-04-096	222-50-020	AMD-E	93-07-060	232-28-237	NEW-P	93-06-063
220-57-235	AMD	93-08-034	222-50-020	AMD	93-12-001	232-28-237	NEW	93-11-012
220-57-255	AMD-P	93-04-096	230-02-035	AMD	93-06-011	232-28-238	NEW-P	93-06-062
220-57-255	AMD	93-08-034	230-02-270	AMD-P	93-07-081	232-28-238	NEW	93-11-011
220-57-270	AMD-P	93-04-096	230-02-270	AMD	93-12-082	232-28-61914	NEW-W	93-03-015
220-57-29000N	NEW-E	93-08-016	230-04-040	AMD-P	93-10-042	232-28-61923	NEW	93-04-046
220-57-310	AMD-P	93-04-096	230-04-400	AMD-P	93-07-082	232-28-61924	NEW	93-04-047
220-57-310	AMD	93-08-034	230-04-400	AMD	93-12-082	232-28-61925	NEW	93-04-049
220-57-315	AMD-P	93-04-096	230-08-010	AMD-P	93-08-066	232-28-61926	NEW	93-04-050
220-57-315	AMD	93-08-034	230-08-090	AMD-P	93-06-036	232-28-61927	NEW	93-04-051
220-57-31500W	NEW-E	93-08-016	230-08-090	AMD	93-10-005	232-28-61928	NEW	93-04-048
220-57-319	AMD-P	93-04-096	230-08-095	AMD-P	93-10-042	232-28-61929	NEW	93-04-052
220-57-319	AMD	93-08-034	230-20-010	AMD-P	93-10-042	232-28-61930	NEW	93-04-053
220-57-350	AMD-P	93-04-096	230-20-064	AMD-P	93-10-042	232-28-61931	NEW-E	93-03-039
220-57-350	AMD	93-08-034	230-20-111	NEW-E	93-07-080	232-28-61932	NEW-P	93-06-021
220-57-370	AMD-P	93-10-095	230-20-111	NEW-P	93-07-083	232-28-61932	NEW	93-10-055
220-57-380	AMD-P	93-04-096	230-20-242	NEW-P	93-10-042	232-28-61933	NEW-P	93-06-022
220-57-380	AMD	93-08-034	230-20-246	AMD-P	93-10-042	232-28-61933	NEW	93-10-053
220-57-400	AMD-P	93-04-096	230-20-670	AMD-P	93-07-082	232-28-61934	NEW-E	93-06-061
220-57-425	AMD-P	93-04-096	230-20-670	AMD	93-12-082	232-28-61935	NEW-P	93-06-057
220-57-425	AMD-C	93-08-033	230-20-685	AMD-P	93-07-082	232-28-61935	NEW	93-10-056
220-57-430	AMD-P	93-04-096	230-20-685	AMD	93-12-082	232-28-61936	NEW-E	93-12-002
220-57-430	AMD-C	93-08-033	230-25-160	AMD-P	93-07-081	236-14-010	NEW-W	93-05-041
220-57-445	AMD-P	93-04-096	230-25-160	AMD	93-12-082	236-14-010	NEW-P	93-09-068
220-57-445	AMD	93-08-034	230-30-060	AMD-P	93-07-081	236-14-010	NEW-W	93-10-090
220-57-460	AMD-P	93-04-096	230-30-060	AMD	93-12-082	236-14-015	NEW-W	93-05-041
220-57-460	AMD	93-08-034	230-30-072	AMD-P	93-08-066	236-14-015	NEW-P	93-09-068
220-57-465	AMD-P	93-04-096	230-30-075	AMD	93-04-007	236-14-015	NEW-W	93-10-090
220-57-465	AMD	93-08-034	230-30-080	AMD-P	93-07-083	236-14-050	NEW-W	93-05-041
220-57-495	AMD-P	93-04-096	230-30-080	AMD	93-12-082	236-14-050	NEW-P	93-09-068
220-57-495	AMD	93-08-034	230-30-095	REP-P	93-07-083	236-14-050	NEW-W	93-10-090
220-57-49700	NEW-E	93-08-016	230-30-095	REP	93-12-082	236-14-100	NEW-W	93-05-041
220-57-50500U	NEW-E	93-08-016	230-30-097	NEW-P	93-07-087	236-14-100	NEW-P	93-09-068
220-57-515001	NEW-E	93-08-016	230-30-097	NEW	93-12-082	236-14-100	NEW-W	93-10-090
220-57A-183	AMD-P	93-04-096	230-30-100	AMD-P	93-07-083	236-14-200	NEW-W	93-05-041
220-57A-183	AMD	93-08-034	230-30-100	AMD	93-12-082	236-14-200	NEW-P	93-09-068
220-88-030	AMD-P	93-12-092	230-30-106	AMD-P	93-06-036	236-14-200	NEW-W	93-10-090
222-08-040	AMD-P	93-05-010	230-30-106	AMD	93-10-005	236-14-300	NEW-W	93-05-041
222-08-040	AMD	93-12-001	230-30-300	AMD-P	93-06-036	236-14-300	NEW-P	93-09-068
222-10-110	AMD-P	93-05-010	230-30-300	AMD	93-10-005	236-14-300	NEW-W	93-10-090
222-10-110	AMD	93-12-001	230-40-055	AMD-P	93-07-082	236-14-900	NEW-W	93-05-041
222-12-020	AMD-P	93-05-010	230-40-055	AMD	93-12-082	236-14-900	NEW-P	93-09-068
222-12-020	AMD	93-12-001	230-40-120	AMD-P	93-04-044	236-14-900	NEW-W	93-10-090
222-12-050	AMD-P	93-05-010	230-40-125	AMD-P	93-10-042	236-22-010	AMD-P	93-09-030
222-12-050	AMD	93-12-001	232-12-017	AMD	93-04-039	236-22-010	AMD	93-12-090
222-16-010	AMD-P	93-05-010	232-12-019	AMD-P	93-06-019	236-22-020	NEW-P	93-09-030
222-16-010	AMD-E	93-07-060	232-12-019	AMD-P	93-06-020	236-22-020	NEW	93-12-090
222-16-010	AMD	93-12-001	232-12-019	AMD	93-10-011	236-22-030	NEW-P	93-09-030
222-16-050	AMD-P	93-05-010	232-12-019	AMD	93-10-012	236-22-030	NEW	93-12-090
222-16-050	AMD	93-12-001	232-12-021	AMD	93-04-040	236-22-031	NEW-P	93-09-030
222-16-070	AMD-P	93-05-010	232-12-045	NEW-E	93-04-083	236-22-031	NEW	93-12-090
222-16-070	AMD	93-12-001	232-12-064	AMD	93-04-038	236-22-032	NEW-P	93-09-030
222-16-080	AMD-P	93-05-010	232-12-074	REP	93-04-075	236-22-032	NEW	93-12-090
222-16-080	AMD-E	93-07-060	232-12-166	NEW-P	93-06-018	236-22-033	NEW-P	93-09-030
222-16-080	AMD	93-12-001	232-12-166	NEW	93-10-013	236-22-033	NEW	93-12-090
222-20-010	AMD-P	93-05-010	232-12-242	NEW	93-04-074	236-22-034	NEW-P	93-09-030
222-20-010	AMD	93-12-001	232-12-619	AMD-P	93-06-017	236-22-034	NEW	93-12-090
222-24-050	AMD-P	93-05-010	232-12-619	AMD	93-10-054	236-22-035	NEW-P	93-09-030
222-24-050	AMD	93-12-001	232-28-022	AMD-P	93-06-074	236-22-035	NEW	93-12-090
222-30-020	AMD-P	93-05-010	232-28-226	AMD-P	93-06-064	236-22-036	NEW-P	93-09-030
222-30-020	AMD	93-12-001	232-28-226	AMD	93-11-016	236-22-036	NEW	93-12-090
222-30-040	AMD-P	93-05-010	232-28-227	AMD-P	93-06-059	236-22-037	NEW-P	93-09-030
222-30-040	AMD-E	93-10-015	232-28-227	AMD	93-11-015	236-22-037	NEW	93-12-090
222-30-040	AMD	93-12-001	232-28-228	AMD-P	93-06-058	236-22-038	NEW-P	93-09-030
222-34-040	AMD-P	93-05-010	232-28-228	AMD	93-11-014	236-22-038	NEW	93-12-090
222-34-040	AMD	93-12-001	232-28-233	REP-P	93-06-062	236-22-040	NEW-P	93-09-030
222-38-020	AMD-P	93-05-010	232-28-233	REP	93-11-011	236-22-040	NEW	93-12-090
222-38-020	AMD	93-12-001	232-28-234	REP-P	93-06-063	236-22-050	NEW-P	93-09-030
222-38-030	AMD-P	93-05-010	232-28-234	REP	93-11-012	236-22-050	NEW	93-12-090
222-38-030	AMD	93-12-001	232-28-235	REP-P	93-06-060	236-22-060	NEW-P	93-09-030

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
236-22-060	NEW	93-12-090	246-10-104	NEW-P	93-08-071	246-11-080	NEW-P	93-04-102
236-22-070	NEW-P	93-09-030	246-10-105	NEW-P	93-08-071	246-11-080	NEW	93-08-003
236-22-070	NEW	93-12-090	246-10-106	NEW-P	93-08-071	246-11-090	NEW-P	93-04-102
236-22-080	NEW-P	93-09-030	246-10-107	NEW-P	93-08-071	246-11-090	NEW	93-08-003
236-22-080	NEW	93-12-090	246-10-108	NEW-P	93-08-071	246-11-100	NEW-P	93-04-102
236-22-100	AMD-P	93-09-030	246-10-109	NEW-P	93-08-071	246-11-100	NEW	93-08-003
236-22-100	AMD	93-12-090	246-10-110	NEW-P	93-08-071	246-11-110	NEW-P	93-04-102
236-22-200	NEW-P	93-09-030	246-10-111	NEW-P	93-08-071	246-11-110	NEW	93-08-003
236-22-200	NEW	93-12-090	246-10-112	NEW-P	93-08-071	246-11-120	NEW-P	93-04-102
236-22-210	NEW-P	93-09-030	246-10-113	NEW-P	93-08-071	246-11-120	NEW	93-08-003
236-22-210	NEW	93-12-090	246-10-114	NEW-P	93-08-071	246-11-130	NEW-P	93-04-102
242-02-220	AMD-P	93-08-032	246-10-115	NEW-P	93-08-071	246-11-130	NEW	93-08-003
242-02-220	AMD	93-11-068	246-10-116	NEW-P	93-08-071	246-11-140	NEW-P	93-04-102
242-02-562	NEW-W	93-06-045	246-10-117	NEW-P	93-08-071	246-11-140	NEW	93-08-003
244-12-060	AMD-P	93-07-038	246-10-118	NEW-P	93-08-071	246-11-150	NEW-P	93-04-102
244-12-060	AMD-W	93-09-049	246-10-119	NEW-P	93-08-071	246-11-150	NEW	93-08-003
244-12-060	AMD-P	93-09-053	246-10-120	NEW-P	93-08-071	246-11-160	NEW-P	93-04-102
244-12-100	NEW-P	93-07-038	246-10-121	NEW-P	93-08-071	246-11-160	NEW	93-08-003
244-12-100	NEW-W	93-09-049	246-10-122	NEW-P	93-08-071	246-11-170	NEW-P	93-04-102
244-12-100	NEW-P	93-09-053	246-10-123	NEW-P	93-08-071	246-11-170	NEW	93-08-003
246-01-001	NEW	93-08-004	246-10-124	NEW-P	93-08-071	246-11-180	NEW-P	93-04-102
246-01-010	NEW	93-08-004	246-10-201	NEW-P	93-08-071	246-11-180	NEW	93-08-003
246-01-020	NEW	93-08-004	246-10-202	NEW-P	93-08-071	246-11-190	NEW-P	93-04-102
246-01-030	NEW	93-08-004	246-10-203	NEW-P	93-08-071	246-11-190	NEW	93-08-003
246-01-040	NEW	93-08-004	246-10-204	NEW-P	93-08-071	246-11-200	NEW-P	93-04-102
246-01-050	NEW	93-08-004	246-10-205	NEW-P	93-08-071	246-11-200	NEW	93-08-003
246-01-060	NEW	93-08-004	246-10-301	NEW-P	93-08-071	246-11-210	NEW-P	93-04-102
246-01-070	NEW	93-08-004	246-10-302	NEW-P	93-08-071	246-11-210	NEW	93-08-003
246-01-080	NEW	93-08-004	246-10-303	NEW-P	93-08-071	246-11-220	NEW-P	93-04-102
246-01-090	NEW	93-08-004	246-10-304	NEW-P	93-08-071	246-11-220	NEW	93-08-003
246-01-100	NEW	93-08-004	246-10-305	NEW-P	93-08-071	246-11-230	NEW-P	93-04-102
246-08-001	REP-P	93-08-071	246-10-306	NEW-P	93-08-071	246-11-230	NEW	93-08-003
246-08-020	REP-P	93-08-071	246-10-401	NEW-P	93-08-071	246-11-250	NEW-P	93-04-102
246-08-030	REP-P	93-08-071	246-10-402	NEW-P	93-08-071	246-11-250	NEW	93-08-003
246-08-040	REP-P	93-08-071	246-10-403	NEW-P	93-08-071	246-11-260	NEW-P	93-04-102
246-08-050	REP-P	93-08-071	246-10-404	NEW-P	93-08-071	246-11-260	NEW	93-08-003
246-08-060	REP-P	93-08-071	246-10-405	NEW-P	93-08-071	246-11-270	NEW-P	93-04-102
246-08-070	REP-P	93-08-071	246-10-501	NEW-P	93-08-071	246-11-270	NEW	93-08-003
246-08-080	REP-P	93-08-071	246-10-502	NEW-P	93-08-071	246-11-280	NEW-P	93-04-102
246-08-090	REP-P	93-08-071	246-10-503	NEW-P	93-08-071	246-11-280	NEW	93-08-003
246-08-100	REP-P	93-08-071	246-10-504	NEW-P	93-08-071	246-11-290	NEW-P	93-04-102
246-08-101	NEW-P	93-08-071	246-10-505	NEW-P	93-08-071	246-11-290	NEW	93-08-003
246-08-102	NEW-P	93-08-071	246-10-601	NEW-P	93-08-071	246-11-300	NEW-P	93-04-102
246-08-103	NEW-P	93-08-071	246-10-602	NEW-P	93-08-071	246-11-300	NEW	93-08-003
246-08-104	NEW-P	93-08-071	246-10-603	NEW-P	93-08-071	246-11-310	NEW-P	93-04-102
246-08-105	NEW-P	93-08-071	246-10-604	NEW-P	93-08-071	246-11-310	NEW	93-08-003
246-08-106	NEW-P	93-08-071	246-10-605	NEW-P	93-08-071	246-11-320	NEW-P	93-04-102
246-08-110	REP-P	93-08-071	246-10-606	NEW-P	93-08-071	246-11-320	NEW	93-08-003
246-08-120	REP-P	93-08-071	246-10-607	NEW-P	93-08-071	246-11-330	NEW-P	93-04-102
246-08-130	REP-P	93-08-071	246-10-608	NEW-P	93-08-071	246-11-330	NEW	93-08-003
246-08-140	REP-P	93-08-071	246-10-701	NEW-P	93-08-071	246-11-340	NEW-P	93-04-102
246-08-150	REP-P	93-08-071	246-10-702	NEW-P	93-08-071	246-11-340	NEW	93-08-003
246-08-160	REP-P	93-08-071	246-10-703	NEW-P	93-08-071	246-11-350	NEW-P	93-04-102
246-08-170	REP-P	93-08-071	246-10-704	NEW-P	93-08-071	246-11-350	NEW	93-08-003
246-08-180	REP-P	93-08-071	246-10-705	NEW-P	93-08-071	246-11-360	NEW-P	93-04-102
246-08-190	REP-P	93-08-071	246-10-706	NEW-P	93-08-071	246-11-360	NEW	93-08-003
246-08-200	REP-P	93-08-071	246-10-707	NEW-P	93-08-071	246-11-370	NEW-P	93-04-102
246-08-210	REP-P	93-08-071	246-11-001	NEW-P	93-04-102	246-11-370	NEW	93-08-003
246-08-320	REP-P	93-08-071	246-11-001	NEW	93-08-003	246-11-380	NEW-P	93-04-102
246-08-330	REP-P	93-08-071	246-11-010	NEW-P	93-04-102	246-11-380	NEW	93-08-003
246-08-340	REP-P	93-08-071	246-11-010	NEW	93-08-003	246-11-390	NEW-P	93-04-102
246-08-350	REP-P	93-08-071	246-11-020	NEW-P	93-04-102	246-11-390	NEW	93-08-003
246-08-360	REP-P	93-08-071	246-11-020	NEW	93-08-003	246-11-400	NEW-P	93-04-102
246-08-370	REP-P	93-08-071	246-11-030	NEW-P	93-04-102	246-11-400	NEW	93-08-003
246-08-380	REP-P	93-08-071	246-11-030	NEW	93-08-003	246-11-420	NEW-P	93-04-102
246-08-420	NEW	93-08-004	246-11-040	NEW-P	93-04-102	246-11-420	NEW	93-08-003
246-08-440	NEW	93-08-004	246-11-040	NEW	93-08-003	246-11-430	NEW-P	93-04-102
246-08-450	NEW	93-08-004	246-11-050	NEW-P	93-04-102	246-11-430	NEW	93-08-003
246-08-520	AMD	93-08-004	246-11-050	NEW	93-08-003	246-11-440	NEW-P	93-04-102
246-08-560	AMD	93-08-004	246-11-060	NEW-P	93-04-102	246-11-440	NEW	93-08-003
246-10-101	NEW-P	93-08-071	246-11-060	NEW	93-08-003	246-11-450	NEW-P	93-04-102
246-10-102	NEW-P	93-08-071	246-11-070	NEW-P	93-04-102	246-11-450	NEW	93-08-003
246-10-103	NEW-P	93-08-071	246-11-070	NEW	93-08-003	246-11-470	NEW-P	93-04-102

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-11-470	NEW	93-08-003	246-290-060	AMD	93-08-011	246-290-668	NEW-P	93-04-122
246-11-480	NEW-P	93-04-102	246-290-100	AMD-P	93-04-122	246-290-668	NEW	93-08-011
246-11-480	NEW	93-08-003	246-290-100	AMD	93-08-011	246-290-670	NEW-P	93-04-122
246-11-490	NEW-P	93-04-102	246-290-110	AMD-P	93-04-122	246-290-670	NEW	93-08-011
246-11-490	NEW	93-08-003	246-290-110	AMD	93-08-011	246-290-672	NEW-P	93-04-122
246-11-500	NEW-P	93-04-102	246-290-120	AMD-P	93-04-122	246-290-672	NEW	93-08-011
246-11-500	NEW	93-08-003	246-290-120	AMD	93-08-011	246-290-674	NEW-P	93-04-122
246-11-510	NEW-P	93-04-102	246-290-130	AMD-P	93-04-122	246-290-674	NEW	93-08-011
246-11-510	NEW	93-08-003	246-290-130	AMD	93-08-011	246-290-676	NEW-P	93-04-122
246-11-520	NEW-P	93-04-102	246-290-135	NEW-P	93-04-122	246-290-676	NEW	93-08-011
246-11-520	NEW	93-08-003	246-290-135	NEW	93-08-011	246-290-678	NEW-P	93-04-122
246-11-530	NEW-P	93-04-102	246-290-200	AMD-P	93-04-122	246-290-678	NEW	93-08-011
246-11-530	NEW	93-08-003	246-290-200	AMD	93-08-011	246-290-680	NEW-P	93-04-122
246-11-540	NEW-P	93-04-102	246-290-210	REP-P	93-04-122	246-290-680	NEW	93-08-011
246-11-540	NEW	93-08-003	246-290-210	REP	93-08-011	246-290-686	NEW-P	93-04-122
246-11-550	NEW-P	93-04-102	246-290-230	AMD-P	93-04-122	246-290-686	NEW	93-08-011
246-11-550	NEW	93-08-003	246-290-230	AMD	93-08-011	246-290-690	NEW-P	93-04-122
246-11-560	NEW-P	93-04-102	246-290-250	AMD-P	93-04-122	246-290-690	NEW	93-08-011
246-11-560	NEW	93-08-003	246-290-250	AMD	93-08-011	246-290-692	NEW-P	93-04-122
246-11-570	NEW-P	93-04-102	246-290-300	AMD-P	93-04-122	246-290-692	NEW	93-08-011
246-11-570	NEW	93-08-003	246-290-300	AMD	93-08-011	246-290-694	NEW-P	93-04-122
246-11-580	NEW-P	93-04-102	246-290-310	AMD-P	93-04-122	246-290-694	NEW	93-08-011
246-11-580	NEW	93-08-003	246-290-310	AMD	93-08-011	246-290-696	NEW-P	93-04-122
246-11-590	NEW-P	93-04-102	246-290-320	AMD-P	93-04-122	246-290-696	NEW	93-08-011
246-11-590	NEW	93-08-003	246-290-320	AMD	93-08-011	246-293-440	REP-P	93-08-071
246-11-600	NEW-P	93-04-102	246-290-330	AMD-P	93-04-122	246-294-001	NEW	93-03-047
246-11-600	NEW	93-08-003	246-290-330	AMD	93-08-011	246-294-010	NEW	93-03-047
246-11-610	NEW-P	93-04-102	246-290-400	REP-P	93-04-122	246-294-020	NEW	93-03-047
246-11-610	NEW	93-08-003	246-290-400	REP	93-08-011	246-294-030	NEW	93-03-047
246-100-011	AMD-P	93-03-003	246-290-420	AMD-P	93-04-122	246-294-040	NEW	93-03-047
246-100-011	AMD	93-08-036	246-290-420	AMD	93-08-011	246-294-050	NEW	93-03-047
246-100-041	AMD-P	93-03-003	246-290-440	AMD-P	93-04-122	246-294-060	NEW	93-03-047
246-100-041	AMD	93-08-036	246-290-440	AMD	93-08-011	246-294-070	NEW	93-03-047
246-100-042	NEW-P	93-06-094	246-290-450	REP-P	93-04-122	246-294-080	NEW	93-03-047
246-100-042	NEW	93-10-038	246-290-450	REP	93-08-011	246-294-090	NEW	93-03-047
246-100-076	AMD-P	93-03-003	246-290-470	AMD-P	93-04-122	246-294-100	NEW	93-03-047
246-100-076	AMD	93-08-036	246-290-470	AMD	93-08-011	246-310-280	AMD-P	93-08-070
246-100-236	AMD-P	93-03-003	246-290-480	AMD-P	93-04-122	246-316-020	AMD-W	93-04-091
246-100-236	AMD	93-08-036	246-290-480	AMD	93-08-011	246-316-020	AMD-P	93-08-078
246-130-040	AMD-E	93-04-015	246-290-601	NEW-P	93-04-122	246-316-040	AMD-W	93-04-091
246-130-040	AMD-P	93-06-095	246-290-601	NEW	93-08-011	246-316-040	AMD-P	93-08-078
246-130-040	AMD-W	93-11-006	246-290-610	NEW-P	93-04-122	246-316-045	NEW-W	93-04-091
246-130-070	AMD-E	93-04-015	246-290-610	NEW	93-08-011	246-316-045	NEW-P	93-08-078
246-130-070	AMD-P	93-06-095	246-290-620	NEW-P	93-04-122	246-316-050	AMD-W	93-04-091
246-130-070	AMD-W	93-11-006	246-290-620	NEW	93-08-011	246-316-050	AMD-P	93-08-078
246-201-005	NEW-W	93-11-075	246-290-630	NEW-P	93-04-122	246-316-240	AMD-E	93-12-004
246-203-005	NEW-W	93-11-075	246-290-630	NEW	93-08-011	246-316-260	AMD-E	93-12-004
246-205-005	NEW-W	93-11-075	246-290-632	NEW-P	93-04-122	246-318-010	AMD	93-07-011
246-215-005	NEW-W	93-11-075	246-290-632	NEW	93-08-011	246-318-040	AMD-W	93-04-091
246-217-005	NEW-W	93-11-075	246-290-634	NEW-P	93-04-122	246-318-040	AMD-P	93-08-078
246-254-053	AMD-P	93-08-069	246-290-634	NEW	93-08-011	246-318-042	NEW-W	93-04-091
246-254-070	AMD-P	93-08-069	246-290-636	NEW-P	93-04-122	246-318-042	NEW-P	93-08-078
246-254-080	AMD-P	93-08-069	246-290-636	NEW	93-08-011	246-318-500	AMD	93-07-011
246-254-090	AMD-P	93-08-069	246-290-638	NEW-P	93-04-122	246-318-510	AMD	93-07-011
246-254-100	AMD-P	93-08-069	246-290-638	NEW	93-08-011	246-318-520	AMD	93-07-011
246-254-120	AMD-P	93-08-069	246-290-639	NEW-P	93-04-122	246-318-530	AMD	93-07-011
246-260-005	NEW-W	93-11-075	246-290-639	NEW	93-08-011	246-318-540	AMD	93-07-011
246-262-005	NEW-W	93-11-075	246-290-640	NEW-P	93-04-122	246-318-550	AMD	93-07-011
246-264-005	NEW-W	93-11-075	246-290-640	NEW	93-08-011	246-318-560	AMD	93-07-011
246-282-005	NEW-W	93-11-075	246-290-650	NEW-P	93-04-122	246-318-570	AMD	93-07-011
246-290-001	AMD-P	93-04-122	246-290-650	NEW	93-08-011	246-318-580	AMD	93-07-011
246-290-001	AMD	93-08-011	246-290-652	NEW-P	93-04-122	246-318-590	AMD	93-07-011
246-290-010	AMD-P	93-04-122	246-290-652	NEW	93-08-011	246-318-600	AMD	93-07-011
246-290-010	AMD	93-08-011	246-290-654	NEW-P	93-04-122	246-318-610	AMD	93-07-011
246-290-020	AMD-P	93-04-122	246-290-654	NEW	93-08-011	246-318-620	AMD	93-07-011
246-290-020	AMD	93-08-011	246-290-660	NEW-P	93-04-122	246-318-630	AMD	93-07-011
246-290-030	AMD-P	93-04-122	246-290-660	NEW	93-08-011	246-318-640	AMD	93-07-011
246-290-030	AMD	93-08-011	246-290-662	NEW-P	93-04-122	246-318-650	AMD	93-07-011
246-290-040	AMD-P	93-04-122	246-290-662	NEW	93-08-011	246-318-660	AMD	93-07-011
246-290-040	AMD	93-08-011	246-290-664	NEW-P	93-04-122	246-318-670	AMD	93-07-011
246-290-050	AMD-P	93-04-122	246-290-664	NEW	93-08-011	246-318-680	AMD	93-07-011
246-290-050	AMD	93-08-011	246-290-666	NEW-P	93-04-122	246-318-690	AMD	93-07-011
246-290-060	AMD-P	93-04-122	246-290-666	NEW	93-08-011	246-318-700	AMD	93-07-011

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-318-710	AMD	93-07-011	246-680-005	NEW-W	93-11-075	246-845-050	NEW-P	93-10-039
246-318-720	AMD	93-07-011	246-760-005	NEW-W	93-11-075	246-845-060	NEW-P	93-10-039
246-318-730	AMD	93-07-011	246-762-005	NEW-W	93-11-075	246-845-070	NEW-P	93-10-039
246-318-740	AMD	93-07-011	246-806-090	AMD-P	93-06-090	246-845-080	NEW-P	93-10-039
246-318-750	AMD	93-07-011	246-806-090	AMD-W	93-09-054	246-845-090	NEW-P	93-10-039
246-318-760	AMD	93-07-011	246-806-100	AMD-P	93-06-090	246-845-100	NEW-P	93-10-039
246-318-770	AMD	93-07-011	246-806-100	AMD	93-09-055	246-845-110	NEW-P	93-10-039
246-318-780	AMD	93-07-011	246-806-110	AMD-P	93-06-090	246-845-990	AMD-P	93-10-071
246-318-790	AMD	93-07-011	246-806-110	AMD	93-09-055	246-847-055	NEW-P	93-12-089
246-318-799	REP	93-07-011	246-806-130	AMD-P	93-06-090	246-847-068	NEW-P	93-12-089
246-318-800	AMD	93-07-011	246-806-130	AMD	93-09-055	246-847-070	AMD-P	93-12-089
246-318-810	AMD	93-07-011	246-806-140	AMD-P	93-06-090	246-847-080	AMD-P	93-12-089
246-318-820	AMD	93-07-011	246-806-140	AMD	93-09-055	246-847-115	AMD-P	93-12-089
246-318-830	AMD	93-07-011	246-806-150	REP-P	93-06-090	246-847-125	NEW-P	93-12-089
246-318-840	AMD	93-07-011	246-806-150	REP	93-09-055	246-847-130	AMD-P	93-12-089
246-318-850	AMD	93-07-011	246-806-160	AMD-P	93-06-090	246-847-200	AMD-P	93-12-089
246-318-860	AMD	93-07-011	246-806-160	AMD	93-09-055	246-849-200	NEW-P	93-03-046
246-318-870	AMD	93-07-011	246-806-190	AMD-P	93-06-090	246-849-200	NEW	93-10-008
246-318-99902	AMD	93-07-011	246-806-190	AMD	93-09-055	246-849-210	NEW-P	93-03-046
246-321-018	NEW-W	93-04-091	246-807-395	NEW-E	93-10-006	246-849-210	NEW	93-10-008
246-321-018	NEW-P	93-08-078	246-807-396	NEW-E	93-10-006	246-849-220	NEW-P	93-03-046
246-323-022	NEW-W	93-04-091	246-810-020	AMD-P	93-10-071	246-849-220	NEW	93-10-008
246-323-022	NEW-P	93-08-078	246-810-990	AMD-P	93-10-071	246-849-230	NEW-P	93-03-046
246-325-022	NEW-W	93-04-091	246-815-100	AMD	93-06-042A	246-849-230	NEW	93-10-008
246-325-022	NEW-P	93-08-078	246-815-990	AMD-P	93-12-121	246-849-240	NEW-P	93-03-046
246-327-090	NEW-W	93-04-091	246-816-220	AMD-P	93-08-106	246-849-240	NEW	93-10-008
246-327-090	NEW-P	93-08-078	246-816-225	NEW-P	93-08-106	246-849-250	NEW-P	93-03-046
246-329-035	NEW-W	93-04-091	246-818-120	AMD	93-07-108	246-849-250	NEW	93-10-008
246-329-035	NEW-P	93-08-078	246-818-130	AMD-S	93-07-107	246-849-260	NEW-P	93-03-046
246-329-035	NEW-W	93-08-078	246-818-130	AMD	93-12-005	246-849-260	NEW	93-10-008
246-331-100	NEW-W	93-04-091	246-818-140	AMD	93-07-108	246-849-270	NEW-P	93-03-046
246-331-100	NEW-P	93-08-078	246-818-140	AMD	93-07-108	246-849-270	NEW	93-10-008
246-336-100	NEW-W	93-04-091	246-824-040	AMD-P	93-10-040	246-849-270	NEW	93-10-008
246-336-100	NEW-P	93-08-078	246-824-071	NEW-P	93-10-040	246-849-990	AMD-P	93-10-071
246-340-085	NEW-W	93-04-091	246-824-072	NEW-P	93-10-040	246-851-110	AMD-P	93-08-079
246-340-085	NEW-P	93-08-078	246-824-073	NEW-P	93-10-040	246-851-270	REVIEW	93-03-030
246-358-001	AMD	93-03-032	246-824-200	NEW-P	93-02-066	246-851-360	REVIEW	93-03-030
246-358-001	AMD-E	93-07-052	246-824-210	NEW-P	93-02-066	246-851-360	AMD-P	93-08-079
246-358-001	AMD-P	93-07-106	246-824-220	NEW-P	93-02-066	246-851-520	REVIEW	93-03-030
246-358-001	AMD	93-12-043	246-824-230	NEW-P	93-02-066	246-851-530	REVIEW	93-03-030
246-358-010	AMD	93-03-032	246-824-240	NEW-P	93-02-066	246-851-530	REP-P	93-08-079
246-358-020	NEW	93-03-032	246-824-990	AMD-P	93-10-071	246-851-540	NEW-P	93-08-079
246-358-025	AMD	93-03-031	246-828-005	NEW	93-07-009	246-851-550	NEW-P	93-08-079
246-358-030	NEW	93-03-031	246-828-340	AMD	93-07-010	246-851-560	NEW-P	93-08-079
246-358-035	REP	93-03-032	246-828-400	NEW	93-07-008	246-857-020	REP	93-04-017
246-358-045	AMD	93-03-032	246-828-410	NEW	93-07-008	246-857-030	REP	93-04-017
246-358-055	AMD	93-03-032	246-828-420	NEW	93-07-008	246-857-040	REP	93-04-017
246-358-065	AMD	93-03-032	246-828-430	NEW	93-07-008	246-857-050	REP	93-04-017
246-358-075	AMD	93-03-032	246-838-500	NEW	93-07-007	246-857-060	REP	93-04-017
246-358-085	AMD	93-03-032	246-828-510	NEW	93-07-007	246-857-070	REP	93-04-017
246-358-095	AMD	93-03-032	246-828-520	NEW	93-07-007	246-857-080	REP	93-04-017
246-358-105	AMD	93-03-032	246-828-530	NEW	93-07-007	246-857-090	REP	93-04-017
246-358-115	AMD	93-03-032	246-828-540	NEW	93-07-007	246-857-100	REP	93-04-017
246-358-125	AMD	93-03-032	246-828-550	NEW	93-07-007	246-857-110	REP	93-04-017
246-358-135	AMD	93-03-032	246-828-560	NEW	93-07-007	246-857-120	REP	93-04-017
246-358-140	NEW	93-03-032	246-828-990	AMD-P	93-10-071	246-857-130	REP	93-04-017
246-358-145	AMD	93-03-032	246-830-990	AMD-P	93-10-071	246-857-140	REP	93-04-017
246-358-155	AMD	93-03-032	246-836-990	AMD-P	93-10-071	246-857-150	REP	93-04-017
246-358-165	AMD	93-03-032	246-838-120	AMD	93-04-080	246-857-160	REP	93-04-017
246-358-175	AMD	93-03-032	246-838-330	NEW	93-04-080	246-857-170	REP	93-04-017
246-358-990	AMD	93-03-031	246-838-990	AMD	93-07-023	246-857-180	REP	93-04-017
246-360-005	NEW-W	93-11-075	246-839-115	NEW-P	93-06-091	246-857-190	REP	93-04-017
246-374-005	NEW-W	93-11-075	246-839-115	NEW	93-11-007	246-857-200	REP	93-04-017
246-376-005	NEW-W	93-11-075	246-839-990	AMD-P	93-08-080	246-857-210	REP	93-04-017
246-378-005	NEW-W	93-11-075	246-839-990	AMD	93-12-125	246-857-220	REP	93-04-017
246-388-070	AMD-W	93-04-091	246-843-001	AMD-P	93-08-105	246-857-230	REP	93-04-017
246-388-070	AMD-P	93-08-078	246-843-010	AMD-P	93-08-105	246-857-240	REP	93-04-017
246-388-072	NEW-W	93-04-091	246-843-090	AMD-P	93-08-105	246-857-250	REP	93-04-017
246-388-072	NEW-P	93-08-078	246-843-180	AMD-P	93-08-105	246-857-260	REP	93-04-017
246-420-005	NEW-W	93-11-075	246-843-205	AMD-P	93-08-105	246-857-270	REP	93-04-017
246-491-005	NEW-W	93-11-075	246-843-990	AMD-P	93-10-071	246-857-280	REP	93-04-017
246-520-005	NEW-W	93-11-075	246-845-020	REP-P	93-10-039	246-857-290	REP	93-04-017
246-610-005	NEW-W	93-11-075	246-845-030	REP-P	93-10-039	246-857-300	REP	93-04-017
246-650-005	NEW-W	93-11-075	246-845-040	REP-P	93-10-039	246-857-310	REP	93-04-017

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-857-320	REP	93-04-017	246-924-363	NEW	93-07-036	250-40-070	AMD-P	93-11-093
246-857-330	REP	93-04-017	246-924-364	NEW-P	93-02-067	250-44-050	AMD	93-07-061
246-857-340	REP	93-04-017	246-924-364	NEW	93-07-036	250-44-110	AMD	93-07-061
246-863-050	AMD-P	93-04-101	246-924-365	NEW-P	93-02-067	250-44-130	AMD	93-07-061
246-863-050	AMD	93-10-007	246-924-365	NEW	93-07-036	250-62-010	NEW-P	93-12-106
246-863-130	NEW-W	93-04-018	246-924-366	NEW-P	93-02-067	250-62-020	NEW-P	93-12-106
246-869-245	NEW-W	93-07-051	246-924-366	NEW	93-07-036	250-62-030	NEW-P	93-12-106
246-883-030	AMD	93-05-046	246-924-367	NEW-P	93-02-067	250-62-040	NEW-P	93-12-106
246-887-132	NEW-P	93-08-108	246-924-367	NEW	93-07-036	250-62-050	NEW-P	93-12-106
246-887-160	AMD	93-06-093	246-924-370	REP-P	93-02-067	250-62-060	NEW-P	93-12-106
246-887-160	AMD-P	93-08-109	246-924-370	REP	93-07-036	250-62-070	NEW-P	93-12-106
246-901-030	AMD-P	93-08-107	246-924-380	REP-P	93-02-067	250-62-080	NEW-P	93-12-106
246-901-035	NEW-P	93-12-123	246-924-380	REP	93-07-036	250-62-090	NEW-P	93-12-106
246-901-060	AMD-P	93-08-107	246-924-390	REP-P	93-02-067	250-62-100	NEW-P	93-12-106
246-901-065	NEW-P	93-08-107	246-924-390	REP	93-07-036	250-62-110	NEW-P	93-12-106
246-903-010	AMD	93-04-016	246-924-400	REP-P	93-02-067	250-62-120	NEW-P	93-12-106
246-903-020	AMD	93-04-016	246-924-400	REP	93-07-036	250-62-130	NEW-P	93-12-106
246-907-030	AMD	93-05-045	246-924-410	REP-P	93-02-067	250-62-140	NEW-P	93-12-106
246-907-030	AMD-P	93-12-003	246-924-410	REP	93-07-036	250-62-150	NEW-P	93-12-106
246-915-020	AMD	93-04-081	246-924-420	REP-P	93-02-067	250-62-160	NEW-P	93-12-106
246-915-080	AMD	93-04-081	246-924-420	REP	93-07-036	250-62-170	NEW-P	93-12-106
246-915-085	NEW-W	93-04-082	246-924-430	REP-P	93-02-067	250-62-180	NEW-P	93-12-106
246-915-120	AMD	93-04-081	246-924-430	REP	93-07-036	250-62-190	NEW-P	93-12-106
246-915-140	AMD-W	93-04-082	246-924-440	REP-P	93-02-067	250-62-200	NEW-P	93-12-106
246-915-145	NEW-W	93-04-082	246-924-440	REP	93-07-036	250-62-210	NEW-P	93-12-106
246-917-121	AMD-P	93-05-047	246-924-450	REP-P	93-02-067	250-65-030	AMD-P	93-11-089
246-917-121	AMD	93-11-008	246-924-450	REP	93-07-036	250-65-040	AMD-P	93-11-089
246-917-990	AMD-W	93-11-073	246-924-475	NEW-P	93-11-038	250-65-050	AMD-P	93-11-089
246-917-990	AMD-P	93-12-122	246-924-475	NEW-E	93-12-042	250-65-060	AMD-P	93-11-089
246-917-990	AMD-E	93-12-124	246-930-499	AMD-P	93-10-072	250-66-020	AMD-P	93-11-094
246-918-260	AMD-P	93-05-047	246-933-010	AMD-P	93-04-079	250-70-030	AMD-P	93-11-090
246-918-260	AMD	93-11-008	246-933-010	AMD	93-08-029	250-76-020	AMD-P	93-11-091
246-922-035	NEW-P	93-08-082	246-933-180	NEW-P	93-04-079	250-76-070	AMD-P	93-11-091
246-922-235	NEW-P	93-08-082	246-933-180	NEW	93-08-029	250-78-050	AMD-P	93-11-092
246-922-275	NEW-P	93-08-082	246-933-980	AMD-P	93-04-079	250-78-060	AMD-P	93-11-092
246-924-040	AMD-P	93-02-065	246-933-980	AMD	93-08-029	251-12-240	AMD	93-06-033
246-924-040	AMD	93-06-092	246-933-990	AMD-P	93-04-121	251-12-290	AMD	93-06-033
246-924-050	AMD-P	93-02-065	246-933-990	AMD	93-08-028	251-22-167	AMD-P	93-11-103
246-924-050	AMD	93-06-092	246-933-990	AMD-P	93-10-071	251-22-195	AMD-P	93-11-103
246-924-055	NEW-P	93-02-065	246-935-060	AMD-P	93-08-081	251-22-197	NEW-P	93-11-103
246-924-055	NEW	93-06-092	246-935-060	AMD	93-12-126	251-22-200	AMD-P	93-11-103
246-924-060	AMD-P	93-02-065	246-935-070	AMD-P	93-04-079	251-22-215	REP	93-06-032
246-924-060	AMD	93-06-092	246-935-070	AMD	93-08-029	260-48-110	AMD-E	93-09-008
246-924-065	NEW-P	93-02-065	246-935-080	REP-P	93-04-079	260-48-110	AMD-P	93-11-060
246-924-065	NEW	93-06-092	246-935-080	REP	93-08-029	260-48-328	AMD-P	93-11-101
246-924-070	AMD-P	93-04-014	246-935-125	AMD-P	93-04-079	260-48-331	NEW-P	93-11-102
246-924-070	AMD-E	93-06-023	246-935-125	AMD	93-08-029	275-25	AMD-E	93-11-051
246-924-070	AMD	93-07-078	246-935-990	AMD-P	93-10-071	275-25	AMD-P	93-11-053
246-924-350	REP-P	93-02-067	250-20-011	AMD-P	93-03-087	275-25-010	AMD-E	93-11-051
246-924-350	REP	93-07-036	250-20-011	AMD-E	93-04-070	275-25-010	AMD-P	93-11-053
246-924-351	NEW-P	93-02-067	250-20-011	AMD	93-08-010	275-25-040	AMD-E	93-11-051
246-924-351	NEW	93-07-036	250-20-015	AMD-P	93-03-087	275-25-040	AMD-P	93-11-053
246-924-352	NEW-P	93-02-067	250-20-015	AMD-E	93-04-070	275-25-300	REP-E	93-11-051
246-924-352	NEW	93-07-036	250-20-015	AMD	93-08-010	275-25-300	REP-P	93-11-053
246-924-353	NEW-P	93-02-067	250-20-021	AMD-P	93-03-087	275-25-310	REP-E	93-11-051
246-924-353	NEW	93-07-036	250-20-021	AMD-E	93-04-070	275-25-310	REP-P	93-11-053
246-924-354	NEW-P	93-02-067	250-20-021	AMD	93-08-010	275-25-330	REP-E	93-11-051
246-924-354	NEW	93-07-036	250-20-031	AMD-P	93-03-087	275-25-330	REP-P	93-11-053
246-924-355	NEW-P	93-02-067	250-20-031	AMD-E	93-04-070	275-25-340	REP-E	93-11-051
246-924-355	NEW	93-07-036	250-20-031	AMD	93-08-010	275-25-340	REP-P	93-11-053
246-924-356	NEW-P	93-02-067	250-20-041	AMD-P	93-03-087	275-25-810	REP-E	93-11-051
246-924-356	NEW	93-07-036	250-20-041	AMD-E	93-04-070	275-25-810	REP-P	93-11-053
246-924-357	NEW-P	93-02-067	250-20-041	AMD	93-08-010	275-25-840	REP-E	93-11-051
246-924-357	NEW	93-07-036	250-20-051	AMD-P	93-03-087	275-25-840	REP-P	93-11-053
246-924-358	NEW-P	93-02-067	250-20-051	AMD-E	93-04-070	275-26-065	AMD	93-04-029
246-924-358	NEW	93-07-036	250-20-051	AMD	93-08-010	284-07-060	NEW-C	93-04-062
246-924-359	NEW-P	93-02-067	250-25-060	AMD-P	93-11-088	284-07-060	NEW	93-07-020
246-924-359	NEW	93-07-036	250-25-070	AMD-P	93-11-088	287-04-030	REP	93-04-008
246-924-360	REP-P	93-02-067	250-25-080	AMD-P	93-11-088	287-04-031	NEW	93-04-008
246-924-360	REP	93-07-036	250-40-030	AMD-P	93-11-093	296-04-270	AMD	93-04-100
246-924-361	NEW-P	93-02-067	250-40-040	AMD-P	93-11-093	296-04-280	AMD	93-04-100
246-924-361	NEW	93-07-036	250-40-050	AMD-P	93-11-093	296-15-022	AMD-P	93-07-115
246-924-363	NEW-P	93-02-067	250-40-060	AMD-P	93-11-093	296-15-022	AMD	93-11-064

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-23-950	REP-P	93-11-095	296-56-60235	AMD-P	93-10-101	296-62-07658	NEW	93-04-111
296-23-960	REP-P	93-11-095	296-62-07105	AMD-P	93-10-101	296-62-07660	NEW	93-04-111
296-23-970	REP-P	93-11-095	296-62-071	NEW-P	93-02-057	296-62-07662	NEW	93-04-111
296-23-980	REP-P	93-11-095	296-62-074	NEW	93-07-044	296-62-07664	NEW	93-04-111
296-23-990	REP-P	93-11-095	296-62-07401	NEW-P	93-02-057	296-62-07666	NEW	93-04-111
296-23A-100	AMD-P	93-11-095	296-62-07401	NEW	93-07-044	296-62-07668	NEW	93-04-111
296-23A-110	AMD-P	93-11-095	296-62-07403	NEW-P	93-02-057	296-62-07670	NEW	93-04-111
296-23A-115	AMD-P	93-11-095	296-62-07403	NEW	93-07-044	296-62-07672	NEW	93-04-111
296-23A-130	AMD-P	93-11-095	296-62-07405	NEW-P	93-02-057	296-62-07711	AMD-P	93-10-101
296-23A-150	AMD-P	93-11-095	296-62-07405	NEW	93-07-044	296-62-3090	AMD-P	93-10-101
296-23A-200	AMD-P	93-11-095	296-62-07407	NEW-P	93-02-057	296-62-14501	AMD-P	93-10-101
296-23A-205	AMD-P	93-11-095	296-62-07407	NEW	93-07-044	296-62-14503	AMD-P	93-10-101
296-23A-230	AMD-P	93-11-095	296-62-07409	NEW-P	93-02-057	296-62-14505	AMD-P	93-10-101
296-23A-235	AMD-P	93-11-095	296-62-07409	NEW	93-07-044	296-62-14507	AMD-P	93-10-101
296-23A-240	REP-P	93-11-095	296-62-07411	NEW-P	93-02-057	296-62-14509	AMD-P	93-10-101
296-23A-242	REP-P	93-11-095	296-62-07411	NEW	93-07-044	296-62-14511	AMD-P	93-10-101
296-23A-244	REP-P	93-11-095	296-62-07413	NEW-P	93-02-057	296-62-14513	AMD-P	93-10-101
296-23A-246	REP-P	93-11-095	296-62-07413	NEW	93-07-044	296-62-14515	AMD-P	93-10-101
296-23A-248	REP-P	93-11-095	296-62-07415	NEW-P	93-02-057	296-62-14517	AMD-P	93-10-101
296-23A-250	REP-P	93-11-095	296-62-07415	NEW	93-07-044	296-62-14519	AMD-P	93-10-101
296-23A-252	REP-P	93-11-095	296-62-07417	NEW-P	93-02-057	296-62-14521	AMD-P	93-10-101
296-23A-254	REP-P	93-11-095	296-62-07417	NEW	93-07-044	296-62-14523	AMD-P	93-10-101
296-23A-256	REP-P	93-11-095	296-62-07419	NEW-P	93-02-057	296-62-14525	AMD-P	93-10-101
296-23A-258	REP-P	93-11-095	296-62-07419	NEW	93-07-044	296-62-14527	AMD-P	93-10-101
296-23A-260	REP-P	93-11-095	296-62-07421	NEW-P	93-02-057	296-62-14529	AMD-P	93-10-101
296-23A-262	REP-P	93-11-095	296-62-07421	NEW	93-07-044	296-62-14540	NEW-P	93-10-101
296-23A-264	REP-P	93-11-095	296-62-07423	NEW-P	93-02-057	296-62-14542	NEW-P	93-10-101
296-23A-266	REP-P	93-11-095	296-62-07423	NEW	93-07-044	296-62-14545	NEW-P	93-10-101
296-23A-268	REP-P	93-11-095	296-62-07425	NEW-P	93-02-057	296-62-14547	NEW-P	93-10-101
296-23A-300	AMD-P	93-11-095	296-62-07425	NEW	93-07-044	296-62-14549	NEW-P	93-10-101
296-23A-310	AMD-P	93-11-095	296-62-07427	NEW-P	93-02-057	296-62-14551	NEW-P	93-10-101
296-23A-315	AMD-P	93-11-095	296-62-07427	NEW	93-07-044	296-62-14553	NEW-P	93-10-101
296-23A-320	AMD-P	93-11-095	296-62-07429	NEW-P	93-02-057	296-104-010	AMD-P	93-08-073
296-23A-325	REP-P	93-11-095	296-62-07429	NEW	93-07-044	296-104-010	AMD	93-12-014
296-23A-330	REP-P	93-11-095	296-62-07431	NEW-P	93-02-057	296-104-055	AMD-P	93-08-073
296-23A-335	REP-P	93-11-095	296-62-07431	NEW	93-07-044	296-104-055	AMD	93-12-014
296-23A-340	REP-P	93-11-095	296-62-07433	NEW-P	93-02-057	296-104-200	AMD-P	93-08-073
296-23A-345	REP-P	93-11-095	296-62-07433	NEW	93-07-044	296-104-200	AMD	93-12-014
296-23A-350	REP-P	93-11-095	296-62-07441	NEW-P	93-02-057	296-104-500	AMD-P	93-08-073
296-23A-355	REP-P	93-11-095	296-62-07441	NEW	93-07-044	296-104-500	AMD	93-12-014
296-23A-360	REP-P	93-11-095	296-62-07443	NEW-P	93-02-057	296-104-501	AMD-P	93-08-073
296-23A-400	AMD-P	93-11-095	296-62-07443	NEW	93-07-044	296-104-501	AMD	93-12-014
296-23A-410	REP-P	93-11-095	296-62-07445	NEW-P	93-02-057	296-104-700	AMD-P	93-08-073
296-23A-415	REP-P	93-11-095	296-62-07445	NEW	93-07-044	296-104-700	AMD	93-12-014
296-23A-420	REP-P	93-11-095	296-62-07447	NEW-P	93-02-057	296-116-082	AMD-E	93-06-012
296-23A-425	REP-P	93-11-095	296-62-07447	NEW	93-07-044	296-116-082	AMD-P	93-06-052
296-24-11003	AMD-P	93-10-101	296-62-07449	NEW-P	93-02-057	296-116-082	AMD	93-09-016
296-24-70007	AMD-P	93-10-101	296-62-07449	NEW	93-07-044	296-116-110	AMD-P	93-04-109
296-46-090	AMD	93-06-072	296-62-07451	NEW	93-02-057	296-116-110	AMD	93-07-076
296-46-140	AMD	93-06-072	296-62-07451	NEW	93-07-044	296-116-185	AMD-C	93-03-001
296-46-150	AMD	93-06-072	296-62-076	NEW	93-04-111	296-116-185	AMD	93-03-080
296-46-21008	AMD	93-06-072	296-62-07601	NEW	93-04-111	296-116-185	AMD-P	93-10-102
296-46-21052	AMD	93-06-072	296-62-07603	NEW	93-04-111	296-116-300	AMD-P	93-08-027
296-46-220	AMD	93-06-072	296-62-07605	NEW	93-04-111	296-116-300	AMD-C	93-12-009
296-46-225	NEW	93-06-072	296-62-07607	NEW	93-04-111	296-116-300	AMD	93-12-133
296-46-23040	AMD	93-06-072	296-62-07609	NEW	93-04-111	296-116-360	AMD-P	93-04-110
296-46-23062	AMD	93-06-072	296-62-07611	NEW	93-04-111	296-116-360	AMD	93-07-077
296-46-316	AMD	93-06-072	296-62-07613	NEW	93-04-111	296-125-070	NEW	93-04-112
296-46-360	AMD	93-06-072	296-62-07615	NEW	93-04-111	296-155-012	AMD-P	93-10-101
296-46-365	NEW	93-06-072	296-62-07617	NEW	93-04-111	296-155-173	NEW	93-04-111
296-46-422	AMD	93-06-072	296-62-07619	NEW	93-04-111	296-155-17301	NEW	93-04-111
296-46-495	AMD	93-06-072	296-62-07621	NEW	93-04-111	296-155-17303	NEW	93-04-111
296-46-514	AMD	93-06-072	296-62-07623	NEW	93-04-111	296-155-17305	NEW	93-04-111
296-46-517	REP	93-06-072	296-62-07625	NEW	93-04-111	296-155-17307	NEW	93-04-111
296-46-55001	REP	93-06-072	296-62-07627	NEW	93-04-111	296-155-17309	NEW	93-04-111
296-46-680	AMD	93-06-072	296-62-07629	NEW	93-04-111	296-155-17311	NEW	93-04-111
296-46-700	AMD	93-06-072	296-62-07631	NEW	93-04-111	296-155-17313	NEW	93-04-111
296-46-702	NEW	93-06-072	296-62-07633	NEW	93-04-111	296-155-17315	NEW	93-04-111
296-46-710	NEW	93-06-072	296-62-07635	NEW	93-04-111	296-155-17317	NEW	93-04-111
296-46-935	NEW	93-03-048	296-62-07637	NEW	93-04-111	296-155-17319	NEW	93-04-111
296-56-60001	AMD-P	93-02-057	296-62-07639	NEW	93-04-111	296-155-17321	NEW	93-04-111
296-56-60001	AMD	93-07-044	296-62-07654	NEW	93-04-111	296-155-17323	NEW	93-04-111
296-56-60005	AMD-P	93-10-101	296-62-07656	NEW	93-04-111	296-155-17325	NEW	93-04-111

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-155-17327	NEW	93-04-111	296-306-06703	NEW-W	93-10-041	308-30-150	NEW	93-05-009
296-155-17329	NEW	93-04-111	296-306-06705	NEW-W	93-10-041	308-30-155	NEW	93-05-009
296-155-17331	NEW	93-04-111	296-306-06707	NEW-W	93-10-041	308-30-160	NEW	93-05-009
296-155-17333	NEW	93-04-111	296-306-06709	NEW-W	93-10-041	308-30-170	NEW-W	93-08-083
296-155-17335	NEW	93-04-111	296-306-068	NEW-W	93-10-041	308-30-180	NEW-W	93-08-083
296-155-17337	NEW	93-04-111	296-306-06801	NEW-W	93-10-041	308-30-190	NEW-W	93-08-083
296-155-17339	NEW	93-04-111	296-306-06803	NEW-W	93-10-041	308-56A-115	AMD-P	93-10-073
296-155-17341	NEW	93-04-111	296-306-06805	NEW-W	93-10-041	308-56A-125	AMD-P	93-10-073
296-155-17343	NEW	93-04-111	296-306-070	AMD	93-07-012	308-56A-140	AMD-P	93-10-073
296-155-17345	NEW	93-04-111	296-306-081	NEW-W	93-10-041	308-56A-160	NEW-P	93-10-073
296-155-17347	NEW	93-04-111	296-306-08101	NEW-W	93-10-041	308-56A-420	AMD-P	93-10-073
296-155-17349	NEW	93-04-111	296-306-08103	NEW-W	93-10-041	308-61	AMD	93-08-076
296-155-17351	NEW	93-04-111	296-306-08105	NEW-W	93-10-041	308-61-010	REP	93-08-076
296-155-17353	NEW	93-04-111	296-306-082	NEW-W	93-10-041	308-61-025	REP	93-08-076
296-155-17355	NEW	93-04-111	296-306-08201	NEW-W	93-10-041	308-61-026	AMD	93-08-076
296-155-17357	NEW	93-04-111	296-306-083	NEW-W	93-10-041	308-61-030	REP	93-08-076
296-155-17359	NEW	93-04-111	296-306-08301	NEW-W	93-10-041	308-61-040	REP	93-08-076
296-155-174	NEW-P	93-02-057	296-306-08307	NEW-W	93-10-041	308-61-135	AMD	93-08-076
296-155-174	NEW	93-07-044	296-306-084	NEW	93-07-012	308-61-168	AMD	93-08-076
296-155-203	AMD-P	93-10-101	296-306-08401	NEW-W	93-10-041	308-61-200	REP	93-08-076
296-155-20301	AMD-P	93-10-101	296-306-08403	NEW-W	93-10-041	308-61-205	REP	93-08-076
296-155-20307	AMD-P	93-10-101	296-306-08405	NEW-W	93-10-041	308-61-210	REP	93-08-076
296-155-24510	AMD-P	93-10-101	296-306-08407	NEW-W	93-10-041	308-61-220	REP	93-08-076
296-155-300	AMD-P	93-10-101	296-306-08409	NEW-W	93-10-041	308-61-230	REP	93-08-076
296-155-305	AMD-P	93-10-101	296-306-105	AMD	93-07-012	308-61-240	REP	93-08-076
296-155-310	AMD-P	93-10-101	296-306-115	AMD	93-07-012	308-61-250	REP	93-08-076
296-155-375	AMD	93-04-111	296-306-145	AMD	93-07-012	308-61-260	REP	93-08-076
296-155-444	AMD-P	93-10-101	296-306-14501	NEW-W	93-10-041	308-61-270	REP	93-08-076
296-155-447	AMD-P	93-10-101	296-306-14503	NEW-W	93-10-041	308-61-300	REP	93-08-076
296-155-449	AMD-P	93-10-101	296-306-14505	NEW-W	93-10-041	308-61-305	REP	93-08-076
296-155-459	AMD-P	93-10-101	296-306-14507	NEW-W	93-10-041	308-61-310	REP	93-08-076
296-155-462	AMD-P	93-10-101	296-306-14509	NEW-W	93-10-041	308-61-320	REP	93-08-076
296-304-01001	AMD-P	93-10-101	296-306-146	NEW-W	93-10-041	308-61-330	REP	93-08-076
296-304-020	AMD	93-04-111	296-306-147	NEW-W	93-10-041	308-61-340	REP	93-08-076
296-304-02003	AMD-P	93-10-101	296-306-148	NEW-W	93-10-041	308-61-400	REP	93-08-076
296-304-03001	AMD-P	93-10-101	296-306-165	AMD	93-07-012	308-61-405	REP	93-08-076
296-304-03005	AMD-P	93-10-101	296-306-200	AMD	93-07-012	308-61-410	REP	93-08-076
296-304-03007	AMD-P	93-10-101	296-306-26001	AMD	93-07-012	308-61-420	REP	93-08-076
296-304-04001	AMD-P	93-10-101	296-306-265	AMD	93-07-012	308-61-430	REP	93-08-076
296-304-04005	AMD-P	93-10-101	296-306-270	AMD	93-07-012	308-61-440	REP	93-08-076
296-304-09003	AMD-P	93-10-101	296-306-27095	AMD	93-07-012	308-61-450	REP	93-08-076
296-306	AMD-C	93-02-031	296-306-330	NEW	93-07-012	308-63-010	NEW	93-08-076
296-306-010	AMD	93-07-012	296-306-33001	NEW-W	93-10-041	308-63-020	NEW	93-08-076
296-306-01001	NEW-P	93-02-057	296-306-400	AMD	93-07-012	308-63-030	NEW	93-08-076
296-306-01001	NEW	93-07-044	296-306-40003	AMD	93-07-012	308-63-040	NEW	93-08-076
296-306-012	AMD	93-07-012	296-306-40007	NEW	93-07-012	308-63-050	NEW	93-08-076
296-306-035	AMD	93-07-012	296-306-40009	NEW	93-07-012	308-63-060	NEW	93-08-076
296-306-060	AMD	93-07-012	296-306-40011	NEW	93-07-012	308-63-070	NEW	93-08-076
296-306-061	NEW	93-07-012	296-401-075	NEW	93-03-048	308-63-080	NEW	93-08-076
296-306-06101	NEW-W	93-10-041	308-13-020	AMD-P	93-12-105	308-63-090	NEW	93-08-076
296-306-06103	NEW-W	93-10-041	308-13-022	REP-P	93-12-105	308-63-100	NEW	93-08-076
296-306-06105	NEW-W	93-10-041	308-13-024	NEW-P	93-12-105	308-63-110	NEW	93-08-076
296-306-06107	NEW-W	93-10-041	308-13-025	REP-P	93-12-105	308-63-120	NEW	93-08-076
296-306-06109	NEW-W	93-10-041	308-13-032	AMD-P	93-12-105	308-63-130	NEW	93-08-076
296-306-06111	NEW-W	93-10-041	308-13-100	AMD-P	93-12-105	308-63-140	NEW	93-08-076
296-306-06113	NEW-W	93-10-041	308-17-150	AMD-P	93-07-099	308-63-150	NEW	93-08-076
296-306-06115	NEW-W	93-10-041	308-17-150	AMD-W	93-12-040	308-63-160	NEW	93-08-076
296-306-06117	NEW-W	93-10-041	308-18-150	AMD-P	93-07-098	308-65-010	NEW	93-08-076
296-306-06119	NEW-W	93-10-041	308-18-150	AMD	93-11-025	308-65-020	NEW	93-08-076
296-306-062	NEW-W	93-10-041	308-30-005	NEW	93-05-009	308-65-030	NEW	93-08-076
296-306-063	NEW-W	93-10-041	308-30-010	AMD	93-05-009	308-65-040	NEW	93-08-076
296-306-064	NEW-W	93-10-041	308-30-020	AMD	93-05-009	308-65-050	NEW	93-08-076
296-306-06401	NEW-W	93-10-041	308-30-030	AMD	93-05-009	308-65-060	NEW	93-08-076
296-306-06403	NEW-W	93-10-041	308-30-040	AMD	93-05-009	308-65-070	NEW	93-08-076
296-306-06405	NEW-W	93-10-041	308-30-050	AMD	93-05-009	308-65-080	NEW	93-08-076
296-306-06407	NEW-W	93-10-041	308-30-060	AMD	93-05-009	308-65-090	NEW	93-08-076
296-306-06409	NEW-W	93-10-041	308-30-070	AMD	93-05-009	308-65-100	NEW	93-08-076
296-306-06411	NEW-W	93-10-041	308-30-080	AMD	93-05-009	308-65-110	NEW	93-08-076
296-306-06413	NEW-W	93-10-041	308-30-090	AMD	93-05-009	308-65-120	NEW	93-08-076
296-306-06415	NEW-W	93-10-041	308-30-110	NEW-W	93-08-083	308-65-130	NEW	93-08-076
296-306-06417	NEW-W	93-10-041	308-30-120	NEW	93-05-009	308-65-140	NEW	93-08-076
296-306-067	NEW-W	93-19-041	308-30-130	NEW	93-05-009	308-65-150	NEW	93-08-076
296-306-06701	NEW-W	93-10-041	308-30-140	NEW	93-05-009	308-65-160	NEW	93-08-076

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
308-65-170	NEW	93-08-076	314-70-050	NEW	93-11-028	315-11-931	NEW	93-03-008
308-65-180	NEW	93-08-076	315-02-230	NEW	93-04-004	315-11-932	NEW	93-03-008
308-65-190	NEW	93-08-076	315-06-120	AMD	93-04-004	315-11-940	NEW	93-03-008
308-66-196	NEW-P	93-10-073	315-06-125	AMD	93-04-004	315-11-941	NEW	93-03-008
308-93-050	AMD-P	93-11-076	315-06-125	AMD-P	93-07-121	315-11-942	NEW	93-03-008
308-93-070	AMD-P	93-11-076	315-06-125	AMD	93-11-056	315-11-950	NEW-P	93-03-094
308-93-174	NEW-P	93-11-076	315-06-130	AMD	93-04-004	315-11-950	NEW	93-07-016
308-93-460	AMD-P	93-11-076	315-11-400	REP-P	93-12-104	315-11-951	NEW-P	93-03-094
308-96A-005	AMD-P	93-11-069	315-11-401	REP-P	93-12-104	315-11-951	NEW	93-07-016
308-96A-057	AMD-P	93-11-069	315-11-402	REP-P	93-12-104	315-11-952	NEW-P	93-03-094
308-96A-066	NEW-P	93-11-069	315-11-410	REP-P	93-12-104	315-11-952	NEW	93-07-016
308-96A-072	NEW-P	93-11-069	315-11-411	REP-P	93-12-104	315-11-960	NEW-P	93-03-094
308-96A-295	AMD-P	93-11-069	315-11-412	REP-P	93-12-104	315-11-960	NEW	93-07-016
308-96A-330	AMD-P	93-11-069	315-11-420	REP-P	93-12-104	315-11-961	NEW-P	93-03-094
308-96A-560	AMD-P	93-11-069	315-11-421	REP-P	93-12-104	315-11-961	NEW	93-07-016
308-125-010	AMD-P	93-12-127	315-11-422	REP-P	93-12-104	315-11-962	NEW-P	93-03-094
308-125-020	AMD-P	93-12-127	315-11-430	REP-P	93-12-104	315-11-962	NEW	93-07-016
308-125-030	AMD-P	93-12-127	315-11-431	REP-P	93-12-104	315-11-970	NEW-P	93-03-094
308-125-035	REP-P	93-12-127	315-11-432	REP-P	93-12-104	315-11-970	NEW	93-07-016
308-125-040	AMD-P	93-12-127	315-11-440	REP-P	93-12-104	315-11-971	NEW-P	93-03-094
308-125-045	AMD-P	93-12-127	315-11-441	REP-P	93-12-104	315-11-971	NEW	93-07-016
308-125-050	AMD-P	93-12-127	315-11-442	REP-P	93-12-104	315-11-972	NEW-P	93-03-094
308-125-060	AMD-P	93-12-127	315-11-450	REP-P	93-12-104	315-11-972	NEW	93-07-016
308-125-065	NEW-P	93-12-127	315-11-451	REP-P	93-12-104	315-11-980	NEW-P	93-07-121
308-125-070	AMD-P	93-12-127	315-11-452	REP-P	93-12-104	315-11-980	NEW	93-11-056
308-125-085	AMD-P	93-12-127	315-11-460	REP-P	93-12-104	315-11-981	NEW-P	93-07-121
308-125-090	AMD-P	93-12-127	315-11-461	REP-P	93-12-104	315-11-981	NEW	93-11-056
308-125-100	AMD-P	93-12-127	315-11-462	REP-P	93-12-104	315-11-982	NEW-P	93-07-121
308-125-110	AMD-P	93-12-127	315-11-470	REP-P	93-12-104	315-11-982	NEW	93-11-056
308-125-130	AMD-P	93-12-127	315-11-471	REP-P	93-12-104	315-11-990	NEW-P	93-07-121
308-125-140	AMD-P	93-12-127	315-11-472	REP-P	93-12-104	315-11-990	NEW	93-11-056
308-125-160	REP-P	93-12-127	315-11-480	REP-P	93-12-104	315-11-991	NEW-P	93-07-121
308-125-180	AMD-P	93-12-127	315-11-481	REP-P	93-12-104	315-11-991	NEW	93-11-056
308-125-190	AMD-P	93-12-127	315-11-482	REP-P	93-12-104	315-11-992	NEW-P	93-07-121
308-125-210	AMD-P	93-12-127	315-11-490	REP-P	93-12-104	315-11-992	NEW	93-11-056
308-125-225	NEW-P	93-12-127	315-11-491	REP-P	93-12-104	315-11A-100	NEW-P	93-07-121
314-12-015	AMD-P	93-12-120	315-11-492	REP-P	93-12-104	315-11A-100	NEW	93-11-056
314-12-020	AMD-P	93-07-110	315-11-500	REP-P	93-12-104	315-11A-101	NEW-P	93-12-104
314-12-020	AMD-W	93-10-069	315-11-501	REP-P	93-12-104	315-11A-102	NEW-P	93-12-104
314-12-020	AMD-P	93-12-117	315-11-502	REP-P	93-12-104	315-11A-103	NEW-P	93-12-104
314-12-025	AMD-P	93-07-110	315-11-510	REP-P	93-12-104	315-11A-104	NEW-P	93-12-104
314-12-025	AMD	93-10-070	315-11-511	REP-P	93-12-104	315-11A-105	NEW-P	93-12-104
314-12-030	AMD-P	93-06-066	315-11-512	REP-P	93-12-104	315-20-005	NEW-P	93-12-104
314-12-030	AMD	93-10-092	315-11-520	REP-P	93-12-104	315-20-070	REP-P	93-12-104
314-12-140	AMD-P	93-07-110	315-11-521	REP-P	93-12-104	315-20-075	NEW-P	93-12-104
314-12-140	AMD	93-10-070	315-11-522	REP-P	93-12-104	315-20-080	REP-P	93-12-104
314-16-020	AMD-P	93-07-110	315-11-530	REP-P	93-12-104	315-20-085	NEW-P	93-12-104
314-16-020	AMD	93-10-070	315-11-531	REP-P	93-12-104	315-20-090	REP-P	93-12-104
314-16-030	AMD-P	93-07-110	315-11-532	REP-P	93-12-104	315-20-095	NEW-P	93-12-104
314-16-030	AMD-W	93-10-069	315-11-540	REP-P	93-12-104	315-20-100	REP-P	93-12-104
314-16-090	AMD-P	93-12-118	315-11-541	REP-P	93-12-104	315-20-105	NEW-P	93-12-104
314-16-190	AMD-P	93-06-066	315-11-542	REP-P	93-12-104	315-20-110	REP-P	93-12-104
314-16-190	AMD	93-10-092	315-11-550	REP-P	93-12-104	315-20-115	NEW-P	93-12-104
314-16-196	AMD-P	93-06-066	315-11-551	REP-P	93-12-104	315-20-120	REP-P	93-12-104
314-16-196	AMD	93-10-092	315-11-552	REP-P	93-12-104	315-20-130	REP-P	93-12-104
314-16-250	AMD-P	93-12-119	315-11-560	REP-P	93-12-104	315-20-140	REP-P	93-12-104
314-20-015	AMD-P	93-07-109	315-11-561	REP-P	93-12-104	315-20-150	REP-P	93-12-104
314-20-015	AMD	93-11-028	315-11-562	REP-P	93-12-104	315-34-040	AMD	93-03-008
314-20-030	AMD-P	93-07-110	315-11-570	REP-P	93-12-104	317-01-010	NEW-P	93-06-086
314-20-030	AMD	93-10-070	315-11-571	REP-P	93-12-104	317-01-010	NEW	93-11-004
314-20-070	AMD-P	93-06-066	315-11-572	REP-P	93-12-104	317-01-020	NEW-P	93-06-086
314-20-070	AMD	93-10-092	315-11-580	REP-P	93-12-104	317-01-020	NEW	93-11-004
314-20-180	NEW-E	93-11-027	315-11-581	REP-P	93-12-104	317-01-030	NEW-P	93-06-086
314-20-180	NEW-P	93-12-116	315-11-582	REP-P	93-12-104	317-01-030	NEW	93-11-004
314-24-095	AMD-P	93-07-109	315-11-590	REP-P	93-12-104	317-02-010	NEW-P	93-06-087
314-24-095	AMD	93-11-028	315-11-591	REP-P	93-12-104	317-02-010	NEW	93-11-003
314-24-160	AMD-P	93-07-109	315-11-592	REP-P	93-12-104	317-02-020	NEW-P	93-06-087
314-24-160	AMD	93-11-028	315-11-890	AMD-P	93-03-094	317-02-020	NEW	93-11-003
314-40-030	AMD-P	93-07-109	315-11-890	AMD	93-07-016	317-02-030	NEW-P	93-06-087
314-40-030	AMD	93-11-028	315-11-920	NEW	93-03-008	317-02-030	NEW	93-11-003
314-52-080	AMD-P	93-07-109	315-11-921	NEW	93-03-008	317-02-040	NEW-P	93-06-087
314-52-080	AMD	93-11-028	315-11-922	NEW	93-03-008	317-02-040	NEW	93-11-003
314-70-050	NEW-P	93-07-109	315-11-930	NEW	93-03-008	317-02-050	NEW-P	93-06-087

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
356-30-130	AMD	93-12-088	388-15-202	NEW-C	93-04-023	388-34-025	REP-W	93-08-113
356-30-260	AMD-P	93-06-079	388-15-202	NEW	93-06-042	388-34-035	REP-P	93-06-040
356-30-260	AMD-C	93-09-058	388-15-203	NEW-C	93-04-023	388-34-035	REP-W	93-08-113
356-30-330	AMD-C	93-02-036	388-15-203	NEW	93-06-042	388-34-040	REP-P	93-06-040
356-30-330	AMD-C	93-04-099	388-15-204	NEW-C	93-04-023	388-34-040	REP-W	93-08-113
356-30-330	AMD-C	93-08-045	388-15-204	NEW	93-06-042	388-34-045	REP-P	93-06-040
356-30-330	AMD-W	93-09-060	388-15-205	NEW-C	93-04-023	388-34-045	REP-W	93-08-113
356-30-331	NEW-E	93-09-003	388-15-205	NEW	93-06-042	388-34-055	REP-P	93-06-040
356-30-331	NEW-P	93-09-057	388-15-207	AMD	93-04-036	388-34-055	REP-W	93-08-113
356-34-020	AMD-W	93-02-035	388-15-208	AMD	93-04-036	388-34-085	REP-P	93-06-040
356-34-022	NEW-W	93-02-035	388-15-209	AMD	93-04-036	388-34-085	REP-W	93-08-113
356-34-090	AMD	93-02-040	388-15-212	AMD	93-04-036	388-34-095	REP-P	93-06-040
356-35-010	AMD-C	93-02-041	388-15-213	AMD	93-04-036	388-34-095	REP-W	93-08-113
356-35-010	AMD-C	93-04-098	388-15-214	AMD	93-04-036	388-34-110	REP-P	93-06-040
356-35-010	AMD-C	93-06-078	388-15-215	AMD	93-04-036	388-34-110	REP-W	93-08-113
356-35-010	AMD-W	93-07-054	388-15-216	AMD	93-04-036	388-34-120	REP-P	93-06-040
356-35-010	AMD-P	93-10-027	388-15-217	AMD	93-04-036	388-34-120	REP-W	93-08-113
365-135-020	AMD-P	93-09-061	388-15-600	AMD-P	93-11-085	388-34-125	REP-P	93-06-040
365-135-040	AMD-P	93-09-061	388-15-610	AMD-P	93-11-085	388-34-125	REP-W	93-08-113
365-135-050	AMD-P	93-09-061	388-15-615	AMD-P	93-11-085	388-34-140	REP-P	93-06-040
365-135-070	NEW-P	93-09-061	388-15-620	AMD-P	93-11-085	388-34-140	REP-W	93-08-113
365-140-030	AMD-P	93-08-087	388-15-630	AMD-P	93-11-085	388-34-150	REP-P	93-06-040
365-140-040	AMD-P	93-08-087	388-15-820	AMD-P	93-07-071	388-34-150	REP-W	93-08-113
365-140-050	AMD-P	93-08-087	388-15-820	AMD	93-10-023	388-34-160	REP-P	93-06-040
365-140-060	AMD-P	93-08-087	388-15-830	AMD-P	93-07-071	388-34-160	REP-W	93-08-113
365-300-010	NEW-E	93-07-063	388-15-830	AMD	93-10-023	388-34-165	REP-P	93-06-040
365-300-010	NEW-P	93-07-112	388-15-840	AMD-P	93-07-071	388-34-165	REP-W	93-08-113
365-300-010	NEW	93-11-039	388-15-840	AMD	93-10-023	388-34-180	REP-P	93-06-040
365-300-020	NEW-E	93-07-063	388-15-850	AMD-P	93-07-071	388-34-180	REP-W	93-08-113
365-300-020	NEW-P	93-07-112	388-15-850	AMD	93-10-023	388-34-370	REP-P	93-06-040
365-300-020	NEW	93-11-039	388-15-860	AMD-P	93-07-071	388-34-370	REP-W	93-08-113
365-300-030	NEW-E	93-07-063	388-15-860	AMD	93-10-023	388-34-372	REP-P	93-06-040
365-300-030	NEW-P	93-07-112	388-15-870	AMD-P	93-07-071	388-34-372	REP-W	93-08-113
365-300-030	NEW	93-11-039	388-15-870	AMD	93-10-023	388-34-374	REP-P	93-06-040
365-300-040	NEW-E	93-07-063	388-15-880	AMD-P	93-07-071	388-34-374	REP-W	93-08-113
365-300-040	NEW-P	93-07-112	388-15-880	AMD	93-10-023	388-34-375	REP-P	93-06-040
365-300-040	NEW	93-11-039	388-15-890	NEW-P	93-07-071	388-34-375	REP-W	93-08-113
365-300-050	NEW-E	93-07-063	388-15-890	NEW	93-10-023	388-34-376	REP-P	93-06-040
365-300-050	NEW-P	93-07-112	388-21-005	NEW	93-04-037	388-34-376	REP-W	93-08-113
365-300-050	NEW	93-11-039	388-24-074	AMD-P	93-03-055	388-34-378	REP-P	93-06-040
365-300-060	NEW-E	93-07-063	388-24-074	AMD	93-12-055	388-34-378	REP-W	93-08-113
365-300-060	NEW-P	93-07-112	388-24-253	AMD-P	93-04-035	388-34-380	REP-P	93-06-040
365-300-060	NEW	93-11-039	388-24-253	AMD	93-07-034	388-34-380	REP-W	93-08-113
365-300-070	NEW-E	93-07-063	388-28-392	AMD	93-04-028	388-34-384	REP-P	93-06-040
365-300-070	NEW-P	93-07-112	388-28-425	AMD-P	93-03-056	388-34-384	REP-W	93-08-113
365-300-070	NEW	93-11-039	388-28-425	AMD	93-12-056	388-37	REP-C	93-12-050
365-300-081	NEW-E	93-07-063	388-28-435	AMD-P	93-05-004	388-37-010	REP-P	93-08-074
365-300-081	NEW-P	93-07-112	388-28-435	AMD	93-07-126	388-37-020	REP-P	93-08-074
365-300-081	NEW	93-11-039	388-28-485	AMD-P	93-07-072	388-37-021	REP-P	93-08-074
365-300-090	NEW-E	93-07-063	388-28-485	AMD	93-10-022	388-37-025	REP-P	93-08-074
365-300-090	NEW-P	93-07-112	388-28-570	AMD-P	93-03-057	388-37-029	REP-P	93-08-074
365-300-090	NEW	93-11-039	388-28-570	AMD	93-12-057	388-37-030	REP-P	93-08-074
374-60-020	AMD	93-04-041	388-28-575	AMD-P	93-04-027	388-37-032	REP-P	93-08-074
374-60-060	AMD	93-04-041	388-28-575	AMD	93-07-031	388-37-035	REP-P	93-08-074
374-60-070	AMD	93-04-041	388-28-590	AMD-P	93-04-026	388-37-037	REP-P	93-08-074
374-60-120	AMD	93-04-041	388-28-590	AMD	93-07-032	388-37-038	REP-P	93-08-074
388-11-010	AMD	93-05-020	388-29-100	AMD	93-04-030	388-37-039	REP-P	93-08-074
388-11-011	AMD	93-05-020	388-29-110	AMD	93-04-030	388-37-040	REP-P	93-08-074
388-11-045	AMD	93-05-020	388-29-112	AMD	93-04-030	388-37-045	NEW-C	93-04-025
388-11-120	AMD	93-05-020	388-29-130	AMD-P	93-09-017	388-37-045	NEW	93-06-073
388-11-150	AMD	93-05-020	388-29-130	AMD	93-12-052	388-37-045	REP-P	93-08-074
388-11-210	AMD	93-05-020	388-29-160	AMD	93-04-030	388-37-050	AMD-C	93-04-025
388-14-030	AMD	93-05-020	388-29-220	AMD	93-04-030	388-37-050	AMD	93-06-073
388-14-205	AMD	93-05-020	388-29-280	AMD-P	93-09-017	388-37-050	REP-P	93-08-074
388-14-385	AMD	93-05-020	388-29-280	AMD	93-12-052	388-37-100	REP-P	93-08-074
388-14-420	AMD	93-05-020	388-29-295	AMD	93-04-030	388-37-110	REP-P	93-08-074
388-14-427	NEW	93-05-020	388-34-010	REP-P	93-06-040	388-37-115	REP-P	93-08-074
388-14-435	AMD	93-05-020	388-34-010	REP-W	93-08-113	388-37-120	REP-P	93-08-074
388-15-132	AMD-P	93-10-093	388-34-015	REP-P	93-06-040	388-37-130	REP-P	93-08-074
388-15-136	REP-P	93-10-093	388-34-015	REP-W	93-08-113	388-37-135	REP-P	93-08-074
388-15-170	AMD-P	93-07-018	388-34-020	REP-P	93-06-040	388-37-140	REP-P	93-08-074
388-15-170	AMD-E	93-07-019	388-34-020	REP-W	93-08-113	388-37-150	REP-P	93-08-074
388-15-170	AMD	93-10-021	388-34-025	REP-P	93-06-040	388-37-160	REP-P	93-08-074

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-37-170	REP-P	93-08-074	388-51-170	NEW	93-12-059	388-82-115	AMD-E	93-03-061
388-37-180	REP-P	93-08-074	388-51-180	NEW-P	93-07-073	388-82-115	AMD	93-06-037
388-37-190	REP-P	93-08-074	388-51-180	NEW	93-12-059	388-82-140	AMD-P	93-08-022
388-37-300	REP-P	93-08-074	388-51-200	REP-P	93-07-073	388-82-140	AMD-E	93-08-023
388-37-310	REP-P	93-08-074	388-51-200	REP	93-12-059	388-82-140	AMD	93-11-049
388-37-320	REP-P	93-08-074	388-51-210	NEW-P	93-07-073	388-82-150	NEW	93-04-024
388-37-330	REP-P	93-08-074	388-51-210	NEW	93-12-059	388-82-150	AMD-P	93-08-022
388-37-340	REP-P	93-08-074	388-51-250	NEW-P	93-07-073	388-82-150	AMD-E	93-08-023
388-37-350	REP-P	93-08-074	388-51-250	NEW	93-12-059	388-82-150	AMD	93-11-049
388-37-360	REP-P	93-08-074	388-51-260	NEW-P	93-07-073	388-82-160	AMD-P	93-08-022
388-37-370	REP-P	93-08-074	388-51-260	NEW	93-12-059	388-82-160	AMD-E	93-08-023
388-37-380	REP-P	93-08-074	388-51-300	REP-P	93-07-073	388-82-160	AMD	93-11-049
388-42-020	AMD	93-05-021	388-51-300	REP	93-12-059	388-82-015	AMD-P	93-06-009
388-42-020	REP-E	93-11-083	388-60-005	NEW-P	93-06-082	388-83-015	AMD-E	93-06-010
388-42-020	REP-P	93-11-084	388-60-005	NEW	93-10-024	388-83-015	AMD	93-08-111
388-42-025	AMD	93-05-021	388-60-120	NEW-P	93-06-082	388-83-026	AMD-P	93-03-026
388-42-025	REP-E	93-11-083	388-60-120	NEW	93-10-024	388-83-026	AMD-E	93-03-028
388-42-025	REP-P	93-11-084	388-60-130	NEW-P	93-06-082	388-83-026	AMD	93-06-038
388-42-030	REP-E	93-11-083	388-60-130	NEW	93-10-024	388-83-029	AMD-P	93-11-067
388-42-030	REP-P	93-11-084	388-60-140	NEW-P	93-06-082	388-83-032	AMD-P	93-08-022
388-42-040	REP-E	93-11-083	388-60-140	NEW	93-10-024	388-83-032	AMD-E	93-08-023
388-42-040	REP-P	93-11-084	388-60-150	NEW-P	93-06-082	388-83-032	AMD	93-11-049
388-42-100	REP-E	93-11-083	388-60-150	NEW	93-10-024	388-83-033	AMD-P	93-03-060
388-42-100	REP-P	93-11-084	388-60-160	NEW-P	93-06-082	388-83-033	AMD-E	93-03-061
388-42-110	REP-E	93-11-083	388-60-160	NEW	93-10-024	388-83-033	AMD	93-06-037
388-42-110	REP-P	93-11-084	388-60-170	NEW-P	93-06-082	388-83-033	AMD-P	93-08-022
388-42-115	REP-E	93-11-083	388-60-170	NEW	93-10-024	388-83-033	AMD-E	93-08-023
388-42-115	REP-P	93-11-084	388-60-180	NEW-P	93-06-082	388-83-033	AMD	93-11-049
388-42-125	REP-E	93-11-083	388-60-180	NEW	93-10-024	388-83-041	AMD-P	93-03-026
388-42-125	REP-P	93-11-084	388-62-020	REP-P	93-08-075	388-83-041	AMD-E	93-03-028
388-42-150	AMD	93-05-021	388-62-020	REP	93-12-054	388-83-041	AMD	93-06-038
388-42-150	REP-E	93-11-083	388-62-025	REP-P	93-08-075	388-83-046	NEW-P	93-07-122
388-42-150	REP-P	93-11-084	388-62-025	REP	93-12-054	388-83-046	NEW	93-11-045
388-47-115	AMD-P	93-03-058	388-62-035	REP-P	93-08-075	388-83-130	AMD-P	93-03-060
388-47-115	AMD	93-12-060	388-62-035	REP	93-12-054	388-83-130	AMD-E	93-03-061
388-49-015	AMD-E	93-11-029	388-62-070	REP-P	93-08-075	388-83-130	AMD	93-06-037
388-49-015	AMD-P	93-11-030	388-62-070	REP	93-12-054	388-83-200	AMD-P	93-07-123
388-49-020	AMD-P	93-08-038	388-62-075	REP-P	93-08-075	388-83-200	AMD	93-11-044
388-49-020	AMD	93-11-041	388-62-075	REP	93-12-054	388-83-210	AMD-P	93-07-123
388-49-120	AMD-P	93-07-075	388-62-080	REP-P	93-08-075	388-83-210	AMD	93-11-044
388-49-120	AMD-C	93-10-019	388-62-080	REP	93-12-054	388-83-220	AMD-P	93-07-123
388-49-200	AMD-P	93-08-039	388-62-095	REP-P	93-08-075	388-83-220	AMD	93-11-044
388-49-200	AMD	93-11-042	388-62-095	REP	93-12-054	388-84-105	AMD-P	93-03-060
388-49-220	AMD-P	93-08-040	388-62-135	REP-P	93-08-075	388-84-105	AMD-E	93-03-061
388-49-220	AMD	93-11-043	388-62-135	REP	93-12-054	388-84-105	AMD	93-06-037
388-49-560	AMD	93-04-069	388-62-190	REP-P	93-08-075	388-86-008	REP-P	93-07-124
388-49-610	AMD-P	93-11-024	388-62-190	REP	93-12-054	388-86-008	REP	93-11-047
388-49-700	AMD	93-04-034	388-62-200	REP-P	93-08-075	388-86-012	AMD-P	93-03-034
388-51-020	AMD-P	93-07-073	388-62-200	REP	93-12-054	388-86-012	AMD	93-06-039
388-51-020	AMD	93-12-059	388-70-520	AMD-E	93-03-081	388-86-021	AMD-P	93-08-006
388-51-040	AMD-P	93-07-073	388-70-520	AMD-P	93-03-082	388-86-021	AMD	93-11-048
388-51-040	AMD	93-12-059	388-70-520	AMD	93-07-030	388-86-100	AMD-C	93-02-034
388-51-110	AMD-P	93-07-073	388-74-010	NEW-P	93-09-018	388-86-100	AMD-W	93-05-019
388-51-110	AMD	93-12-059	388-74-010	NEW	93-12-053	388-86-200	NEW-P	93-07-074
388-51-115	AMD-P	93-07-073	388-74-030	NEW-P	93-09-018	388-86-200	NEW-C	93-10-017
388-51-115	AMD	93-12-059	388-74-030	NEW	93-12-053	388-86-200	NEW-C	93-11-009
388-51-120	AMD-P	93-07-073	388-77A-010	NEW-P	93-03-059	388-86-200	NEW	93-11-086
388-51-120	AMD	93-12-059	388-77A-010	NEW	93-12-058	388-87-005	AMD-P	93-08-021
388-51-123	AMD-P	93-07-073	388-77A-020	NEW-P	93-03-059	388-87-005	AMD-E	93-08-024
388-51-123	AMD	93-12-059	388-77A-020	NEW	93-12-058	388-87-005	AMD	93-11-046
388-51-125	REP-P	93-07-073	388-77A-030	NEW-P	93-03-059	388-92-025	AMD-P	93-07-122
388-51-125	REP	93-12-059	388-77A-030	NEW	93-12-058	388-92-025	AMD	93-11-045
388-51-130	AMD-P	93-07-073	388-77A-040	NEW-P	93-03-059	388-92-027	NEW-P	93-07-122
388-51-130	AMD	93-12-059	388-77A-040	NEW	93-12-058	388-92-027	NEW	93-11-045
388-51-135	AMD-P	93-07-073	388-77A-041	NEW	93-12-058	388-92-036	AMD-E	93-06-053
388-51-135	AMD	93-12-059	388-77A-050	NEW-P	93-03-059	388-92-036	AMD-P	93-06-054
388-51-150	REP-P	93-07-073	388-77A-050	NEW	93-12-058	388-92-036	AMD	93-08-112
388-51-150	REP	93-12-059	388-77A-055	NEW	93-12-058	388-92-045	AMD-P	93-03-026
388-51-155	NEW-P	93-07-073	388-81-060	AMD	93-04-024	388-92-045	AMD-E	93-03-028
388-51-155	NEW	93-12-059	388-81-100	NEW-P	93-07-124	388-92-045	AMD	93-06-038
388-51-160	NEW-P	93-07-073	388-81-100	NEW	93-11-047	388-95-310	NEW-P	93-06-040
388-51-160	NEW	93-12-059	388-82-010	AMD	93-04-033	388-95-310	NEW-W	93-08-113
388-51-170	NEW-P	93-07-073	388-82-115	AMD-P	93-03-060	388-95-337	AMD-E	93-04-031

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-95-337	AMD-P	93-04-032	388-160-360	NEW-P	93-05-031	388-235-8150	NEW-P	93-08-074
388-95-337	AMD	93-07-029	388-160-370	NEW-P	93-05-031	388-235-8200	NEW-P	93-08-074
388-95-340	AMD-P	93-03-027	388-160-380	NEW-P	93-05-031	388-235-9000	NEW-P	93-08-074
388-95-340	AMD-E	93-03-029	388-160-390	NEW-P	93-05-031	388-235-9100	NEW-P	93-08-074
388-95-340	AMD	93-06-041	388-160-400	NEW-P	93-05-031	388-235-9200	NEW-P	93-08-074
388-95-360	AMD-P	93-03-027	388-160-410	NEW-P	93-05-031	388-235-9300	NEW-P	93-08-074
388-95-360	AMD-E	93-03-029	388-160-420	NEW-P	93-05-031	388-235-9500	NEW-P	93-08-074
388-95-360	AMD	93-06-041	388-160-430	NEW-P	93-05-031	388-235-9520	NEW-P	93-08-074
388-95-360	AMD-P	93-08-022	388-160-440	NEW-P	93-05-031	388-235-9530	NEW-P	93-08-074
388-95-360	AMD-E	93-08-023	388-160-450	NEW-P	93-05-031	388-235-9540	NEW-P	93-08-074
388-95-360	AMD	93-11-049	388-160-460	NEW-P	93-05-031	388-235-9550	NEW-P	93-08-074
388-96-026	AMD-P	93-08-065	388-160-470	NEW-P	93-05-031	388-235-9560	NEW-P	93-08-074
388-96-026	AMD	93-12-051	388-160-480	NEW-P	93-05-031	388-235-9570	NEW-P	93-08-074
388-96-113	AMD-P	93-08-065	388-160-490	NEW-P	93-05-031	388-235-9580	NEW-P	93-08-074
388-96-113	AMD	93-12-051	388-160-500	NEW-P	93-05-031	388-235-9600	NEW-P	93-08-074
388-96-572	AMD-P	93-08-065	388-160-510	NEW-P	93-05-031	388-280-1010	NEW-P	93-08-075
388-96-572	AMD	93-12-051	388-160-520	NEW-P	93-05-031	388-280-1010	NEW	93-12-054
388-96-585	AMD-P	93-08-065	388-160-530	NEW-P	93-05-031	388-280-1020	NEW-P	93-08-075
388-96-585	AMD	93-12-051	388-160-540	NEW-P	93-05-031	388-280-1020	NEW	93-12-054
388-96-709	NEW-P	93-08-065	388-160-560	NEW-P	93-05-031	388-280-1030	NEW-P	93-08-075
388-96-709	NEW	93-12-051	388-230	NEW-C	93-12-049	388-280-1030	NEW	93-12-054
388-96-710	AMD-P	93-08-065	388-230-0010	NEW-P	93-08-064	388-280-1040	NEW-P	93-08-075
388-96-710	AMD	93-12-051	388-230-0030	NEW-P	93-08-064	388-280-1040	NEW	93-12-054
388-96-754	AMD-P	93-08-065	388-230-0040	NEW-P	93-08-064	388-280-1050	NEW-P	93-08-075
388-96-754	AMD-W	93-12-048	388-230-0050	NEW-P	93-08-064	388-280-1050	NEW	93-12-054
388-96-774	AMD-P	93-08-065	388-230-0060	NEW-P	93-08-064	388-280-1060	NEW-P	93-08-075
388-96-774	AMD	93-12-051	388-230-0080	NEW-P	93-08-064	388-280-1060	NEW	93-12-054
388-99-010	AMD-P	93-03-060	388-230-0090	NEW-P	93-08-064	388-280-1070	NEW-P	93-08-075
388-99-010	AMD-E	93-03-061	388-230-0110	NEW-P	93-08-064	388-280-1070	NEW	93-12-054
388-99-010	AMD	93-06-037	388-230-0120	NEW-P	93-08-064	388-280-1080	NEW-P	93-08-075
388-99-020	AMD-E	93-04-087	388-230-0140	NEW-P	93-08-064	388-280-1080	NEW	93-12-054
388-99-020	AMD-P	93-04-090	388-235	NEW-C	93-12-050	388-280-1090	NEW-P	93-08-075
388-99-020	AMD	93-07-028	388-235-0010	NEW-P	93-08-074	388-280-1090	NEW	93-12-054
388-99-055	AMD-E	93-04-088	388-235-0020	NEW-P	93-08-074	388-280-1100	NEW-P	93-08-075
388-99-055	AMD-P	93-04-089	388-235-0030	NEW-P	93-08-074	388-280-1100	NEW	93-12-054
388-99-055	AMD	93-07-125	388-235-0040	NEW-P	93-08-074	388-280-1110	NEW-P	93-08-075
388-160	NEW-C	93-08-009	388-235-0050	NEW-P	93-08-074	388-280-1110	NEW	93-12-054
388-160	NEW-C	93-10-020	388-235-0060	NEW-P	93-08-074	388-280-1120	NEW-P	93-08-075
388-160	NEW-C	93-12-095	388-235-0070	NEW-P	93-08-074	388-280-1120	NEW	93-12-054
388-160-010	NEW-P	93-05-031	388-235-0080	NEW-P	93-08-074	388-280-1130	NEW-P	93-08-075
388-160-020	NEW-P	93-05-031	388-235-0090	NEW-P	93-08-074	388-280-1130	NEW	93-12-054
388-160-030	NEW-P	93-05-031	388-235-0100	NEW-P	93-08-074	388-280-1140	NEW-P	93-08-075
388-160-040	NEW-P	93-05-031	388-235-0110	NEW-P	93-08-074	388-280-1140	NEW	93-12-054
388-160-050	NEW-P	93-05-031	388-235-1500	NEW-P	93-08-074	388-280-1150	NEW-P	93-08-075
388-160-060	NEW-P	93-05-031	388-235-2000	NEW-P	93-08-074	388-280-1150	NEW	93-12-054
388-160-070	NEW-P	93-05-031	388-235-3000	NEW-P	93-08-074	388-280-1160	NEW-P	93-08-075
388-160-080	NEW-P	93-05-031	388-235-4000	NEW-P	93-08-074	388-280-1160	NEW	93-12-054
388-160-090	NEW-P	93-05-031	388-235-5000	NEW-P	93-08-074	388-330-010	AMD-P	93-07-035
388-160-100	NEW-P	93-05-031	388-235-5040	NEW-P	93-08-074	388-330-010	AMD-C	93-10-018
388-160-110	NEW-P	93-05-031	388-235-5050	NEW-P	93-08-074	388-330-010	AMD-C	93-12-096
388-160-120	NEW-P	93-05-031	388-235-5070	NEW-P	93-08-074	388-330-020	AMD-P	93-07-035
388-160-130	NEW-P	93-05-031	388-235-5080	NEW-P	93-08-074	388-330-020	AMD-C	93-10-018
388-160-140	NEW-P	93-05-031	388-235-5090	NEW-P	93-08-074	388-330-020	AMD-C	93-12-096
388-160-150	NEW-P	93-05-031	388-235-5100	NEW-P	93-08-074	388-330-030	AMD-P	93-07-035
388-160-160	NEW-P	93-05-031	388-235-5200	NEW-P	93-08-074	388-330-030	AMD-C	93-10-018
388-160-170	NEW-P	93-05-031	388-235-5300	NEW-P	93-08-074	388-330-030	AMD-C	93-12-096
388-160-180	NEW-P	93-05-031	388-235-5400	NEW-P	93-08-074	388-330-050	AMD-P	93-07-035
388-160-190	NEW-P	93-05-031	388-235-5500	NEW-P	93-08-074	388-330-050	AMD-C	93-10-018
388-160-200	NEW-P	93-05-031	388-235-5600	NEW-P	93-08-074	388-330-050	AMD-C	93-12-096
388-160-210	NEW-P	93-05-031	388-235-5700	NEW-P	93-08-074	390-05-190	NEW-P	93-12-019
388-160-220	NEW-P	93-05-031	388-235-5800	NEW-P	93-08-074	390-05-200	AMD-P	93-12-020
388-160-230	NEW-P	93-05-031	388-235-5900	NEW-P	93-08-074	390-05-205	AMD-P	93-12-021
388-160-240	NEW-P	93-05-031	388-235-6000	NEW-P	93-08-074	390-05-210	AMD-P	93-12-022
388-160-250	NEW-P	93-05-031	388-235-7000	NEW-P	93-08-074	390-05-215	AMD-P	93-12-023
388-160-260	NEW-P	93-05-031	388-235-7100	NEW-P	93-08-074	390-16-011	AMD-P	93-10-049
388-160-270	NEW-P	93-05-031	388-235-7200	NEW-P	93-08-074	390-16-011	AMD-E	93-10-051
388-160-280	NEW-P	93-05-031	388-235-7300	NEW-P	93-08-074	390-16-012	AMD-P	93-10-049
388-160-290	NEW-P	93-05-031	388-235-7500	NEW-P	93-08-074	390-16-012	AMD-E	93-10-051
388-160-300	NEW-P	93-05-031	388-235-7600	NEW-P	93-08-074	390-16-031	AMD-P	93-04-127
388-160-310	NEW-P	93-05-031	388-235-8000	NEW-P	93-08-074	390-16-031	AMD	93-09-002
388-160-320	NEW-P	93-05-031	388-235-8100	NEW-P	93-08-074	390-16-038	AMD-P	93-12-024
388-160-340	NEW-P	93-05-031	388-235-8130	NEW-P	93-08-074	390-16-041	AMD-P	93-04-127
388-160-350	NEW-P	93-05-031	388-235-8140	NEW-P	93-08-074	390-16-041	AMD	93-09-002

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
390-16-200	AMD-P	93-12-025	392-140-257	REP	93-12-015	392-315-050	REP-P	93-11-033
390-16-207	AMD-P	93-12-026	392-140-258	REP-P	93-07-047	392-315-055	REP-E	93-08-037
390-16-226	NEW-P	93-12-031	392-140-258	REP	93-12-015	392-315-055	REP-P	93-11-033
390-16-230	AMD-P	93-12-027	392-140-259	REP-P	93-07-047	392-315-060	REP-E	93-08-037
390-16-232	NEW-P	93-12-032	392-140-259	REP	93-12-015	392-315-060	REP-P	93-11-033
390-16-234	NEW-P	93-12-033	392-140-265	REP-P	93-07-047	392-315-065	REP-E	93-08-037
390-16-240	AMD-P	93-12-028	392-140-265	REP	93-12-015	392-315-065	REP-P	93-11-033
390-16-308	AMD	93-04-072	392-140-266	REP-P	93-07-047	392-315-070	REP-E	93-08-037
390-16-310	AMD-P	93-12-029	392-140-266	REP	93-12-015	392-315-070	REP-P	93-11-033
390-16-312	AMD-P	93-12-030	392-140-267	REP-P	93-07-047	392-315-075	REP-E	93-08-037
390-17-011	NEW-P	93-12-018	392-140-267	REP	93-12-015	392-315-075	REP-P	93-11-033
390-17-013	NEW-P	93-12-018	392-142-240	AMD-P	93-09-019	392-315-080	REP-E	93-08-037
390-17-015	NEW-P	93-12-018	392-145-030	AMD	93-05-023	392-315-080	REP-P	93-11-033
390-17-017	NEW-P	93-12-018	392-167A-005	NEW-P	93-07-048	392-315-085	REP-E	93-08-037
390-17-030	NEW-P	93-12-018	392-167A-005	NEW	93-12-016	392-315-085	REP-P	93-11-033
390-17-050	NEW-P	93-12-018	392-167A-010	NEW-P	93-07-048	392-315-090	REP-E	93-08-037
390-17-052	NEW-P	93-12-018	392-167A-010	NEW	93-12-016	392-315-090	REP-P	93-11-033
390-17-060	NEW-P	93-12-018	392-167A-015	NEW-P	93-07-048	392-315-095	REP-E	93-08-037
390-17-060	NEW-P	93-12-046	392-167A-015	NEW	93-12-016	392-315-095	REP-P	93-11-033
390-17-065	NEW-P	93-12-018	392-167A-020	NEW-P	93-07-048	392-315-100	REP-E	93-08-037
390-17-100	NEW-P	93-12-018	392-167A-020	NEW	93-12-016	392-315-100	REP-P	93-11-033
390-17-200	NEW-P	93-12-018	392-167A-025	NEW-P	93-07-048	392-315-105	REP-E	93-08-037
390-17-205	NEW-P	93-12-018	392-167A-025	NEW	93-12-016	392-315-105	REP-P	93-11-033
390-17-300	NEW-P	93-12-018	392-167A-030	NEW-P	93-07-048	392-315-110	REP-E	93-08-037
390-17-305	NEW-P	93-12-018	392-167A-030	NEW	93-12-016	392-315-110	REP-P	93-11-033
390-17-310	NEW-P	93-12-018	392-167A-035	NEW-P	93-07-048	392-315-115	REP-E	93-08-037
390-17-315	NEW-P	93-12-018	392-167A-035	NEW	93-12-016	392-315-115	REP-P	93-11-033
390-17-400	NEW-P	93-12-018	392-167A-040	NEW-P	93-07-048	392-315-120	REP-E	93-08-037
390-18-010	AMD-P	93-12-034	392-167A-040	NEW	93-12-016	392-315-120	REP-P	93-11-033
390-18-020	AMD-P	93-12-035	392-167A-045	NEW-P	93-07-048	392-315-125	REP-E	93-08-037
390-18-050	NEW	93-04-072	392-167A-045	NEW	93-12-016	392-315-125	REP-P	93-11-033
390-20-020	AMD	93-04-072	392-167A-050	NEW-P	93-07-048	392-315-130	REP-E	93-08-037
390-20-110	AMD	93-04-072	392-167A-050	NEW	93-12-016	392-315-130	REP-P	93-11-033
390-37-140	AMD-P	93-09-001	392-167A-055	NEW-P	93-07-048	392-315-135	REP-E	93-08-037
390-37-140	AMD-C	93-10-050	392-167A-055	NEW	93-12-016	392-315-135	REP-P	93-11-033
390-37-142	AMD-P	93-09-001	392-167A-060	NEW-P	93-07-048	392-315-140	REP-E	93-08-037
390-37-142	AMD-C	93-10-050	392-167A-060	NEW	93-12-016	392-315-140	REP-P	93-11-033
392-105-030	AMD-P	93-03-002	392-167A-065	NEW-P	93-07-048	392-315-145	REP-E	93-08-037
392-105-030	AMD	93-07-039	392-167A-065	NEW	93-12-016	392-315-145	REP-P	93-11-033
392-105-035	AMD-P	93-03-002	392-167A-070	NEW-P	93-07-048	392-315-150	REP-E	93-08-037
392-105-035	AMD	93-07-039	392-167A-070	NEW	93-12-016	392-315-150	REP-P	93-11-033
392-105-040	AMD-P	93-03-002	392-167A-075	NEW-P	93-07-048	392-315-155	REP-E	93-08-037
392-105-040	AMD	93-07-039	392-167A-075	NEW	93-12-016	392-315-155	REP-P	93-11-033
392-105-060	AMD-P	93-03-002	392-167A-080	NEW-P	93-07-048	392-315-160	REP-E	93-08-037
392-105-060	AMD	93-07-039	392-167A-080	NEW	93-12-016	392-315-160	REP-P	93-11-033
392-121-445	AMD	93-04-054	392-167A-085	NEW-P	93-07-048	392-315-165	REP-E	93-08-037
392-122-400	NEW-P	93-07-046	392-167A-085	NEW	93-12-016	392-315-165	REP-P	93-11-033
392-122-400	NEW	93-12-017	392-167A-090	NEW-P	93-07-048	415-04-010	AMD-P	93-08-054
392-122-401	NEW-P	93-07-046	392-167A-090	NEW	93-12-016	415-04-010	AMD	93-11-079
392-122-401	NEW	93-12-017	392-196-005	AMD	93-07-037	415-04-020	AMD-P	93-08-054
392-122-405	NEW-P	93-07-046	392-196-030	AMD	93-07-037	415-04-020	AMD	93-11-079
392-122-405	NEW	93-12-017	392-196-080	AMD	93-07-037	415-08-010	AMD-P	93-08-054
392-122-410	NEW-P	93-07-046	392-196-095	AMD	93-07-037	415-08-010	AMD	93-11-079
392-122-410	NEW	93-12-017	392-202-110	AMD	93-08-005	415-08-020	AMD-P	93-08-054
392-122-415	NEW-P	93-07-046	392-315-005	REP-E	93-08-037	415-08-020	AMD	93-11-079
392-122-415	NEW	93-12-017	392-315-005	REP-P	93-11-033	415-08-025	NEW-P	93-08-054
392-123-046	AMD-P	93-11-034	392-315-010	REP-E	93-08-037	415-08-025	NEW	93-11-079
392-123-054	AMD-P	93-11-034	392-315-010	REP-P	93-11-033	415-08-030	AMD-P	93-08-054
392-123-071	AMD-P	93-11-034	392-315-015	REP-E	93-08-037	415-08-030	AMD	93-11-079
392-123-072	AMD-P	93-11-034	392-315-015	REP-P	93-11-033	415-08-040	AMD-P	93-08-054
392-140-250	REP-P	93-07-047	392-315-020	REP-E	93-08-037	415-08-040	AMD	93-11-079
392-140-250	REP	93-12-015	392-315-020	REP-P	93-11-033	415-08-060	REP-P	93-08-054
392-140-252	REP-P	93-07-047	392-315-025	REP-E	93-08-037	415-08-060	REP	93-11-079
392-140-252	REP	93-12-015	392-315-025	REP-P	93-11-033	415-08-080	AMD-P	93-08-054
392-140-253	REP-P	93-07-047	392-315-030	REP-E	93-08-037	415-08-080	AMD	93-11-079
392-140-253	REP	93-12-015	392-315-030	REP-P	93-11-033	415-08-090	AMD-P	93-08-054
392-140-254	REP-P	93-07-047	392-315-035	REP-E	93-08-037	415-08-090	AMD	93-11-079
392-140-254	REP	93-12-015	392-315-035	REP-P	93-11-033	415-08-100	AMD-P	93-08-054
392-140-255	REP-P	93-07-047	392-315-040	REP-E	93-08-037	415-08-100	AMD	93-11-079
392-140-255	REP	93-12-015	392-315-040	REP-P	93-11-033	415-08-105	NEW-P	93-08-054
392-140-256	REP-P	93-07-047	392-315-045	REP-E	93-08-037	415-08-105	NEW	93-11-079
392-140-256	REP	93-12-015	392-315-045	REP-P	93-11-033	415-08-110	REP-P	93-08-054
392-140-257	REP-P	93-07-047	392-315-050	REP-E	93-08-037	415-08-110	REP	93-11-079

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
415-08-120	REP-P	93-08-054	415-08-480	REP	93-11-079
415-08-120	REP	93-11-079	415-104-011	NEW-P	93-08-053
415-08-130	REP-P	93-08-054	415-104-011	NEW	93-11-078
415-08-130	REP	93-11-079	415-104-782	NEW-P	93-08-053
415-08-140	REP-P	93-08-054	415-104-782	NEW	93-11-078
415-08-140	REP	93-11-079	415-104-783	NEW-P	93-08-053
415-08-150	REP-P	93-08-054	415-104-783	NEW	93-11-078
415-08-150	REP	93-11-079	415-104-784	NEW-P	93-08-053
415-08-160	REP-P	93-08-054	415-104-784	NEW	93-11-078
415-08-160	REP	93-11-079	415-104-785	NEW-P	93-08-053
415-08-170	REP-P	93-08-054	415-104-785	NEW	93-11-078
415-08-170	REP	93-11-079	415-108-010	AMD-P	93-08-052
415-08-180	REP-P	93-08-054	415-108-010	AMD	93-11-077
415-08-180	REP	93-11-079	415-108-100	REP-P	93-08-052
415-08-190	REP-P	93-08-054	415-108-100	REP	93-11-077
415-08-190	REP	93-11-079	415-108-110	REP-P	93-08-052
415-08-200	REP-P	93-08-054	415-108-110	REP	93-11-077
415-08-200	REP	93-11-079	415-108-120	REP-P	93-08-052
415-08-210	REP-P	93-08-054	415-108-120	REP	93-11-077
415-08-210	REP	93-11-079	415-108-130	REP-P	93-08-052
415-08-220	REP-P	93-08-054	415-108-130	REP	93-11-077
415-08-220	REP	93-11-079	415-108-150	REP-P	93-08-052
415-08-230	REP-P	93-08-054	415-108-150	REP	93-11-077
415-08-230	REP	93-11-079	415-108-160	REP-P	93-08-052
415-08-240	REP-P	93-08-054	415-108-160	REP	93-11-077
415-08-240	REP	93-11-079	415-108-620	NEW-P	93-08-052
415-08-250	REP-P	93-08-054	415-108-620	NEW	93-11-077
415-08-250	REP	93-11-079	415-108-630	NEW-P	93-08-052
415-08-260	REP-P	93-08-054	415-108-630	NEW	93-11-077
415-08-260	REP	93-11-079	415-108-640	NEW-P	93-08-052
415-08-270	REP-P	93-08-054	415-108-640	NEW	93-11-077
415-08-270	REP	93-11-079	415-108-650	NEW-P	93-08-052
415-08-280	AMD-P	93-08-054	415-108-650	NEW	93-11-077
415-08-280	AMD	93-11-079	415-108-660	NEW-P	93-08-052
415-08-290	REP-P	93-08-054	415-108-660	NEW	93-11-077
415-08-290	REP	93-11-079	415-112-015	NEW-P	93-08-051
415-08-300	REP-P	93-08-054	415-112-535	REP-P	93-08-051
415-08-300	REP	93-11-079	415-112-722	REP-P	93-08-051
415-08-310	REP-P	93-08-054	415-112-810	AMD-P	93-08-051
415-08-310	REP	93-11-079	415-112-820	AMD-P	93-08-051
415-08-320	REP-P	93-08-054	415-112-830	NEW-P	93-08-051
415-08-320	REP	93-11-079	434-600-010	NEW	93-04-001
415-08-330	REP-P	93-08-054	434-610-010	NEW	93-04-001
415-08-330	REP	93-11-079	434-610-020	NEW	93-04-001
415-08-340	REP-P	93-08-054	434-610-025	NEW	93-04-001
415-08-340	REP	93-11-079	434-610-030	NEW	93-04-001
415-08-350	REP-P	93-08-054	434-610-040	NEW	93-04-001
415-08-350	REP	93-11-079	434-610-050	NEW	93-04-001
415-08-360	REP-P	93-08-054	434-610-060	NEW	93-04-001
415-08-360	REP	93-11-079	434-610-070	NEW	93-04-001
415-08-370	REP-P	93-08-054	434-610-080	NEW	93-04-001
415-08-370	REP	93-11-079	434-610-090	NEW	93-04-001
415-08-380	REP-P	93-08-054	434-610-100	NEW	93-04-001
415-08-380	REP	93-11-079	434-610-110	NEW	93-04-001
415-08-390	REP-P	93-08-054	434-610-120	NEW	93-04-001
415-08-390	REP	93-11-079	434-615-010	NEW	93-04-001
415-08-400	REP-P	93-08-054	434-615-020	NEW	93-04-001
415-08-400	REP	93-11-079	434-615-030	NEW	93-04-001
415-08-410	REP-P	93-08-054	434-620-010	NEW	93-04-001
415-08-410	REP	93-11-079	434-624-010	NEW	93-04-001
415-08-420	AMD-P	93-08-054	434-624-020	NEW	93-04-001
415-08-420	AMD	93-11-079	434-624-030	NEW	93-04-001
415-08-430	REP-P	93-08-054	434-624-040	NEW	93-04-001
415-08-430	REP	93-11-079	434-624-050	NEW	93-04-001
415-08-440	REP-P	93-08-054	434-626-010	NEW	93-04-001
415-08-440	REP	93-11-079	434-626-020	NEW	93-04-001
415-08-450	REP-P	93-08-054	440-25-005	NEW-E	93-11-050
415-08-450	REP	93-11-079	440-25-005	NEW-P	93-11-052
415-08-460	REP-P	93-08-054	440-25-010	NEW-E	93-11-050
415-08-460	REP	93-11-079	440-25-010	NEW-P	93-11-052
415-08-470	REP-P	93-08-054	440-25-020	NEW-E	93-11-050
415-08-470	REP	93-11-079	440-25-020	NEW-P	93-11-052
415-08-480	REP-P	93-08-054	440-25-030	NEW-E	93-11-050
440-25-030	NEW-P	93-11-052	440-25-030	NEW-E	93-11-052
440-25-040	NEW-E	93-11-050	440-25-040	NEW-E	93-11-050
440-25-040	NEW-P	93-11-052	440-25-050	NEW-E	93-11-050
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440-25-060	NEW-P	93-11-052	440-25-070	NEW-E	93-11-050
440-25-070	NEW-E	93-11-050	440-25-070	NEW-P	93-11-052
440-25-080	NEW-E	93-11-050	440-25-080	NEW-E	93-11-050
440-25-080	NEW-P	93-11-052	440-25-090	NEW-E	93-11-050
440-25-090	NEW-E	93-11-050	440-25-090	NEW-P	93-11-052
440-25-100	NEW-E	93-11-050	440-25-100	NEW-E	93-11-050
440-25-100	NEW-P	93-11-052	440-25-110	NEW-E	93-11-050
440-25-110	NEW-E	93-11-050	440-25-110	NEW-P	93-11-052
440-25-120	NEW-E	93-11-050	440-25-120	NEW-E	93-11-050
440-25-120	NEW-P	93-11-052	440-25-120	NEW-P	93-11-052
446-40-070	AMD-P	93-10-001	446-40-070	AMD-P	93-10-001
458-12-010	AMD-P	93-05-016	458-12-010	AMD	93-08-049
458-12-010	AMD	93-08-049	458-12-240	REP-P	93-05-016
458-12-240	REP-P	93-05-016	458-12-240	REP	93-08-049
458-12-342	AMD-P	93-05-016	458-12-342	AMD-P	93-05-016
458-12-342	AMD	93-08-049	458-12-342	AMD	93-08-049
458-14-015	AMD-P	93-05-015	458-14-015	AMD-P	93-05-015
458-14-015	AMD	93-08-050	458-14-015	AMD	93-08-050
458-14-025	AMD-P	93-05-015	458-14-025	AMD-P	93-05-015
458-14-025	AMD	93-08-050	458-14-025	AMD	93-08-050
458-14-026	NEW-P	93-05-015	458-14-026	NEW-P	93-05-015
458-14-026	NEW	93-08-050	458-14-026	NEW	93-08-050
458-14-127	AMD-P	93-05-015	458-14-127	AMD-P	93-05-015
458-14-127	AMD	93-08-050	458-14-127	AMD	93-08-050
458-14-170	AMD-P	93-05-015	458-14-170	AMD-P	93-05-015
458-14-170	AMD	93-08-050	458-14-170	AMD	93-08-050
458-14-171	NEW-P	93-05-015	458-14-171	NEW-P	93-05-015
458-14-171	NEW	93-08-050	458-14-171	NEW	93-08-050
458-18-220	AMD-P	93-03-024	458-18-220	AMD-P	93-03-024
458-18-220	AMD-E	93-03-025	458-18-220	AMD-E	93-03-025
458-18-220	AMD	93-06-096	458-18-220	AMD	93-06-096
458-20-101	PREP	93-02-046	458-20-101	PREP	93-02-046
458-20-101	AMD-P	93-08-013	458-20-101	AMD-P	93-08-013
458-20-115	PREP	93-12-111	458-20-115	PREP	93-12-111
458-20-116	PREP	93-12-112	458-20-116	PREP	93-12-112
458-20-117	PREP	93-12-113	458-20-117	PREP	93-12-113
458-20-119	AMD-P	93-07-069	458-20-119	AMD-P	93-07-069
458-20-124	AMD-P	93-07-070	458-20-124	AMD-P	93-07-070
458-20-149	REP	93-03-005	458-20-149	REP	93-03-005
458-20-150	PREP	93-12-114	458-20-150	PREP	93-12-114
458-20-167	PREP	93-12-115	458-20-167	PREP	93-12-115
458-20-174	PREP	93-02-047	458-20-174	PREP	93-02-047
458-20-17901	AMD-P	93-04-045	458-20-17901	AMD-P	93-04-045
458-20-17901	AMD	93-07-066	458-20-17901	AMD	93-07-066
458-20-229	AMD	93-04-077	458-20-229	AMD	93-04-077
458-20-230	AMD	93-03-004	458-20-230	AMD	93-03-004
458-30-262	AMD-P	93-04-020	458-30-262	AMD-P	93-04-020
458-30-262	AMD-E	93-04-021	458-30-262	AMD-E	93-04-021
458-30-262	AMD	93-07-067	458-30-262	AMD	93-07-067
458-40-634	PREP	93-07-068	458-40-634	PREP	93-07-068
458-40-634	AMD-P	93-11-081	458-40-634	AMD-P	93-11-081
458-40-660	AMD-P	93-10-091	458-40-660	AMD-P	93-10-091
458-40-670	AMD-P	93-10-091	458-40-670	AMD-P	93-10-091
458-40-690	PREP	93-09-029	458-40-690	PREP	93-09-029
463-30-055	NEW-P	93-07-094	463-30-055	NEW-P	93-07-094
463-30-055	NEW	93-12-013	463-30-055	NEW	93-12-013
468-16-030	AMD	93-03-020	468-16-030	AMD	93-03-020
468-16-040	AMD	93-03-020	468-16-040	AMD	93-03-020
468-16-050	AMD	93-03-020	468-16-050	AMD	93-03-020
468-16-060	AMD	93-03-020	468-16-060	AMD	93-03-020
468-16-070	AMD	93-03-020	468-16-070	AMD	93-03-020
468-16-090	AMD	93-03-020	468-16-090	AMD	93-03-020
468-16-100	AMD	93-03-020	468-16-100	AMD	93-03-020

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
468-16-120	AMD	93-03-020	480-120-515	NEW	93-06-055	495B-116-060	NEW	93-05-018
468-16-130	AMD	93-03-020	480-120-520	NEW	93-06-055	495B-116-070	NEW	93-05-018
468-16-140	AMD	93-03-020	480-120-525	NEW	93-06-055	495B-116-080	NEW	93-05-018
468-16-150	AMD	93-03-020	480-120-530	NEW	93-06-055	495B-116-090	NEW	93-05-018
468-16-160	AMD	93-03-020	480-120-535	NEW	93-06-055	495B-116-100	NEW	93-05-018
468-16-170	AMD	93-03-020	490-04B-010	NEW-P	93-02-045	495B-116-110	NEW	93-05-018
468-16-180	AMD	93-03-020	490-04B-010	NEW	93-06-005	495B-116-120	NEW	93-05-018
468-16-190	AMD	93-03-020	490-08B-010	NEW-P	93-02-045	495B-116-130	NEW	93-05-018
468-16-200	AMD	93-03-020	490-08B-010	NEW	93-06-005	495B-116-140	NEW	93-05-018
468-38-360	AMD	93-04-071	490-08B-020	NEW-P	93-02-045	495B-116-150	NEW	93-05-018
468-52-010	NEW	93-03-033	490-08B-020	NEW	93-06-005	495B-116-160	NEW	93-05-018
468-52-020	NEW	93-03-033	490-08B-030	NEW-P	93-02-045	495B-116-170	NEW	93-05-018
468-52-030	NEW	93-03-033	490-08B-030	NEW	93-06-005	495B-116-180	NEW	93-05-018
468-52-040	NEW	93-03-033	490-08B-040	NEW-P	93-02-045	495B-116-190	NEW	93-05-018
468-52-050	NEW	93-03-033	490-08B-040	NEW	93-06-005	495B-116-200	NEW	93-05-018
468-52-060	NEW	93-03-033	490-08B-050	NEW-P	93-02-045	495B-116-210	NEW	93-05-018
468-52-070	NEW	93-03-033	490-08B-050	NEW	93-06-005	495B-116-220	NEW	93-05-018
468-95-035	NEW-C	93-07-055	490-08B-060	NEW-P	93-02-045	495B-116-230	NEW	93-05-018
468-95-035	NEW-C	93-10-068	490-08B-060	NEW	93-06-005	495B-116-240	NEW	93-05-018
468-95-037	NEW-C	93-07-055	490-08B-070	NEW-P	93-02-045	495B-116-250	NEW	93-05-018
468-95-037	NEW-C	93-10-068	490-08B-070	NEW	93-06-005	495B-116-260	NEW	93-05-018
468-300-700	AMD-P	93-08-012	490-08B-080	NEW-P	93-02-045	495B-116-270	NEW	93-05-018
468-300-700	AMD-W	93-09-048	490-08B-080	NEW	93-06-005	495B-116-280	NEW	93-05-018
478-116-370	AMD-P	93-08-110	490-10-010	NEW-P	93-02-045	495B-120-010	NEW	93-05-018
478-116-400	AMD-P	93-08-110	490-10-010	NEW	93-06-005	495B-120-020	NEW	93-05-018
478-116-410	REP-P	93-08-110	490-13-010	NEW-P	93-02-045	495B-120-030	NEW	93-05-018
478-116-420	REP-P	93-08-110	490-13-010	NEW	93-06-005	495B-120-040	NEW	93-05-018
478-116-430	REP-P	93-08-110	490-100-250	AMD-P	93-02-044	495B-120-045	NEW	93-05-018
478-116-440	AMD-P	93-08-110	490-100-250	AMD	93-06-006	495B-120-050	NEW	93-05-018
478-116-450	AMD-P	93-08-110	490-276-010	NEW-P	93-02-045	495B-120-060	NEW	93-05-018
478-116-460	AMD-P	93-08-110	490-276-010	NEW	93-06-005	495B-120-070	NEW	93-05-018
478-116-470	REP-P	93-08-110	490-276-020	NEW-P	93-02-045	495B-120-080	NEW	93-05-018
478-116-480	REP-P	93-08-110	490-276-020	NEW	93-06-005	495B-120-090	NEW	93-05-018
478-116-490	REP-P	93-08-110	490-276-030	NEW-P	93-02-045	495B-120-100	NEW	93-05-018
478-116-500	REP-P	93-08-110	490-276-030	NEW	93-06-005	495B-120-110	NEW	93-05-018
478-116-510	REP-P	93-08-110	490-276-040	NEW-P	93-02-045	495B-120-120	NEW	93-05-018
478-116-511	REP-P	93-08-110	490-276-040	NEW	93-06-005	495B-120-130	NEW	93-05-018
478-116-520	AMD-P	93-08-110	490-276-050	NEW-P	93-02-045	495B-120-135	NEW	93-05-018
478-116-530	REP-P	93-08-110	490-276-050	NEW	93-06-005	495B-120-140	NEW	93-05-018
478-116-540	AMD-P	93-08-110	490-276-060	NEW-P	93-02-045	495B-120-150	NEW	93-05-018
478-116-550	AMD-P	93-08-110	490-276-060	NEW	93-06-005	495B-120-160	NEW	93-05-018
478-116-560	REP-P	93-08-110	490-276-070	NEW-P	93-02-045	495B-120-170	NEW	93-05-018
478-116-582	AMD-P	93-08-110	490-276-070	NEW	93-06-005	495B-120-180	NEW	93-05-018
478-116-586	AMD-P	93-08-110	490-276-080	NEW-P	93-02-045	495B-120-190	NEW	93-05-018
478-116-588	AMD-P	93-08-110	490-276-080	NEW	93-06-005	495B-120-200	NEW	93-05-018
478-116-589	NEW-P	93-08-110	490-276-090	NEW-P	93-02-045	495B-122-010	NEW	93-05-018
478-116-601	AMD-P	93-08-110	490-276-090	NEW	93-06-005	495B-122-020	NEW	93-05-018
480-12-010	AMD-P	93-11-098	490-276-100	NEW-P	93-02-045	495B-122-030	NEW	93-05-018
480-12-083	AMD-P	93-11-099	490-276-100	NEW	93-06-005	495B-130-010	NEW	93-05-018
480-12-150	AMD-P	93-11-097	490-276-110	NEW-P	93-02-045	495B-131-010	NEW	93-05-018
480-12-181	AMD	93-05-038	490-276-110	NEW	93-06-005	495B-132-010	NEW	93-05-018
480-12-285	AMD-P	93-11-098	490-276-120	NEW-P	93-02-045	495B-133-020	NEW	93-05-018
480-30-015	AMD-P	93-11-099	490-276-120	NEW	93-06-005	495B-134-010	NEW	93-05-018
480-30-030	AMD-P	93-11-096	490-276-130	NEW-P	93-02-045	495B-140-010	NEW	93-05-018
480-35-030	AMD-P	93-11-096	490-276-130	NEW	93-06-005	495B-140-020	NEW	93-05-018
480-40-015	AMD-P	93-11-099	490-276-140	NEW-P	93-02-045	495B-140-030	NEW	93-05-018
480-40-030	AMD-P	93-11-096	490-276-140	NEW	93-06-005	495B-140-040	NEW	93-05-018
480-70-055	AMD-P	93-11-099	495B-104-010	NEW	93-05-018	495B-140-050	NEW	93-05-018
480-80-390	AMD	93-09-050	495B-104-020	NEW	93-05-018	495B-140-060	NEW	93-05-018
480-110-023	NEW-P	93-06-056	495B-104-030	NEW	93-05-018	495B-140-070	NEW	93-05-018
480-110-023	NEW	93-12-062	495B-108-010	NEW	93-05-018	495B-140-080	NEW	93-05-018
480-110-176	AMD-P	93-06-056	495B-108-020	NEW	93-05-018	495B-140-090	NEW	93-05-018
480-110-176	AMD	93-12-062	495B-108-030	NEW	93-05-018	495B-140-100	NEW	93-05-018
480-120-021	AMD	93-06-055	495B-108-040	NEW	93-05-018	495B-140-110	NEW	93-05-018
480-120-031	AMD-P	93-02-068	495B-108-050	NEW	93-05-018	495B-168-010	NEW	93-05-018
480-120-031	AMD	93-07-089	495B-108-060	NEW	93-05-018	495B-168-020	NEW	93-05-018
480-120-051	AMD	93-06-055	495B-108-070	NEW	93-05-018	495B-168-030	NEW	93-05-018
480-120-086	REP	93-06-055	495B-108-080	NEW	93-05-018	495B-168-040	NEW	93-05-018
480-120-350	NEW-P	93-05-013	495B-116-010	NEW	93-05-018	495B-168-050	NEW	93-05-018
480-120-350	NEW	93-11-026	495B-116-020	NEW	93-05-018	495B-168-060	NEW	93-05-018
480-120-500	NEW	93-06-055	495B-116-030	NEW	93-05-018	495B-276-010	NEW	93-05-018
480-120-505	NEW	93-06-055	495B-116-040	NEW	93-05-018	495B-276-020	NEW	93-05-018
480-120-510	NEW	93-06-055	495B-116-050	NEW	93-05-018	495B-276-030	NEW	93-05-018

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
495B-276-040	NEW	93-05-018	495E-120-090	NEW-P	93-09-034	495E-400-060	NEW-P	93-09-045
495B-276-050	NEW	93-05-018	495E-120-100	NEW-P	93-09-034			
495B-276-060	NEW	93-05-018	495E-120-110	NEW-P	93-09-034			
495B-276-070	NEW	93-05-018	495E-120-120	NEW-P	93-09-034			
495B-276-080	NEW	93-05-018	495E-120-130	NEW-P	93-09-034			
495B-276-090	NEW	93-05-018	495E-120-140	NEW-P	93-09-034			
495B-276-100	NEW	93-05-018	495E-120-150	NEW-P	93-09-034			
495B-276-110	NEW	93-05-018	495E-120-160	NEW-P	93-09-034			
495B-276-120	NEW	93-05-018	495E-120-170	NEW-P	93-09-034			
495B-276-130	NEW	93-05-018	495E-120-180	NEW-P	93-09-034			
495B-276-140	NEW	93-05-018	495E-120-190	NEW-P	93-09-034			
495B-280-010	NEW	93-05-018	495E-122-010	NEW-P	93-09-035			
495B-280-015	NEW	93-05-018	495E-122-020	NEW-P	93-09-035			
495B-280-020	NEW	93-05-018	495E-122-030	NEW-P	93-09-035			
495B-280-030	NEW	93-05-018	495E-122-040	NEW-P	93-09-035			
495B-280-040	NEW	93-05-018	495E-132-010	NEW-P	93-09-036			
495B-280-050	NEW	93-05-018	495E-133-020	NEW-P	93-09-037			
495B-280-060	NEW	93-05-018	495E-134-010	NEW-P	93-09-038			
495B-280-070	NEW	93-05-018	495E-140-010	NEW-P	93-09-039			
495B-280-080	NEW	93-05-018	495E-140-020	NEW-P	93-09-039			
495B-280-090	NEW	93-05-018	495E-140-030	NEW-P	93-09-039			
495B-280-100	NEW	93-05-018	495E-140-040	NEW-P	93-09-039			
495B-280-110	NEW	93-05-018	495E-140-050	NEW-P	93-09-039			
495B-280-120	NEW	93-05-018	495E-140-060	NEW-P	93-09-039			
495B-300-010	NEW	93-05-018	495E-140-070	NEW-P	93-09-039			
495B-300-020	NEW	93-05-018	495E-140-080	NEW-P	93-09-039			
495B-300-030	NEW	93-05-018	495E-140-090	NEW-P	93-09-039			
495B-300-040	NEW	93-05-018	495E-140-100	NEW-P	93-09-039			
495B-310-010	NEW	93-05-018	495E-140-110	NEW-P	93-09-039			
495B-310-020	NEW	93-05-018	495E-168-010	NEW-P	93-09-040			
495B-310-030	NEW	93-05-018	495E-168-020	NEW-P	93-09-040			
495B-310-040	NEW	93-05-018	495E-168-030	NEW-P	93-09-040			
495B-325-010	NEW	93-05-018	495E-168-040	NEW-P	93-09-040			
495D-104-010	AMD	93-03-086	495E-168-050	NEW-P	93-09-040			
495E-104-010	NEW-P	93-09-031	495E-168-060	NEW-P	93-09-040			
495E-104-020	NEW-P	93-09-031	495E-276-010	NEW-P	93-09-041			
495E-104-030	NEW-P	93-09-031	495E-276-020	NEW-P	93-09-041			
495E-108-010	NEW-P	93-09-032	495E-276-030	NEW-P	93-09-041			
495E-108-020	NEW-P	93-09-032	495E-276-040	NEW-P	93-09-041			
495E-108-030	NEW-P	93-09-032	495E-276-050	NEW-P	93-09-041			
495E-108-040	NEW-P	93-09-032	495E-276-060	NEW-P	93-09-041			
495E-108-050	NEW-P	93-09-032	495E-276-070	NEW-P	93-09-041			
495E-108-060	NEW-P	93-09-032	495E-276-080	NEW-P	93-09-041			
495E-108-070	NEW-P	93-09-032	495E-276-090	NEW-P	93-09-041			
495E-108-080	NEW-P	93-09-032	495E-276-100	NEW-P	93-09-041			
495E-116-010	NEW-P	93-09-033	495E-276-110	NEW-P	93-09-041			
495E-116-020	NEW-P	93-09-033	495E-276-120	NEW-P	93-09-041			
495E-116-030	NEW-P	93-09-033	495E-276-130	NEW-P	93-09-041			
495E-116-040	NEW-P	93-09-033	495E-276-140	NEW-P	93-09-041			
495E-116-050	NEW-P	93-09-033	495E-280-010	NEW-P	93-09-042			
495E-116-060	NEW-P	93-09-033	495E-280-015	NEW-P	93-09-042			
495E-116-070	NEW-P	93-09-033	495E-280-020	NEW-P	93-09-042			
495E-116-080	NEW-P	93-09-033	495E-280-030	NEW-P	93-09-042			
495E-116-090	NEW-P	93-09-033	495E-280-040	NEW-P	93-09-042			
495E-116-100	NEW-P	93-09-033	495E-280-050	NEW-P	93-09-042			
495E-116-110	NEW-P	93-09-033	495E-280-060	NEW-P	93-09-042			
495E-116-120	NEW-P	93-09-033	495E-280-070	NEW-P	93-09-042			
495E-116-130	NEW-P	93-09-033	495E-280-080	NEW-P	93-09-042			
495E-116-140	NEW-P	93-09-033	495E-280-090	NEW-P	93-09-042			
495E-116-150	NEW-P	93-09-033	495E-280-100	NEW-P	93-09-042			
495E-116-160	NEW-P	93-09-033	495E-280-110	NEW-P	93-09-042			
495E-116-170	NEW-P	93-09-033	495E-280-120	NEW-P	93-09-042			
495E-116-180	NEW-P	93-09-033	495E-300-010	NEW-P	93-09-043			
495E-116-190	NEW-P	93-09-033	495E-300-020	NEW-P	93-09-043			
495E-120-010	NEW-P	93-09-034	495E-300-030	NEW-P	93-09-043			
495E-120-020	NEW-P	93-09-034	495E-300-040	NEW-P	93-09-043			
495E-120-030	NEW-P	93-09-034	495E-300-050	NEW-P	93-09-043			
495E-120-040	NEW-P	93-09-034	495E-325-010	NEW-P	93-09-044			
495E-120-045	NEW-P	93-09-034	495E-400-010	NEW-P	93-09-045			
495E-120-050	NEW-P	93-09-034	495E-400-020	NEW-P	93-09-045			
495E-120-060	NEW-P	93-09-034	495E-400-030	NEW-P	93-09-045			
495E-120-070	NEW-P	93-09-034	495E-400-040	NEW-P	93-09-045			
495E-120-080	NEW-P	93-09-034	495E-400-050	NEW-P	93-09-045			

TABLE

Subject/Agency Index

(Citation in bold type refer to material in this issue)

chemical regulation	PERM 93-10-063	MISC 93-08-057
	PROP 93-04-094	MISC 93-08-058
meetings	PERM 93-10-063	MISC 93-11-019
Weeds	MISC 93-02-061	MISC 93-12-131
noxious weed seeds, prohibited		PERM 93-05-018
noxious weed seeds, restricted	PERM 93-01-069	PERM 93-05-018
Weights and measures	PERM 93-01-069	PERM 93-05-018
city sealers		PERM 93-05-018
report forms	PROP 93-02-016	PERM 93-05-018
inspection fees	PERM 93-03-079	
	PROP 93-02-016	PERM 93-05-018
	PERM 93-03-079	PERM 93-05-018
railroad scale testing requirements	PROP 93-02-016	
	PERM 93-03-079	
Wheat commission		
meetings	MISC 93-01-043	
Wine commission		
meetings	MISC 93-03-074	
ASIAN AMERICAN AFFAIRS, COMMISSION ON		
Meetings	MISC 93-10-009	
ATTORNEY GENERAL'S OFFICE		
Lemon Law		
arbitration requests	EMER 93-07-017	
Opinions		
campaign contributions, reporting requirements (1993, No. 3)	MISC 93-10-034	
fisheries department authority regarding fish possession and size limits (1993, No.2)	MISC 93-10-033	
hazardous waste plans, fees for implementation (1993, No 6)	MISC 93-10-037	
library fees for services (1992, No. 31)	MISC 93-02-058	
municipal firemen's pension board membership (1993, No. 4)	MISC 93-10-035	
natural resources department, earned interest credits (1992, No. 29)	MISC 93-01-062	
pesticide use, state preemption of local authority to regulate (1993, No. 5)	MISC 93-10-036	
Rules coordinator	MISC 93-12-130	
BEEF COMMISSION		
(See AGRICULTURE, DEPARTMENT OF)		
BELLEVUE COMMUNITY COLLEGE		
Federal aid recipients, refunds	PROP 93-12-097	
	PROP 93-12-098	
Meetings	MISC 93-06-047	
	MISC 93-12-006	
Parking and traffic	PROP 93-08-067	
	PERM 93-12-007	
Refund policy	PROP 93-12-097	
	PROP 93-12-098	
Rules coordinator	MISC 93-05-051	
Student conduct code	PROP 93-08-068	
	PERM 93-12-008	
BELLINGHAM TECHNICAL COLLEGE		
Board of trustees	PERM 93-05-018	
Debts, services withheld for outstanding	PERM 93-05-018	
Discrimination	PERM 93-05-018	
Facilities use	PERM 93-05-018	
Family Educational Rights and Privacy Act compliance	PERM 93-05-018	
Financial aid	PERM 93-05-018	
Grievance procedures	PERM 93-05-018	
Library-media center code	PERM 93-05-018	
Meetings	MISC 93-01-021	
	MISC 93-05-003	
	MISC 93-06-071	
Organization and operation		
Parking and traffic		
Practice and procedure		
Public records, availability		
Rules coordinator		
Scholarships		
State Environmental Policy Act compliance		PERM 93-05-018
Student conduct code		PERM 93-05-018
Tuition and fee schedule		PERM 93-05-018
BLIND, DEPARTMENT OF SERVICES FOR THE		
Definitions		
challenge test licensee, term deleted		PROP 93-07-117
		PERM 93-10-067
Vending facilities		
operation in absence of assigned vendor		PERM 93-01-026
vendor or licensee selection		PERM 93-01-026
vendor selection review		PERM 93-01-026
Vendors		
eligibility		PROP 93-06-048
		PERM 93-09-013
BLIND, WASHINGTON STATE SCHOOL FOR THE		
Rules coordinator		MISC 93-01-118
BOILER RULES, BOARD OF (See LABOR AND INDUSTRIES, DEPARTMENT OF)		
BUILDING CODE COUNCIL		
Barrier-free facilities		PERM 93-01-166
Energy code		
efficiency requirements for nonresidential buildings		PROP 93-08-077
		PROP 93-08-084
		PROP 93-10-004
Fireworks		
storage, use, and handling		PERM 93-01-162
Fueling tank vehicles		
fleet fueling requirements		PERM 93-01-163
Indoor air quality		
ventilation and indoor air quality code		PROP 93-01-016
		PERM 93-02-056
Meetings		MISC 93-01-160
Policies and procedures		PROP 93-01-161
Rules coordinator		MISC 93-05-025
Uniform codes		
fire code and fire code standards		PERM 93-01-162
		PERM 93-01-163
Ventilation and indoor air quality code		PROP 93-01-016
		PERM 93-02-056
Water conservation performance standards		PERM 93-01-164
CENTRAL WASHINGTON UNIVERSITY		
Meetings		MISC 93-08-001
Rules coordinator		MISC 93-01-095
CENTRALIA COLLEGE		
Meetings		MISC 93-01-071
Organization and operation		PROP 93-06-067
Rules coordinator		MISC 93-06-084
CLARK COLLEGE		
Meetings		MISC 93-02-005
Rules coordinator		MISC 93-02-005

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

CLEMENCY AND PARDONS BOARD					
Meetings	MISC	93-01-040		MISC	93-07-056
	MISC	93-02-022		MISC	93-09-011
				MISC	93-09-046
				MISC	93-11-066
CLOVER PARK TECHNICAL COLLEGE					
Meetings	MISC	93-12-061			
Parking and traffic	PROP	93-01-033			
CODE REVISER'S OFFICE					
Rules coordinator	MISC	93-01-001			
COLUMBIA RIVER GORGE COMMISSION					
Appeals from decisions	MISC	93-11-020			
	MISC	93-11-021			
Land use ordinance	MISC	93-03-093			
	MISC	93-11-022			
	MISC	93-11-023			
Clark County	MISC	93-04-126			
	MISC	93-11-022			
	MISC	93-11-023			
Hood River County, Oregon	MISC	93-04-125			
	MISC	93-11-022			
	MISC	93-11-023			
Klickitat County	MISC	93-04-124			
	MISC	93-11-022			
	MISC	93-11-023			
Wasco County, Oregon	MISC	93-04-123			
	MISC	93-11-022			
	MISC	93-11-023			
COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR					
Annuity contract repurchase	PERM	93-01-015			
Personnel standards	PROP	93-10-103			
Project even start	EMER	93-09-047			
Running start program	PERM	93-01-014			
COMMUNITY DEVELOPMENT, DEPARTMENT OF					
Bond cap allocation	PROP	93-09-061			
Development loan fund meetings	MISC	93-01-121			
Emergency food assistance program funding	PROP	93-08-087			
Enhanced 911 funding	EMER	93-07-063			
	PROP	93-07-112			
	PERM	93-11-039			
Fire marshal standards	PROP	93-04-060			
	EMER	93-04-061			
	PERM	93-05-032			
Fire protection services division meetings	MISC	93-05-005			
Public works board meetings	MISC	93-01-127			
	MISC	93-07-059			
rules coordinator	MISC	93-04-104			
Rules coordinator	MISC	93-04-104			
COMMUNITY ECONOMIC REVITALIZATION BOARD (See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)					
CONSERVATION AND RENEWABLE ENERGY SYSTEM					
Meetings	MISC	93-03-076			
	MISC	93-05-002			
CONSERVATION COMMISSION					
Meetings	MISC	93-03-035			
CONVENTION AND TRADE CENTER					
Meetings	MISC	93-01-145			
	MISC	93-03-053			
	MISC	93-06-004			
	MISC	93-07-025			
			CORRECTIONS, DEPARTMENT OF		
			Rules coordinator	MISC	93-08-014
			COUNTY ROAD ADMINISTRATION BOARD		
			Pavement management systems	PROP	93-07-045
			Rules coordinator	MISC	93-02-059
			CRIMINAL JUSTICE TRAINING COMMISSION		
			Basic law enforcement academy curriculum	PROP	93-08-055
			readmission	PROP	93-03-084
				PROP	93-08-030
			requirements	PROP	93-05-039
			training requirements	PROP	93-07-118
			Corrections academies		
			readmission	PROP	93-03-085
				PERM	93-07-119
			requirements	PROP	93-05-040
				PROP	93-07-120
			Fire marshals		
			training requirements	PROP	93-10-029
				PROP	93-10-030
			DEAF, WASHINGTON SCHOOL FOR THE		
			Rules coordinator	MISC	93-01-129
			EASTERN WASHINGTON UNIVERSITY		
			Discrimination	PERM	93-01-073
			ECOLOGY, DEPARTMENT OF		
			Agricultural activities		
			burning permit	PROP	93-03-090
				EMER	93-04-002
				EMER	93-09-063
				EMER	93-12-012
			grass seed production permit	EMER	93-04-002
				EMER	93-12-012
			Air quality		
			agricultural burning, permit	PROP	93-03-090
				EMER	93-04-002
				PROP	93-09-063
				EMER	93-12-012
			air pollution sources, regulation	PROP	93-03-065
				PERM	93-05-044
				PROP	93-05-048
				PROP	93-07-042
				PROP	93-07-062
			gasoline vapor control, compliance schedules	PERM	93-03-089
				PROP	93-04-108
			motor vehicle emission inspection	PROP	93-03-092
				PERM	93-10-062
				PROP	93-12-080
				EMER	93-12-081
			operating permits	PROP	93-07-062
			solid fuel burning devices		
			emission performance standards	PERM	93-04-105
			fees	EMER	93-01-137
				PERM	93-04-105
			transportation activities, conformity to air quality implementation plans	PERM	93-04-006
			Chlorofluorocarbon refrigerants		
			reclamation and recycling	EMER	93-02-049
				PERM	93-02-050
			recycling requirements	EMER	93-02-049
				PERM	93-02-050
			Clean Air Act		
			violations		
			maximum penalty	EMER	93-02-012
			Dam safety regulations	PERM	93-01-090

Subject/Agency Index
(Citation in **bold type** refer to material in this issue)

Dangerous waste			Waste		
chlorofluorocarbon refrigerants	EMER	93-02-049	discharge general permit program	PROP	93-03-066
	PERM	93-02-050		EMER	93-03-067
designation	PROP	93-12-109	mixed waste facilities	PERM	93-10-099
facilities, requirements	PROP	93-12-109	management fees	PERM	93-09-065
tracking system	PROP	93-12-109	national pollutant discharge elimination		
Drinking water			system permit program	PROP	93-03-066
remedial action grants	PROP	93-12-108	solid waste	EMER	93-03-067
Flood control			municipal solid waste landfills,		
grant funding priorities	MISC	93-09-066	criteria	PROP	93-12-110
Forest practices			state waste discharge permit	PROP	93-03-066
aquatic habitat protection	PERM	93-01-091	program	EMER	93-03-067
water quality protection	PERM	93-01-091		PERM	93-10-099
	PROP	93-05-042			
	EMER	93-07-090			
	PERM	93-11-062			
Mixed waste			Wastewater		
management fees	PERM	93-09-065	construction grants priority and		
Motor vehicles			ranking system	PROP	93-09-064
emission inspection	PROP	93-03-092	discharge permit program	PROP	93-03-066
	PERM	93-10-062		EMER	93-03-067
	PROP	93-12-080		PERM	93-10-099
	EMER	93-12-081			
Oil spills			Water quality		
gasoline vapor control, compliance			drinking water		
schedules	PERM	93-03-089	remedial action grants	PROP	93-12-108
	PROP	93-04-108	forest practices	EMER	93-07-090
oil transfer and handling facilities,			whole effluent toxicity		
personnel training and certifica-			testing and limits	PROP	93-08-085
tion	PERM	93-01-089	Water rate charges	PROP	93-09-064
Oil transfer and handling facilities			Water resources management program		
personnel training and certification			Columbia River main stem	PERM	93-01-009
	PERM	93-01-089	Snake River main stem	PERM	93-01-010
Rules coordinator	MISC	93-01-087	Water rights		
Service stations			Columbia River water withdrawal	PERM	93-01-009
gasoline vapor control, compliance			Snake River water withdrawal	PERM	93-01-010
schedules	PERM	93-03-089	Woodstoves		
	PROP	93-04-108	emission performance standards	PERM	93-04-105
			fees	PERM	93-04-105
Shoreline master programs					
Clark County	PERM	93-01-108	EDMONDS COMMUNITY COLLEGE		
Dupont, city of	PROP	93-04-064	Meetings	MISC	93-01-079
	PERM	93-08-026		MISC	93-02-013
Edmonds, city of	PROP	93-03-091		MISC	93-05-049
Jefferson County	PROP	93-10-100		MISC	93-07-049
Montesano, city of	PROP	93-09-062		MISC	93-09-005
Mountlake Terrace, city of	PROP	93-06-051			
Olympia, city of	PROP	93-06-050	EDUCATION, STATE BOARD OF		
	PROP	93-11-061	Architectural and engineering services	PROP	93-08-041
	PERM	93-12-107	Corporal punishment reporting requirement	PERM	93-01-077
Pierce County	PERM	93-02-048	High school graduation requirements	PERM	93-04-115
Port Townsend, city of	PROP	93-01-088	Instructional specialist certificate	PERM	93-05-007
	PERM	93-07-116	Meetings	MISC	93-08-008
	PROP	93-10-100	Racial imbalance prohibition		
San Juan County	PERM	93-01-138	acceptance criteria	PROP	93-04-119
Seattle, city of	PERM	93-04-106		PROP	93-07-100
	PROP	93-05-043			
	PERM	93-12-011	School bus drivers		
Stevens County	PROP	93-04-065	standards and qualifications	PROP	93-04-117
	PROP	93-07-091		PERM	93-08-007
	PROP	93-11-074	School construction		
Tacoma, city of	PERM	93-01-110	funding assistance, priority system	PERM	93-04-019
Vancouver, city of	PERM	93-01-109	Site conditions		
Whatcom County	PROP	93-02-011	acceptance criteria	PROP	93-04-118
	PERM	93-04-063		PERM	93-07-104
Solid fuel burning devices			Teachers		
emission performance standards	PERM	93-04-105	definitions of terms	PROP	93-04-120
fees	EMER	93-01-137		PERM	93-07-101
	PERM	93-04-105	out-of-endorsement placement	PROP	93-04-116
				PERM	93-07-102
Solid waste			teacher preparation programs	PROP	93-04-120
municipal solid waste landfills, criteria	PROP	93-12-110		PERM	93-07-101
Transportation activities, conformity to					
air quality implementation plans	PERM	93-04-006	EMPLOYMENT SECURITY DEPARTMENT		
			Rules coordinator	MISC	93-01-167
				MISC	93-05-008

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Unemployment compensation			Columbia River tributaries	EMER	93-10-061
commissioner approved training	PROP	93-11-005		EMER	93-12-010
waiting period credit or benefits,			Puget Sound		
claims	PROP	93-07-086	seasons and gear	PROP	93-09-073
	PERM	93-10-025	troll season	EMER	93-10-043
ENERGY FACILITY SITE EVALUATION			scallops		
COUNCIL			areas and seasons	EMER	93-07-043
Meetings	MISC	93-02-023	coastal waters	PROP	93-12-092
Members			Puget Sound	PROP	93-12-092
salaries and benefits, applicant			sea cucumbers		
funding of	PROP	93-07-094	areas and seasons	EMER	93-10-044
	PERM	93-12-013		PROP	93-12-092
ENERGY OFFICE			sea urchins		
Organization	PERM	93-02-033	areas and seasons	EMER	93-05-006
Public records				EMER	93-07-006
availability	PERM	93-02-033	shad		
copying fees	PERM	93-02-033	Columbia River	EMER	93-12-041
			shellfish		
			harvest logs	PROP	93-12-092
			lawful and unlawful acts	EMER	93-11-040
ENGINEERS AND LAND SURVEYORS, BOARD			shrimp		
OF REGISTRATION FOR PROFESSIONAL			coastal waters	PROP	93-12-092
Adjudicative proceedings			Puget Sound	EMER	93-09-028
failure to meet prerequisites	PROP	93-09-024		EMER	93-11-057
Comity	PERM	93-01-081	smelt	PROP	93-12-092
Document preparation requirements	PROP	93-09-023	areas and seasons	EMER	93-01-008
Evaluation of license candidates	PERM	93-01-081	sturgeon		
Examinations	PERM	93-01-081	coastal harbors		
Meetings	MISC	93-03-041	seasons and gear	PROP	93-09-074
Seal/stamp usage	PROP	93-09-022	Columbia River		
			above Bonneville, seasons	EMER	93-02-008
EVERETT COMMUNITY COLLEGE			trawl gear	PROP	93-12-092
Meetings	MISC	93-02-030	<u>Personal use</u>		
			clams		
EVERGREEN STATE COLLEGE, THE			area closures	EMER	93-08-059
Meetings	MISC	93-01-112		EMER	93-09-025
			areas and seasons		
FARMED SALMON COMMISSION (See			razor	EMER	93-01-017
AGRICULTURE, DEPARTMENT OF)				EMER	93-01-104
				EMER	93-07-092
				EMER	93-08-017
				EMER	93-10-096
FISHERIES, DEPARTMENT OF				PROP	93-10-095
<u>Commercial</u>			seasons		
baitfish			crab		
seasons	EMER	93-06-044	areas and seasons	EMER	93-11-063
bottomfish			definitions and rules, amendments	PROP	93-04-096
coastal bottomfish				PROP	93-08-033
catch limits	EMER	93-01-140		PERM	93-08-034
	EMER	93-04-095			
	PERM	93-07-093	food fish		
	EMER	93-09-067	bag limits	EMER	93-09-026
	EMER	93-10-094		PROP	93-10-095
	EMER	93-12-078	oysters		
Puget Sound bottomfish	PROP	93-12-092	areas and seasons	PERM	93-09-027
seasons	EMER	93-11-010	rules and definitions, amendments	PROP	93-04-096
buoy brands	PROP	93-12-092		PROP	93-08-033
crabs				PERM	93-08-034
areas and seasons	PROP	93-12-092	salmon		
gear	PROP	93-12-092	areas and seasons	EMER	93-08-016
experimental fishery permit advisory			Columbia River	EMER	93-04-043
board	PROP	93-12-092		EMER	93-06-013
geoducks				EMER	93-06-068
gear and unlawful acts	PROP	93-12-092		EMER	93-08-018
licenses	PROP	93-12-092	saltwater seasons and bag limits	EMER	93-10-045
salmon			shad		
coastal harbors			areas and seasons	EMER	93-09-026
seasons and gear	PROP	93-09-074	shrimp		
Columbia River above Bonneville,			area and seasons	EMER	93-11-057
seasons	EMER	93-04-073		EMER	93-11-063
	EMER	93-06-015		EMER	93-12-079
	EMER	93-06-069			
Columbia River below Bonneville,			smelt		
seasons	EMER	93-05-017	areas and seasons	EMER	93-01-008
	EMER	93-06-014	sturgeon		
	EMER	93-06-070	areas and seasons	EMER	93-09-026
	EMER	93-07-001	Rules coordinator	MISC	93-05-014

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

FOREST PRACTICES BOARD

Application and notification	PROP 93-05-010
	PERM 93-12-001
Chemicals	PROP 93-05-010
	PERM 93-12-001
Definitions	PROP 93-05-010
	PERM 93-12-001
Endangered Species Act relationship to Forest Practices Act	EMER 93-07-060
Enforcement	PROP 93-05-010
	PERM 93-12-001
Forest landowners stewardship management plan	EMER 93-02-010
Marbled murrelet critical wildlife habitats	EMER 93-07-060
Meetings	MISC 93-01-132
	MISC 93-03-088
	MISC 93-06-029
	MISC 93-08-086
	MISC 93-11-082
Policy and organization	PROP 93-05-010
	PERM 93-12-001
Practices and procedure	PROP 93-05-010
	PERM 93-12-001
Reforestation	PROP 93-05-010
	PERM 93-12-001
Road construction and maintenance	PROP 93-05-010
	PERM 93-12-001
State Environmental Policy Act (SEPA) compliance	PROP 93-05-010
	PERM 93-12-001
Stewardship management plan	EMER 93-02-010
Stream shade cover	EMER 93-02-009
	EMER 93-10-015
Timber harvesting	PROP 93-05-010
	PERM 93-12-001
Watershed analysis	PROP 93-05-010
	PERM 93-12-001

GAMBLING COMMISSION

Amusement games locations within grocery stores authorized operating requirements	PERM 93-01-013
	PROP 93-07-082
	PERM 93-12-082
wager and prize limits	PROP 93-07-082
	PERM 93-12-082
Bingo accounting requirements	PROP 93-10-042
authorized activities	PROP 93-10-042
certification procedure for charitable and nonprofit organizations	PROP 93-10-042
disclosure of prizes and rules	PROP 93-10-042
limitations on prizes and receipts	PROP 93-10-042
live performances as gifts	EMER 93-07-080
	PROP 93-07-083
procedures for conducting	PROP 93-10-042
Card games daily records	PROP 93-06-036
	PERM 93-10-005
tournaments for fees and prizes	PROP 93-07-082
	PERM 93-12-082
wager limits	PROP 93-04-044
Field offices and operations	PROP 93-01-133
	PERM 93-06-011
Licenses denial, suspension, or revocation	PROP 93-07-082
	PERM 93-12-082
Meetings	MISC 93-03-009
Punchboards and pull tabs coin-operated pull tab dispensing devices	PROP 93-07-083
	PROP 93-07-087
	PERM 93-12-082
electronic punchboards	PROP 93-07-081
	PERM 93-12-082

flares, standards	PROP 93-06-036
	PERM 93-10-005
fund raising events, pull tabs at	PROP 93-07-081
	PERM 93-12-082
inventory and retention	PROP 93-08-066
	PERM 93-12-082
name of manufacturer, display required	PROP 93-07-083
	PERM 93-12-082
prizes, minimum percentages	PERM 93-04-007
recall of defective devices	PROP 93-06-036
	PERM 93-10-005
Record-keeping requirements	PROP 93-08-066
	PERM 93-12-082
Rules coordinator	MISC 93-04-084
Washington blackjack rules of play	PROP 93-10-042
wager limits, exception	PROP 93-04-044
	PROP 93-10-042

GENERAL ADMINISTRATION, DEPARTMENT OF

Banking, division of interstate acquisition reciprocity	PROP 93-05-052
	PERM 93-07-113
mutual holding companies establishment and operation	PROP 93-11-087
Facilities off state capitol grounds parking program	PROP 93-09-068
	PROP 93-10-090
	PROP 93-12-091
	PROP 93-05-041
	PROP 93-09-068
	PROP 93-10-090
	PROP 93-12-091
Parking fees	PROP 93-07-014
	PROP 93-09-030
	MISC 93-07-084
Risk management, division of local government self-insurance	PROP 93-07-014
	PROP 93-09-030
Rules coordinator	MISC 93-07-084
Savings and loan associations, division of credit union supervisory committees	PROP 93-07-103

GOVERNOR, OFFICE OF THE

Americans with Disabilities Act implementation	MISC 93-06-049
Ethical conduct standards for executive branch employees	MISC 93-03-049
Higher education coordinating board designated as review entity for Program Integrity Triad	MISC 93-03-023
Independent living and rehabilitation advisory councils established	MISC 93-10-065
Rehabilitation and independent living advisory councils established	MISC 93-10-065
State of emergency proclamation	MISC 93-04-005
termination	MISC 93-04-076
Travel expenditures for agencies, standards	MISC 93-10-06

GRAYS HARBOR COLLEGE

Meetings	MISC 93-01-130
GREEN RIVER COMMUNITY COLLEGE Meetings	MISC 93-02-004
Student code of conduct	PERM 93-04-022

GROWTH PLANNING HEARINGS BOARDS

Meetings	MISC 93-01-105
	MISC 93-03-017
Petitions for review, filing	PROP 93-08-032
	PERM 93-11-068
Practice and procedure	PROP 93-06-045

INDEX

Subject/Agency Index

(Citation in bold type refer to material in this issue)

HARDWOODS COMMISSION (See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		licensure without examination application procedures	PROP 93-01-025 PROP 93-07-107 PERM 93-12-005
HEALTH CARE AUTHORITY Rules coordinator		MISC 93-08-019	eligibility PROP 93-01-025 PERM 93-07-108
HEALTH, DEPARTMENT OF Abortion facilities criminal history disclosure and background inquiries		PROP 93-04-091 PROP 93-08-078	examination standards licensing standards PROP 93-01-025 PERM 93-07-108 PROP 93-01-025 PERM 93-07-108
Adjudicative proceedings disciplinary boards		PROP 93-04-102 PERM 93-08-003 PROP 93-08-071	unlicensed persons permitted acts Dental hygienists licenses fees out-of-state applicants PROP 93-12-121 PROP 93-01-147 PERM 93-06-042A PROP 93-01-007 PERM 93-08-004
secretary programs and professions Adult residential rehabilitation centers criminal history disclosure and background inquiries		PROP 93-04-091 PROP 93-08-078	Description and organization Disciplinary boards adjudicative proceedings PROP 93-04-102 PERM 93-08-003
AIDS prescription drug and HIV intervention programs eligibility		PROP 93-06-095 PROP 93-11-006	Drinking water operating permit fees requirements surface water standards and treatment PROP 93-03-047 PERM 93-03-047 PROP 93-04-122 PERM 93-08-011
reporting requirements		PROP 93-03-003 PERM 93-08-036	
spending limitations		EMER 93-04-015	
Blood lead levels reporting		PROP 93-06-094 PERM 93-10-038	
Boarding homes criminal history disclosure and background inquiries		PROP 93-04-091 PROP 93-08-078 EMER 93-12-004	Emergency medical services and trauma care systems administration certification continuing education definitions facilities licensure training trauma registry verification of trauma care services PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148 PERM 93-01-148
nursing care for residents		EMER 93-12-004	
Certification expiration fees		PROP 93-10-071 PROP 93-10-071	Health, board of rule-making authority PROP 93-11-075
temporary and provisional certificates		PROP 93-10-072	Hearing aids, council on hearing aid businesses bonding requirements licenses activities requiring continuing education requirements fees temporary practice permits PERM 93-07-010 PERM 93-07-009 PERM 93-07-007 PROP 93-10-071 PERM 93-07-008
Certificate of need kidney disease treatment centers		EMER 93-01-150 PROP 93-08-070	Home care agencies criminal history disclosure and background inquiries PROP 93-04-091 PROP 93-08-078
Childbirth centers criminal history disclosure and background inquiries		PROP 93-04-091 PROP 93-08-078	Home health agencies criminal history disclosure and background inquiries PROP 93-04-091 PROP 93-08-078
Chiropractic disciplinary board meetings		MISC 93-02-064	Hospice agencies criminal history disclosure and background inquiries PROP 93-04-091 PROP 93-08-078
professional standards, mandatory reporting		EMER 93-10-006	Hospitals criminal history disclosure and background inquiries PROP 93-04-091 PROP 93-08-078
Chiropractic examiners, board of AIDS education		PROP 93-06-090 PERM 93-09-055 PROP 93-06-090 PROP 93-09-054 PERM 93-09-055 MISC 93-01-151 MISC 93-08-062 PROP 93-06-090 PERM 93-09-055 PROP 93-06-090 PERM 93-09-055	new construction regulations PROP 93-01-149 PERM 93-07-011
continuing education		PROP 93-06-090 PROP 93-09-054 PERM 93-09-055	Kidney disease treatment centers certificate of need application moratorium dialysis station need formula EMER 93-01-150 PROP 93-08-070
meetings		MISC 93-01-151 MISC 93-08-062	Lead poisoning blood lead levels reporting PROP 93-06-094 PERM 93-10-038
temporary permits		PROP 93-06-090 PERM 93-09-055	Massage practitioners
x-ray technicians, registration		PROP 93-06-090 PERM 93-09-055	
Contact lenses fitting and dispensing records retention		PROP 93-02-066 PROP 93-02-066	
Counselors fees		PROP 93-10-071	
Criminal history disclosure and background inquiries		PROP 93-04-091 PROP 93-08-078	
Dental examiners, board of dental lab technicians permitted acts		PROP 93-08-106	

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

fees	PROP	93-10-071	licenses		
Medical examiners, board of			fees	PROP	93-01-146
licenses	PERM	93-01-078		PERM	93-05-045
retired active physicians			nuclear pharmacies		
fees	PROP	93-11-073	accepted professional standards,		
	PROP	93-12-122	definition	PERM	93-04-016
license renewal	EMER	93-12-124	patient medication, customized		
licenses	PERM	93-01-078	packages	PERM	93-01-051
special purpose examination	PERM	93-01-078	pharmacy assistants		
	PROP	93-05-047	certification	PROP	93-08-107
	PERM	93-11-008	education and training	PROP	93-08-107
surgical assistants			specialized functions	PROP	93-12-123
utilization and supervision	PROP	93-05-047	physician assistants, registration	PROP	93-12-003
	PERM	93-11-008	practice and procedures	PERM	93-04-017
Naturopathic physicians			prescription drug repackaging	PERM	93-01-051
fees	PROP	93-10-071		PROP	93-07-051
Nursing, board of			steroid compounds	PROP	93-08-109
mailing address, responsibility			Physical therapy, board of		
for maintaining	PROP	93-06-091	aide supervision ratio	PROP	93-04-082
	PERM	93-11-007	continuing competency	PROP	93-04-082
registered nurses			examination requirements for those		
fees	PROP	93-08-080	failing exam twice	PERM	93-04-081
	PERM	93-12-125	renewal of license	PERM	93-04-081
Nursing home administrators, board of			unapproved schools, applicants	PERM	93-04-081
definitions	PROP	93-08-105	Podiatric medical board		
examinations	PROP	93-08-105	address notification	PROP	93-08-082
fees	PROP	93-10-071	advertising, prohibited types	PROP	93-08-082
licenses	PROP	93-08-105	temporary practice permits	PROP	93-08-082
standards of conduct	PROP	93-08-105	Practical nursing, board of		
Nursing pools			impaired practical nurse program	PERM	93-04-080
fees	PROP	93-10-071		PERM	93-07-023
quality assurance standards	PROP	93-10-039	licenses, fees	PERM	93-07-023
registration	PROP	93-10-039	Practice and procedure	PROP	93-01-007
Occupational therapy practice board				PERM	93-08-004
licensure			Psychology, examining board of		
application	PROP	93-12-089	adjudicative proceedings		
examinations	PROP	93-12-089	model procedural rules	PROP	93-11-038
inactive status	PROP	93-12-089	assessment procedures	EMER	93-12-042
out-of-state applicants	PROP	93-12-089		PROP	93-02-067
renewals	PROP	93-12-089	competence	PERM	93-07-036
Ocularists				PROP	93-02-067
training and licensing requirements	PROP	93-03-046	confidentiality of clients	PERM	93-07-036
	PERM	93-10-008	education prerequisites to licensing	PROP	93-02-067
Opticians				PERM	93-02-065
contact lens			ethical conduct	PROP	93-02-067
fitting and dispensing	PROP	93-02-066		PERM	93-07-036
licensure			examination	PROP	93-02-065
application	PROP	93-10-040		PERM	93-04-014
fees	PROP	93-10-040	experience prerequisites to licensing	PERM	93-07-078
retired active license	PROP	93-10-040		EMER	93-06-023
temporary permits	PROP	93-10-040	fees	PROP	93-02-065
records retention	PROP	93-02-066	fraud, misrepresentation, or deception	PERM	93-06-092
meetings	MISC	93-01-153		PROP	93-07-036
Optometry board			misconduct	PROP	93-02-067
contact lens			records retention	PERM	93-07-036
emergency replacement	PROP	93-08-079		PROP	93-02-067
identification on prescriptions	MISC	93-03-030	Public records, availability	PERM	93-07-036
	PROP	93-08-079		PROP	93-02-067
prescription, definition	MISC	93-03-030	Radiation protection, division of	PERM	93-07-036
prescription release	PROP	93-08-079	fee schedule	PROP	93-08-069
records retention	MISC	93-03-030	Registration		
specifications	MISC	93-03-030	expiration	PROP	93-10-071
	PROP	93-08-079	fees	PROP	93-10-071
continuing education	PROP	93-08-079	Residential treatment centers for psychiatrically		
Pharmacy, board of			impaired children and youth		
address notification	PROP	93-04-101	criminal history disclosure and		
	PERM	93-10-007	background inquiries	PROP	93-04-091
aminorex	PROP	93-08-108	Rules coordinator	PROP	93-08-078
authority to order medications for				MISC	93-01-050
administration	PROP	93-04-018			
cattle anabolic steroid implants	PERM	93-06-093			
ephedrine prescription restrictions	PERM	93-05-046			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Rural health care facilities			preparation of record	PROP	93-01-142
criminal history disclosure and background inquiries	PROP	93-04-091	rights of applicants	PERM	93-06-033
	PROP	93-08-078		PERM	93-01-157
Temporary-worker housing			Disability leave	PERM	93-01-158
operating licenses	PERM	93-03-031	Eligible lists	PROP	93-11-103
standards	PERM	93-03-032	Examination process	PERM	93-01-156
	EMER	93-07-052		PERM	93-01-158
	PROP	93-07-106	Layoff options	PERM	93-01-155
	PERM	93-12-043	Leave of absence without pay excepted work period	PROP	93-11-103
Veterinary board of governors				PROP	93-01-141
animal technicians			Meetings	PERM	93-06-032
examinations	PROP	93-04-079	Parental leave	MISC	93-01-154
	PERM	93-08-029	Qualifications	PROP	93-11-103
	PROP	93-08-081	Recruitment and examination process	PERM	93-01-158
	PERM	93-12-126	Serious health condition leave	PERM	93-01-158
definitions	PROP	93-04-079		PROP	93-11-103
fees	PERM	93-08-029			
licenses	PROP	93-10-071			
	PROP	93-04-079	HIGHLINE COMMUNITY COLLEGE		
	PERM	93-08-029	Adult education, advisory council for meetings	MISC	93-01-070
registration	PROP	93-04-079			
	PERM	93-08-029	HISPANIC AFFAIRS, COMMISSION ON		
veterinarian fees	PROP	93-04-121	Meetings	MISC	93-02-052
	PERM	93-08-028		MISC	93-07-050
	PROP	93-10-071			
Water			HORSE RACING COMMISSION		
drinking water			Appeals	PROP	93-01-107
operating permit	PERM	93-03-047	Entry, wager on one is wager on all	EMER	93-09-008
surface water standards and treatment	PROP	93-04-122		PROP	93-11-060
	PERM	93-08-011	Rules coordinator	MISC	93-09-051
water system evaluation project review and approval fees	PERM	93-01-006	Stewards		
			punishment, authority to award	PROP	93-01-107
			Trifecta rules	PROP	93-11-101
			Twin trifecta rules	PROP	93-11-102
HIGHER EDUCATION COORDINATING BOARD			HOUSING FINANCE COMMISSION		
American Indian endowed scholarship program	PROP	93-11-091	Qualified allocation plan	PERM	93-01-122
Award for excellence in education academic grant	PROP	93-11-092			
Degree Authorization Act			HUMAN RIGHTS COMMISSION		
administration and governance	PROP	93-12-106	Meetings	MISC	93-01-020
application requirements	PERM	93-01-103		MISC	93-01-064
institution authorization	PERM	93-01-103		MISC	93-01-065
private vocational schools	PERM	93-01-103		MISC	93-02-042
surety bond requirement	PERM	93-01-103		MISC	93-05-036
Displaced homemaker program	PROP	93-01-099		MISC	93-06-046
	PERM	93-07-061		MISC	93-09-052
				MISC	93-11-065
Educational opportunity grant program	PROP	93-11-090		MISC	93-12-103
Future teacher conditional scholarship program	PROP	93-11-089	INDETERMINATE SENTENCE REVIEW BOARD		
Health professional loan repayment and scholarship program	PROP	93-11-088	Rules coordinator	MISC	93-03-077
State need grant program			INSURANCE COMMISSIONER, OFFICE OF		
student eligibility	PROP	93-03-087	Actuaries		
	EMER	93-04-070	statement of actuarial opinion, qualifications to sign	PROP	93-01-159
	PERM	93-08-010		PROP	93-04-062
technical corrections	PROP	93-03-087		PERM	93-07-020
	EMER	93-04-070	Insurers		
	PERM	93-08-010	statement of actuarial opinion	PROP	93-01-159
State work study program	PROP	93-11-093		PROP	93-04-062
Washington state scholars program	PROP	93-11-094		PERM	93-07-020
			Medicare supplement insurance standardized policy forms	PERM	93-01-048
			Rules coordinator	MISC	93-01-022
HIGHER EDUCATION, JOINT CENTER FOR			INTEREST RATES		
Meetings	MISC	93-01-082	(See inside front cover)		
	MISC	93-03-083			
HIGHER EDUCATION PERSONNEL BOARD			INVESTMENT BOARD, STATE		
Appeals			Rules coordinator	MISC	93-09-015
board responsibilities	PROP	93-01-142	Rules of conduct	PERM	93-04-008
	PERM	93-06-033			
burden of proof	PROP	93-01-142			
	PERM	93-06-033			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

JUDICIAL CONDUCT, COMMISSION ON

Meetings MISC 93-01-019
MISC 93-06-065
Rules coordinator MISC 93-01-041

LABOR AND INDUSTRIES, DEPARTMENT OF

Agricultural safety standards PROP 93-02-031
PROP 93-02-057
PERM 93-07-012
PERM 93-07-044

Apprenticeship and training council
apprenticeship agreements PERM 93-04-100
on-the-job training programs PERM 93-04-100

Asbestos, notice to employees of hazards PERM 93-01-005

Boiler rules, board of definitions PROP 93-08-073
PERM 93-12-014
fees PROP 93-08-073
PERM 93-12-014
meetings MISC 93-01-063
new construction standards PROP 93-08-073
PERM 93-12-014
nonnuclear repairs and alterations PROP 93-08-073
PERM 93-12-014

Child labor regulations
hours of work PERM 93-01-068
PERM 93-01-116
house-to-house sales PERM 93-01-068
minimum age of employment PERM 93-01-068
minor work permits PERM 93-01-068
parent/school authorization PERM 93-01-068
prohibited and hazardous work PERM 93-01-068
variances PERM 93-01-068

Electrical board meetings MISC 93-06-043

Electrical installations
licensing exemptions PERM 93-03-048
National Electrical Code, adoption PROP 93-01-144
PERM 93-06-072

Electricians
journeyman electricians
certificate of competency PERM 93-03-048

Longshore, stevedore, and waterfront operations PROP 93-02-057
PERM 93-04-111
PERM 93-07-044
PROP 93-10-101

Minors
nonagricultural employment PERM 93-01-068
PERM 93-01-116
PERM 93-04-112

Nonagricultural employment of minors PERM 93-01-068
PERM 93-01-116
PERM 93-04-112

Occupational health standards
general PERM 93-01-005
PERM 93-01-067
PROP 93-02-057
PERM 93-07-044
PROP 93-10-101

Safety and health standards
agriculture PROP 93-02-031
PROP 93-02-057
PERM 93-07-012
PERM 93-07-044
PROP 93-10-041
PERM 93-01-067
PROP 93-02-057
PERM 93-04-111
PERM 93-07-044
PROP 93-10-101
PROP 93-10-101

construction work
general

longshore, stevedore, and waterfront operations PROP 93-02-057
PERM 93-04-111
PERM 93-07-044
PROP 93-10-101

ship repairing, shipbuilding, and shipbreaking PROP 93-10-101
signage PERM 93-01-067

Workers' compensation
health care providers' reimbursement manual of rules, classifications, and rate tables PROP 93-11-095
PROP 93-07-114
PERM 93-12-093

self-insurance certification PROP 93-07-115
PERM 93-11-064
PERM 93-01-067

signaling PERM 93-01-067

LAKE WASHINGTON TECHNICAL COLLEGE

Affirmative action PERM 93-01-084
Board of trustees PERM 93-03-086
Bookstore operation PERM 93-01-084
College calendar PERM 93-01-084
Copyright and patent policy PERM 93-01-084
Debts, services withheld for outstanding PERM 93-01-084
Meetings MISC 93-01-042
MISC 93-01-124
PERM 93-03-086
PERM 93-01-084

Nepotism policy
Tuition and fees
refunds PERM 93-01-084

LEGAL FOUNDATION OF WASHINGTON

Meetings MISC 93-06-003

LICENSING, DEPARTMENT OF

Cemetery board
fees PROP 93-03-062
PERM 93-07-041

Cremated remains disposition
business licensing PROP 93-03-063
PERM 93-07-040

Engineers and land surveyors
fees PROP 93-07-111
PERM 93-10-057

Hulk haulers/scrap processors PROP 93-01-115
PERM 93-08-076

Landscape architects
licenses
examinations **PROP 93-12-105**
reinstatement **PROP 93-12-105**

Motor vehicles
dealer temporary permits, display PROP 93-10-073
hulk haulers/scrap processors PROP 93-01-115
PERM 93-08-076

imported vehicles
ownership documentation PROP 93-10-073
license plates, personalized PROP 93-11-069
registration and certificates of title PROP 93-10-073

rental cars
taxation and licensing of title and registration advisory committee meetings PERM 93-01-066
unauthorized and abandoned vehicles MISC **93-12-045**
PROP 93-01-115
PERM 93-08-076
PROP 93-01-115
PERM 93-08-076

wreckers

Motorcycle safety advisory board
meetings MISC 93-04-003
Notaries public PERM 93-05-009
PROP 93-08-083

Private detectives
licensing fees PROP 93-07-099
PROP 93-12-040

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Private security guards licensing fees	PROP 93-07-098 PERM 93-11-025	requirements for qualification	PROP 93-07-110 PROP 93-10-069 PROP 93-12-117 PROP 93-12-120
Real estate appraisers address notification certification application continuing education definitions	PROP 93-12-127 PROP 93-03-019 PROP 93-12-127 PROP 93-03-019 PROP 93-12-127	true party of interest Meetings Novelty advertising	PROP 93-06-066 MISC 93-01-052A PROP 93-07-109 PERM 93-11-028 PERM 93-10-070 PROP 93-07-109 PERM 93-11-028 PERM 93-10-070
examinations	PROP 93-03-019 PROP 93-12-127	Packaging Private clubs, licensing	PERM 93-11-028 PERM 93-10-070 PROP 93-07-109 PERM 93-11-028 PERM 93-10-070
experience requirements	PROP 93-03-019 PROP 93-12-127	Prohibited practices Public hearings	MISC 93-01-134 MISC 93-02-032 PERM 93-10-070
fees	PROP 93-03-019	Rules coordinator	
reciprocity	PROP 93-12-127	Temporary licenses	
records, accessibility	PROP 93-12-127	Wine	
temporary practice	PROP 93-03-019 PROP 93-12-127	fortified wine	PROP 93-07-109 PERM 93-11-028
Real estate commission meetings	MISC 93-01-045	Wineries, retail sale of wine on premises	PROP 93-07-109 PERM 93-11-028
Rules coordinator	MISC 93-01-092		
Securities division		LOTTERY COMMISSION	
financial planner, what constitutes	PERM 93-01-113	Adjudicative proceedings	PROP 93-12-104
investment counselor, what constitutes	PERM 93-01-113	Debts owed the state	PROP 93-07-121 PERM 93-11-056
NASAA statements of policy, adoption	PERM 93-01-075		
preferred stock issuance standards	PERM 93-01-074	<u>Instant game number 89 - Lucky 8's</u> definitions	PROP 93-03-094 PERM 93-07-016
registered offerings			
NASAA statements of policy, adoption	PERM 93-01-075	<u>Instant game number 92 - Triple Play</u> criteria definitions ticket validation	PERM 93-03-008 PERM 93-03-008 PERM 93-03-008
Security guards, private licensing fees	PROP 93-07-098 PERM 93-11-025	<u>Instant game number 93 - Hog Mania</u> criteria definitions ticket validation	PERM 93-03-008 PERM 93-03-008 PERM 93-03-008
Title and registration advisory committee meetings	MISC 93-12-045	<u>Instant game number 94 - Applebucks II</u> criteria definitions ticket validation	PERM 93-03-008 PERM 93-03-008 PERM 93-03-008
Unauthorized and abandoned vehicles	PROP 93-01-115 PERM 93-08-076	<u>Instant game number 95 - High Roller</u> criteria definitions ticket validation	PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016
Uniform commercial code fees for program services forms, standardized	PERM 93-01-061 PERM 93-01-061	<u>Instant game number 96 - Tic-Tac-Dough</u> criteria definitions ticket validation	PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016
Vessels dealer decals fee dealer registration fees fees registration and certificate of title	PROP 93-01-111 PROP 93-01-111 PROP 93-11-076 PROP 93-11-076	<u>Instant game number 97 - Lucky Charm</u> criteria definitions ticket validation	PROP 93-03-094 PERM 93-03-008 PERM 93-03-008 PERM 93-03-008
Wreckers	PROP 93-01-115 PERM 93-08-076	<u>Instant game number 98 - Ace in the Hole</u> criteria definitions ticket validation	PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016
LIQUOR CONTROL BOARD		<u>Instant game number 99 - Megamoney</u> criteria definitions	PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016 PROP 93-03-094 PERM 93-07-016
Beer			
bottles and containers, reuse	PROP 93-12-118		
kegs, retail sale of malt liquor in partial beer tax exemption	PROP 93-12-119 EMER 93-11-027 PROP 93-12-116		
Breweries, retail sale of beer on premises	PROP 93-07-109 PERM 93-11-028		
Destruction of liquor by enforcement officers	PROP 93-07-109 PERM 93-11-028		
Dispensing apparatus and container Licenses	PERM 93-10-070		
applicants certification	PROP 93-12-120		
criminal history record checks	PROP 93-12-117		
fingerprinting	PROP 93-12-117		
qualifications	PROP 93-07-110 PROP 93-10-069 PROP 93-12-117 PROP 93-12-120		
class H restaurant operation	PROP 93-06-066 PERM 93-10-092		
defective beer or keg claims	PROP 93-06-066 PERM 93-10-092		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ticket validation	PROP	93-07-121	Tank vessel oil spill prevention plans	PROP	93-02-055
	PERM	93-11-056		PERM	93-07-005
<u>Instant game number 100 - Top Banana</u>					
criteria	PROP	93-07-121			
	PERM	93-11-056			
definitions	PROP	93-07-121	MARITIME COMMISSION		
	PERM	93-11-056	Assessment schedule	PROP	93-11-072
ticket validation	PROP	93-07-121	Definitions	PROP	93-11-072
	PERM	93-11-056	Meetings	MISC	93-03-006
	PERM	93-11-056	Vessel assessment schedule	PROP	93-11-072
<u>Instant game number 101 - Top Banana</u>					
criteria	PROP	93-12-104	MINORITY AND WOMEN'S BUSINESS		
definitions	PROP	93-12-104	ENTERPRISES, OFFICE OF		
ticket validation	PROP	93-12-104	Bid criteria		
<u>Instant game number 102 - Mistletoe</u>			monetary value	EMER	93-05-037
criteria	PROP	93-12-104	Fees	PROP	93-12-135
definitions	PROP	93-12-104		EMER	93-12-136
ticket validation	PROP	93-12-104	Office account, creation	PROP	93-12-135
<u>Instant game number 103 - Lucky Duck</u>				EMER	93-12-136
criteria	PROP	93-12-104			
definitions	PROP	93-12-104	NATURAL RESOURCES, DEPARTMENT OF		
ticket validation	PROP	93-12-104	Forest closures		
<u>Instant game number 104 - Money Match</u>			closed seasons	EMER	93-09-020
criteria	PROP	93-12-104		EMER	93-10-058
definitions	PROP	93-12-104	Forest fire advisory board		
ticket validation	PROP	93-12-104	meetings	MISC	93-10-106
<u>Instant game number 105 - Cash Cards</u>			Forest practices board		
criteria	PROP	93-12-104	(see FOREST PRACTICES BOARD)		
definitions	PROP	93-12-104	Forest protection zones		
ticket validation	PROP	93-12-104	King County	PROP	93-04-107
Lotto				PROP	93-10-107
prizes	PERM	93-03-008		PROP	93-10-108
Prizes			Kitsap County	PERM	93-03-007
claim, defined	PERM	93-04-004	Pierce County	PROP	93-03-064
debts owed state	PERM	93-04-004		PERM	93-07-002
payable after death or disability	PERM	93-04-004	Natural heritage advisory council		
payments	PERM	93-04-004	meetings	MISC	93-04-092
Rules coordinator	MISC	93-07-015	Natural resources, board of		
			meetings	MISC	93-01-018
MARINE OVERSIGHT BOARD				MISC	93-01-119
Meetings	MISC	93-01-106		MISC	93-04-059
	MISC	93-02-015		MISC	93-05-024
	MISC	93-03-040	Rules coordinator	MISC	93-01-114
	MISC	93-10-104	Timber sales, policies and procedures		
	MISC	93-10-105	for conditioning or denying permits	PERM	93-01-126
	MISC	93-12-082A	White Salmon Oak natural resources		
			conservation area	MISC	93-09-072
MARINE SAFETY, OFFICE OF			Woodard Bay natural resources		
Cargo and passenger vessel screening	PROP	93-02-054	conservation area	MISC	93-09-071
	PERM	93-07-003			
Definitions	PROP	93-02-053	NORTHWEST AIR POLLUTION AUTHORITY		
	PERM	93-07-004	Regulations updated	PROP	93-04-009
General information	PROP	93-06-086		PERM	93-10-016
	PERM	93-11-004			
Oil spill contingency plans	PROP	93-06-089	NOXIOUS WEED CONTROL BOARD		
	PROP	93-09-069	(See AGRICULTURE, DEPARTMENT OF)		
	PERM	93-11-001			
Oil spill prevention plans	PROP	93-02-055	OLYMPIC COLLEGE		
	PERM	93-07-005	Meetings	MISC	93-01-057
Passenger and cargo vessel screening	PROP	93-02-054		MISC	93-06-027
	PERM	93-07-003			
Public records, availability	PROP	93-06-087	OUTDOOR RECREATION, INTERAGENCY		
	PERM	93-11-003	COMMITTEE FOR		
Regional marine safety committees			Meetings	MISC	93-01-058
guidelines and procedures	PROP	93-06-088		MISC	93-06-025
	PERM	93-11-002			
meetings	MISC	93-02-014	PARKS AND RECREATION COMMISSION		
	MISC	93-05-035	Campsite reservations	PROP	93-01-165
	MISC	93-09-007		PERM	93-06-001
	MISC	93-10-003	Fees	PROP	93-01-165
	MISC	93-10-064		PERM	93-06-001
	MISC	93-11-070		PERM	93-08-025
	MISC	93-03-022	Firearms and/or weapons	EMER	93-10-060
Rules coordinator				PROP	93-01-165
State Environmental Policy Act				PERM	93-06-001
compliance	PROP	93-09-070			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Fort Worden fees	PERM	93-01-029	Position allocations and reallocations	PROP	93-04-097
Marine facilities				PROP	93-08-046
marine trail camping areas	PROP	93-01-165	Probationary periods	PROP	93-10-026
	PERM	93-06-001		PROP	93-06-079
moorage fees and permits	PROP	93-01-165	Qualifications for a job class	PROP	93-09-058
	PERM	93-06-001	preponderance concept	PROP	93-12-100
	PERM	93-08-025	Reduction in force		
	EMER	93-10-060	guidelines and procedures	PROP	93-02-036
Marine trail camping areas	PROP	93-01-165		PROP	93-04-099
	PERM	93-06-001		PROP	93-08-045
Rules coordinator	MISC	93-08-061	reasons, regulations, and procedure	PROP	93-09-060
Senior citizens, off-season pass	PROP	93-01-165	transition pool	EMER	93-09-003
	PERM	93-06-001		PROP	93-09-057
	PERM	93-08-025	Referrals		
	EMER	93-10-060	name removal for cause	PERM	93-02-040
			Registers		
PENINSULA COLLEGE			designations	PROP	93-08-042
Meetings	MISC	93-03-075		PERM	93-12-088
			disqualification	PERM	93-02-040
PERSONNEL APPEALS BOARD			name removal for cause	PERM	93-02-040
Meetings	MISC	93-06-085	protest process	PERM	93-02-040
Rules coordinator	MISC	93-01-098	Rules coordinator	MISC	93-08-031
			Salary schedule		
PERSONNEL, BOARD AND DEPARTMENT			exchange time	PROP	93-02-035
Absences			overtime	PROP	93-02-035
partial day, exceptions work period	PROP	93-02-037	reduction in salary	PROP	93-02-035
	PERM	93-06-081	wage and hour records	PROP	93-02-035
Affirmative action program			Y-rate, administration	PROP	93-08-044
department responsibilities	PROP	93-12-100	Seasonal career employment	PERM	93-12-087
testing, qualifications	PROP	93-12-100		PROP	93-08-042
Allocation or reallocation			Shift premium provisions and	PERM	93-12-088
determination review request	PROP	93-08-043	compensation	PROP	93-02-039
	PROP	93-12-083		PROP	93-06-080
Applicants				PROP	93-09-059
disqualification	PERM	93-02-040	Sick leave	PERM	93-12-086
	PROP	93-08-047	usage	PROP	93-08-072
	PERM	93-12-085		PROP	93-12-084
name removal for cause	PERM	93-02-040	Suspension	PROP	93-02-035
protest process	PERM	93-02-040	Vacation leave		
Certification			usage	PROP	93-12-084
disqualification	PERM	93-02-040			
name removal for cause	PERM	93-02-040	PIERCE COLLEGE		
notification process	PROP	93-12-102	Meetings	MISC	93-03-014
protest process	PERM	93-02-040		MISC	93-06-026
qualification verification	PROP	93-12-101	Rules coordinator	MISC	93-01-046
referral process guidelines	PROP	93-02-038			
	PROP	93-06-077	PILOTAGE COMMISSIONERS, BOARD OF		
	PERM	93-08-048	Exempt vessels	PROP	93-04-110
Compensatory time				PERM	93-07-077
usage	PROP	93-08-072	Pilot licenses		
	PROP	93-12-084	limitations on new pilots	PROP	93-06-052
Demotion	PROP	93-02-035		EMER	93-06-012
Disability			renewal or reinstatement	PERM	93-09-016
reasonable accommodation	PROP	93-02-041		PROP	93-04-109
	PROP	93-04-098	Pilotage tariff rates	PERM	93-07-076
	PROP	93-06-078	Grays Harbor district	PROP	93-03-001
	PROP	93-07-054		PERM	93-03-080
	PROP	93-10-027	Puget Sound district	PROP	93-10-102
separation	PROP	93-02-041		PROP	93-08-027
	PROP	93-04-098	Rules coordinator	PROP	93-12-009
	PROP	93-06-078		PERM	93-12-133
	PROP	93-07-054		MISC	93-03-021
	PROP	93-10-027	POLLUTION LIABILITY INSURANCE AGENCY		
Essential functions, defined	PROP	93-04-097	Underground storage tank community		
	PROP	93-08-046	assistance program		
	PROP	93-10-026	grants to tank owners or operators	PROP	93-01-139
	PROP	93-10-028		PERM	93-04-041
Leave without pay					
usage	PROP	93-08-072			
	PROP	93-12-084			
Partial day absence, exceptions					
work period	PROP	93-02-037			
	PERM	93-06-081			

Subject/Agency Index
(Citation in **bold type** refer to material in this issue)

PUBLIC DISCLOSURE COMMISSION

Advertising, political			
political party identification	PROP	93-12-035	
sponsor identification	PROP	93-12-034	
Agent, definition	PROP	93-12-019	
Aggregate, definition	PROP	93-12-024	
Brief enforcement hearings	PROP	93-09-001	
	PROP	93-10-050	
Candidate, definition	PROP	93-12-020	
Consumable, definition	PROP	93-12-021	
Contribution, definition	PROP	93-12-022	
Contributions			
earmarked contributions, use	PROP	93-12-028	
encouraging expenditures to avoid			
contributions, result	PROP	93-12-025	
forms for reporting	PROP	93-04-127	
	PERM	93-09-002	
identification of source	PROP	93-01-135	
	EMER	93-01-136	
	PERM	93-04-072	
Exempt activities, definition			
and reporting	PROP	93-12-046	
in-kind contributions and expenditures	PROP	93-12-026	
limitations	PROP	93-12-018	
	PROP	93-12-029	
receipt of campaign contributions	PROP	93-12-023	
uncertain origin, contributions of	PROP	93-12-030	
Loans	PROP	93-12-031	
Meetings	MISC	93-10-048	
Political advertising			
political party identification	PROP	93-12-035	
sponsor identification	PROP	93-12-034	
Registration statements			
forms	PROP	93-10-049	
	EMER	93-10-051	
Rules coordinator	MISC	93-08-002	
Same office last sought, definition	PROP	93-12-032	
Surplus funds			
transfers	PROP	93-12-033	
use in future	PROP	93-12-027	

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Rules coordinator	MISC	93-09-004	
-------------------	-------------	-----------	--

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Allocations, 1991-93			
redirection of apportionment	PERM	93-04-054	
Basic education allocations			
redirection of apportionment	PERM	93-04-054	
Early intervention services	PROP	93-07-046	
	PROP	93-07-047	
	PROP	93-07-048	
	PERM	93-12-015	
	PERM	93-12-016	
	PERM	93-12-017	
Educational excellence award	PERM	93-08-005	
Even start project	EMER	93-08-037	
Fair start program			
allocation of moneys	PROP	93-07-048	
	PERM	93-12-016	
policies and procedures	PROP	93-07-046	
	PERM	93-12-017	
Project even start	PROP	93-11-033	
Public records, availability	PROP	93-03-002	
	PERM	93-07-039	
School buses			
depreciation allocation calculation	PROP	93-09-019	
stopping on the roadway	PROP	93-01-086	
	PERM	93-05-023	
School district budgeting			
documents required	PROP	93-11-034	
Teacher assistance program	PROP	93-02-017	
	PERM	93-07-037	

PUBLIC WORKS BOARD (See COMMUNITY DEVELOPMENT, DEPARTMENT OF)

PUGET SOUND AIR POLLUTION CONTROL AGENCY

Asbestos control standards			
application requirements and fees	PROP	93-12-094	
definitions	PROP	93-12-094	
emission control	PROP	93-12-094	
Asbestos removal projects			
fees	PERM	93-06-002	
requirements	PERM	93-06-002	
Asbestos-containing material			
handling procedures	PERM	93-06-002	
removal certification	PERM	93-06-002	
Clean Air Act			
civil penalties	PROP	93-12-132	
construction review, fees	PROP	93-12-132	
oxygenated gasoline, surcharge	PROP	93-12-132	
registration and operating permits, fees	PROP	93-12-132	
fees	PERM	93-04-086	
Fees			
Outdoor fires			
prohibited types and areas	PROP	93-08-020	
	PERM	93-11-071	
variances from regulation	PERM	93-04-086	

PUGET SOUND WATER QUALITY AUTHORITY

Meetings	MISC	93-02-051	
	MISC	93-10-014	

RENTON TECHNICAL COLLEGE

Board of trustees	PROP	93-09-031	
Debts, services withheld for outstanding	PROP	93-09-035	
Discrimination policies and procedures	PROP	93-09-043	
Facilities, guidelines for use	PROP	93-09-039	
Faculty			
tenure, dismissal, and reduction in force	PROP	93-09-045	
Finance aid	PROP	93-09-036	
Library resource center policies	PROP	93-09-040	
Meetings	MISC	93-01-120	
Organization and operation	PROP	93-09-037	
Parking and traffic	PROP	93-09-033	
Practice and procedure	PROP	93-09-032	
Public records, availability	PROP	93-09-041	
Rules coordinator	MISC	93-01-120	
	MISC	93-03-042	
	PROP	93-09-038	

State Environmental Policy Act			
compliance	PROP	93-09-044	
Students			
conduct rules	PROP	93-09-034	
records, availability	PROP	93-09-042	

RETIREMENT SYSTEMS, DEPARTMENT OF

Adjudicative proceedings	PROP	93-08-054	
	PERM	93-11-079	
Law enforcement officer's and fire fighters' retirement system			
members elected to public office	PROP	93-08-053	
	PERM	93-11-078	
Public employees' retirement system			
unions as employers	PROP	93-08-052	
	PERM	93-11-077	
Teachers' retirement system			
part-time teachers, determination of pension benefits	PROP	93-08-051	

REVENUE, DEPARTMENT OF

Assessment roll corrections	PROP	93-05-015	
	PERM	93-08-050	
Business and occupation tax			
dunnage, sale of	PROP	93-12-113	
jewelry repair shops	PERM	93-03-005	

INDEX

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

meals, sale of	PROP 93-07-069	Investment board	MISC 93-09-015
	PROP 93-07-070	Judicial conduct, commission on	MISC 93-01-041
County boards of equalization		Licensing, department of	MISC 93-01-092
jurisdiction and authority	PROP 93-05-015	Liquor control board	MISC 93-02-032
	PERM 93-08-050	Lottery commission	MISC 93-07-015
Excise tax		Marine safety, office of	MISC 93-03-022
assessments		Natural resources, department of	MISC 93-01-114
statutory limitations	PERM 93-03-004	Personnel appeals board	MISC 93-01-098
interstate motor carriers	PROP 93-02-047	Parks and recreation commission	MISC 93-08-061
packing materials and containers	PROP 93-12-111	Personnel, department of	MISC 93-08-031
public utility tax, deductions	PROP 93-04-045	Pierce College	MISC 93-01-046
	PERM 93-07-066	Pilotage commissioners, board of	MISC 93-03-021
refunds for overpayment	PERM 93-04-077	Public disclosure commission	MISC 93-08-002
sales of heat	PROP 93-01-102	Public employment relations commission	MISC 93-09-004
Property tax		Public works board	MISC 93-04-104
agricultural land valuation	PROP 93-04-020	Renton Technical College	MISC 93-01-120
	PERM 93-07-067		MISC 93-03-042
	EMER 93-04-021		PROP 93-09-038
credit against timber excise tax	PROP 93-09-029	Revenue, department of	MISC 93-01-049
forest land values	PERM 93-02-024	Shoreline Community College	MISC 93-02-026
new construction, assessment	PROP 93-05-016	Tax appeals, board of	MISC 93-01-054
	PERM 93-08-049	Transportation commission	MISC 93-02-027
real property, definition	PROP 93-05-016	Transportation, department	MISC 93-02-043
	PERM 93-08-049	Transportation improvement board	MISC 93-05-011
refunds, rate of interest	PROP 93-03-024	University of Washington	MISC 93-04-042
	EMER 93-03-025	Utilities and transportation commission	MISC 93-01-038
	PERM 93-06-096	Washington State University	MISC 93-04-010
Rules coordinator	MISC 93-01-049	Wildlife, department of	MISC 93-05-001
Sales tax		Workforce training and education	
dunnage, sale of	PROP 93-12-113	coordinating board	PROP 93-02-045
labels, name plates, tags, and premiums	PROP 93-12-112		
meals, sale of	PROP 93-07-069	SEATTLE COMMUNITY COLLEGES	
	PROP 93-07-070	Meetings	MISC 93-01-028
			MISC 93-01-096
optometrists, ophthalmologists,			MISC 93-01-097
and ocularists	PROP 93-12-114		MISC 93-05-026
schools, school districts, and			MISC 93-06-035
educational institutions	PROP 93-12-115		MISC 93-07-057
Tax appeals, board of			MISC 93-10-031
direct appeals	PROP 93-05-015		
	PERM 93-08-050		
Tax registration	PROP 93-02-046	SECRETARY OF STATE	
	PROP 93-08-013	Archives and records management, division of	
Timber excise tax		public records management	PERM 93-04-001
personal property tax credit	PROP 93-09-029	state agency records officers, duties	PERM 93-04-001
stumpage values	PERM 93-02-025	state archivist, duties	PERM 93-04-001
	PROP 93-07-068	state records committee, duties	PERM 93-04-001
	PROP 93-10-091		
	PROP 93-11-081	SHORELINE COMMUNITY COLLEGE	
RULES COORDINATORS		Meetings	MISC 93-06-028
Agriculture, department of	MISC 93-11-100	Parking and traffic	PERM 93-02-063
Attorney general's office	MISC 93-12-130	Rules coordinator	MISC 93-02-026
Bellevue Community College	MISC 93-05-051		
Bellingham Technical College	MISC 93-05-018	SKAGIT VALLEY COLLEGE	
Blind, Washington state school for the	MISC 93-01-118	Meetings	MISC 93-02-006
Building code council	MISC 93-05-025		MISC 93-07-024
Central Washington University	MISC 93-01-095		
Centralia College	MISC 93-06-084	SOCIAL AND HEALTH SERVICES,	
Clark College	MISC 93-02-005	DEPARTMENT OF	
Code reviser's office	MISC 93-01-001	Adoption support program	
Community development, office of	MISC 93-04-104	definitions	EMER 93-03-081
Corrections, department of	MISC 93-08-014		PROP 93-03-082
County road administration board	MISC 93-02-059		PERM 93-07-030
Deaf, Washington school for the	MISC 93-01-129	Aging and adult services	
Ecology, department of	MISC 93-01-087	assessment and service plan develop-	
Employment security department	MISC 93-01-167	ment	PROP 93-01-030
	MISC 93-05-008		PROP 93-04-023
Fisheries, department of	MISC 93-05-014		PERM 93-06-042
Gambling commission	MISC 93-04-084	chore personal care services	PROP 93-01-031
General administration, department of	MISC 93-07-084		PERM 93-04-036
Health care authority	MISC 93-08-019	Medicaid personal care services	PROP 93-07-071
Health, department of	MISC 93-01-050		PERM 93-10-023
Horse racing commission	MISC 93-09-051	nursing home accounting and reimbursement	
Indeterminate sentence review board	MISC 93-03-077	system	PROP 93-08-065
Insurance commissioner, office of	MISC 93-01-022		PROP 93-12-048
			PERM 93-12-051

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Aid to families with dependent children			Family independence program		
alien sponsorship, income and resources	PROP	93-04-026	conversion of enrollees to aid to families with dependent children recipients	PROP	93-03-055
	PERM	93-07-032		PROP	93-03-056
benefits	PROP	93-03-059		PROP	93-03-057
	PERM	93-12-058		PROP	93-03-058
earned income exemption	PROP	93-03-057		PROP	93-03-059
	PERM	93-12-057		PERM	93-12-055
eligibility	PROP	93-03-056		PERM	93-12-056
	PERM	93-12-056		PERM	93-12-057
employable				PERM	93-12-058
unemployment of parent	PROP	93-03-055		PERM	93-12-060
	PERM	93-12-055	medical assistance extensions	PERM	93-01-034
income disregard	PROP	93-04-027	meetings	MISC	93-01-023
	PERM	93-07-031	personal property exemption	PROP	93-05-004
income exemption	PROP	93-04-035		PERM	93-07-126
	PERM	93-07-034	unemployment of parent	PROP	93-03-055
income use and potentials	PROP	93-07-072		PERM	93-12-055
	PERM	93-10-022	Food stamp program		
medical assistance extensions	PERM	93-01-034	benefits, continuation pending fair hearing	PERM	93-04-034
personal property exemption	PROP	93-05-004	coupons, issuance and use	PERM	93-04-069
	PERM	93-07-126		EMER	93-11-029
Alcohol and substance abuse, division of chemical dependency services administration	EMER	93-11-050	denial of benefits	PROP	93-11-030
	EMER	93-11-051		PROP	93-07-075
	PROP	93-11-052	disabled persons, eligibility	PROP	93-10-019
	PROP	93-11-053		PROP	93-08-038
Child care				PROP	93-08-039
background inquiries	PROP	93-07-035		PROP	93-08-040
	PROP	93-10-018		PERM	93-11-041
	PROP	93-12-096	hearing, benefits continuation pending fair hearing	PERM	93-11-042
health and safety standards	PROP	93-07-018	law enforcement	PERM	93-11-043
	EMER	93-07-019	coupon issuance for investigative purposes	EMER	93-11-029
	PERM	93-10-021		PROP	93-11-030
overnight youth shelters			Funeral and interment services		
licensing requirements	PROP	93-05-031	assistance program	EMER	93-11-083
	PROP	93-08-009		PROP	93-11-084
	PROP	93-10-020	available services	PROP	93-02-018
	PROP	93-12-095		EMER	93-02-021
school-age child care centers			maximum cost standards	PERM	93-05-021
licensing requirements	PERM	93-02-020		PROP	93-02-018
transitional child care	PROP	93-07-073		EMER	93-02-021
	PERM	93-12-059	General assistance	PERM	93-05-021
Child protective services			alien sponsorship, income and resources	PROP	93-04-026
authority limitations	PROP	93-10-093	eligibility	PROP	93-08-064
eligibility for services	PROP	93-10-093		PROP	93-12-049
reports, acceptance	PROP	93-10-093	general assistance-unemployable program		
Children, youth, and family services, division of			eligibility	PROP	93-01-056
complaint procedure	PROP	93-09-018		PROP	93-04-025
	PERM	93-12-053		PERM	93-06-073
overnight youth shelters, licensing requirements	PROP	93-05-031		PROP	93-08-074
	PROP	93-08-009		PROP	93-12-050
	PROP	93-10-020	income disregard	PROP	93-04-027
	PROP	93-12-095	personal property exemption	PROP	93-05-004
Community options program entry system (COPES)				PERM	93-07-126
eligibility	PROP	93-07-123	pregnant women, eligibility	PROP	93-08-064
	PERM	93-11-044		PROP	93-08-049
	PROP	93-11-085	standards of assistance	PROP	93-09-017
payment procedures	PROP	93-11-085		PERM	93-12-052
restrictions	PROP	93-11-085	Income assistance		
services	PROP	93-11-085	prospective budgeting, changes	PROP	93-11-024
Developmentally disabled residential programs			standards of assistance	PROP	93-01-143
staffing requirements	PROP	93-01-003		PERM	93-04-030
	PERM	93-04-029	United States repatriate program	PROP	93-08-075
Diversity initiative, department intent	PROP	93-01-125	Job opportunities and basic skills training program (JOBS)		
	PERM	93-04-037	employability plans	PROP	93-03-058
Domestic violence perpetrator program standards	PROP	93-06-082		PERM	93-12-060
	PERM	93-10-024			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

supportive services	PROP 93-07-073	medically needy	
	PERM 93-12-059	eligibility	EMER 93-04-087
transitional child care	PROP 93-07-073		PROP 93-04-090
	PERM 93-12-059		PERM 93-07-028
Medical assistance		limited casualty program, base	
aliens, newly legalized	PROP 93-06-009	period	EMER 93-04-088
	EMER 93-06-010		PROP 93-04-089
	PERM 93-08-111		PERM 93-07-125
audiometric services	PROP 93-03-034	scope of care	PERM 93-01-044
	PERM 93-06-039	Medicare cost sharing, eligibility	PROP 93-01-032
availability of income	PERM 93-01-037		EMER 93-02-019
	PROP 93-03-026		PERM 93-04-024
	PROP 93-03-027		PROP 93-08-022
	EMER 93-03-028		EMER 93-08-023
	EMER 93-03-029	midwife services and payment	PERM 93-02-001
	PERM 93-06-038	nursing facility operated by fraternal,	
	PERM 93-06-041	religious, or benevolent organization	
categorically needy, eligibility	PROP 93-01-002	client eligibility	PROP 93-06-040
	PERM 93-04-033		PROP 93-08-113
community alternatives program (CAP)		outward bound residential alternatives	
eligibility	PROP 93-07-123	(OBRA)	
	PERM 93-11-044	eligibility	PROP 93-07-123
community options program entry system			PERM 93-11-044
(COPEs)		patient requiring regulation in use	
eligibility	PROP 93-07-123	of services	PROP 93-07-124
	PERM 93-11-044		PERM 93-11-047
coordinated community AIDS service		prosthetic/orthotic devices	PROP 93-01-024
alternatives (CASA)			PROP 93-02-034
eligibility	PROP 93-07-123		PROP 93-05-019
	PERM 93-11-044		PROP 93-08-021
dentures	PROP 93-08-006	provider enrollment, eligibility	EMER 93-08-024
	PERM 93-11-048		PROP 93-07-122
durable medical equipment	PROP 93-01-024	relative financial responsibility	PERM 93-11-045
	PROP 93-02-034		
	PROP 93-05-019	school medical services for special	
eligible providers defined	PROP 93-08-021	education students	PERM 93-01-044
	EMER 93-08-024	services not covered	PROP 93-07-074
	PERM 93-11-046	special low-income medicare benefi-	
exempt resources	PROP 93-03-026	ciaries	PROP 93-01-032
	EMER 93-03-028		PERM 93-04-024
	PERM 93-06-038		EMER 93-02-019
	EMER 93-06-053	Nursing homes	
	PROP 93-06-054	accounting and reimbursement system	PROP 93-08-065
	PERM 93-08-112		PROP 93-12-048
extensions	PERM 93-01-034		PERM 93-12-051
	PROP 93-11-067	Repatriate program	PROP 93-08-075
			PERM 93-12-054
hospital inpatient services		Shelters	
payment rate	PERM 93-01-035	overnight youth shelters, licensing	
income, eligibility	PROP 93-03-026	requirements	PROP 93-05-031
	EMER 93-03-028		PROP 93-08-009
institutionalized client, allocation of			PROP 93-10-020
income and resources	PROP 93-03-027		PROP 93-12-095
	EMER 93-03-029	Standards of assistance	
	PERM 93-06-041	basic requirements	EMER 93-02-002
	PROP 93-08-022	Support enforcement, office of	
	EMER 93-08-023	child support obligations	PROP 93-01-085
	PERM 93-11-049		PERM 93-05-020
institutionalized client,		conference board	PROP 93-01-085
availability of resources	EMER 93-04-031		PERM 93-05-020
	PROP 93-04-032	confidentiality	PROP 93-01-085
	PERM 93-07-029		PERM 93-05-020
limits on scope of services	PROP 93-07-074	enforcement	PROP 93-01-085
	PROP 93-10-017		PERM 93-05-020
	PROP 93-11-009	responsibilities of office	PROP 93-01-085
	PERM 93-11-086		PERM 93-05-020
Medicaid		Time-loss compensation	
eligibility	PROP 93-03-060	attorney's fees, allowable	PROP 93-01-012
	EMER 93-03-061		PERM 93-04-028
	PERM 93-06-037	calculation of lien	PROP 93-01-012
	PROP 93-08-022		PERM 93-04-028
	EMER 93-08-023		
medical care programs		SOUTH PUGET SOUND COMMUNITY COLLEGE	
payment conditions	PERM 93-01-036	Meetings	MISC 93-05-033
			MISC 93-11-031
			MISC 93-11-037

Subject/Agency Index
(Citation in **bold type** refer to material in this issue)

SOUTHWEST AIR POLLUTION CONTROL AUTHORITY

Air contaminant sources
implementation of regulations PROP 93-10-089
Appeals PROP 93-10-085
Asbestos control standards PROP 93-10-086
Board members PROP 93-10-085
Bubble rules PROP 93-10-083
Compliance
public involvement PROP 93-10-084
schedules PROP 93-10-084
variances PROP 93-10-084
Definitions PROP 93-10-079
Deterioration prevention PROP 93-10-083
Emission reduction credits PROP 93-10-083
Emission standards PROP 93-10-078
PROP 93-10-080
enforcement and penalties PROP 93-10-085
Meetings MISC 93-02-062
New sources
performance standards PROP 93-10-078
PROP 93-10-082
review PROP 93-10-082
Open fires PROP 93-10-085
Operating permit program PROP 93-10-074
PROP 93-10-075
PROP 93-10-076
PROP 93-10-087
Oxygenated fuels regulation
Petroleum contaminated soil
volatile organic emissions PROP 93-10-088
PROP 93-10-077
PROP 93-10-081
Records, monitoring, and reporting PROP 93-10-081
Registration of sources PROP 93-10-081
exemptions PROP 93-10-081
Regulations, implementations PROP 93-10-089
Startup and shutdown PROP 93-10-081

SPOKANE, COMMUNITY COLLEGES OF

Meetings MISC 93-01-047

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

Grass field burning PROP 93-07-088
PERM 93-11-036

STATE EMPLOYEES BENEFITS BOARD

Meetings MISC 93-07-064

SUPREME COURT

Character and fitness committee
recommendations PERM 93-07-027
Pleas
written statement (CrR 4.2(g)) PERM 93-07-026

TACOMA COMMUNITY COLLEGE

Discrimination PERM 93-03-078
Grievance procedure PERM 93-03-078
Meetings MISC 93-01-072
MISC 93-05-050
MISC 93-10-010

TAX APPEALS, BOARD OF

Meetings MISC 93-01-055
Rules coordinator MISC 93-01-054

TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Community economic revitalization board
meetings MISC 93-02-003
MISC 93-09-021
MISC 93-11-054

Hardwoods commission
assessments
payment and collection

PROP 93-07-038
PROP 93-09-049
PROP 93-09-053
MISC 93-08-015
MISC 93-11-058
PROP 93-07-038
PROP 93-09-049
PROP 93-09-053

meetings

report form

TRAFFIC SAFETY COMMISSION

Meetings MISC 93-02-029
MISC 93-05-012

TRANSPORTATION COMMISSION

Meetings MISC 93-01-123
MISC 93-04-055
MISC 93-06-024
MISC 93-07-095
MISC 93-09-056
MISC 93-12-037
MISC 93-02-027

Rules coordinator

TRANSPORTATION, DEPARTMENT OF

Building or house moves on highways PROP 93-01-011
PERM 93-04-071

Ferries

preferential loading PROP 93-08-012
PROP 93-09-048

Highway access management
access control classification system and
standards

PERM 93-03-033

Highway construction

prequalification of contractors PERM 93-03-020
Pavement edge lines PROP 93-01-076
PROP 93-07-055
PROP 93-10-068
MISC 93-02-043
PROP 93-01-076
PROP 93-07-055
PROP 93-10-068

Rules coordinator
Stop line locations

TRANSPORTATION IMPROVEMENT BOARD

Meetings MISC 93-03-016
MISC 93-07-013
MISC 93-08-063
MISC 93-11-035
MISC 93-05-011

Rules coordinator

UNIVERSITY OF WASHINGTON

Meetings MISC 93-01-083
MISC 93-02-007
MISC 93-03-010
MISC 93-03-011
MISC 93-03-012
MISC 93-03-013
MISC 93-03-036
MISC 93-03-037
MISC 93-03-038
MISC 93-03-043
MISC 93-03-044
MISC 93-03-045
MISC 93-03-050
MISC 93-03-051
MISC 93-03-054
MISC 93-03-068
MISC 93-03-069
MISC 93-03-070
MISC 93-03-071
MISC 93-03-072
MISC 93-03-073
MISC 93-04-011
MISC 93-04-012
MISC 93-04-013

INDEX

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	MISC	93-04-056	Pole trailers, load fastening devices	PROP	93-05-028
	MISC	93-04-057		PERM	93-11-017
	MISC	93-04-058	Sirens, standards	PROP	93-05-029
	MISC	93-04-067		PERM	93-11-018
	MISC	93-04-068	Vehicle identification numbers	PROP	93-10-002
	MISC	93-05-034			
	MISC	93-07-065			
	MISC	93-09-006	WASHINGTON STATE UNIVERSITY		
	MISC	93-09-009	Meetings	MISC	93-11-080
	MISC	93-09-012	Rules coordinator	MISC	93-04-010
Parking and traffic	PROP	93-08-110			
Rules coordinator	MISC	93-04-042			
USURY RATES			WESTERN WASHINGTON UNIVERSITY		
(See inside front cover)			Firearms and dangerous weapons	PERM	93-01-080
			Smoking on campus	PERM	93-01-080
UTILITIES AND TRANSPORTATION			WHATCOM COMMUNITY COLLEGE		
COMMISSION			Meetings	MISC	93-01-060
Adoption by reference					
definitions	PROP	93-11-099			
Auto transportation companies			WILDLIFE, COMMISSION AND DEPARTMENT		
certificates	PROP	93-11-096	Dogs pursuing or attacking deer or elk,		
Limousine charter party carriers			capture or destruction authorized	EMER	93-04-083
certificates	PROP	93-11-096	Firearm restriction areas	PROP	93-06-062
Log trucks, tie down requirements	PERM	93-05-038		PERM	93-11-011
Meetings	MISC	93-01-039	Fishing		
Motor vehicles			free fishing weekend	PROP	93-06-017
identification markings	PROP	93-11-097	game fish classification	PERM	93-10-054
Pole trailers, tie down requirements	PERM	93-05-038		PROP	93-06-019
Rule book			game fish seasons and catch limits, 1992-94	PROP	93-06-020
compliance with rules	PROP	93-11-098	Blue Lake	PERM	93-10-011
Rules coordinator	MISC	93-01-038	Caliche Lake	PERM	93-10-012
Tariffs			channel catfish	PERM	93-04-051
fees	PROP	93-11-098	Coldwater Lake	PROP	93-03-015
Telecommunications				PERM	93-04-046
accounting standards, adoption of			Dungeness River	PROP	93-06-022
FCC standards	PROP	93-02-068	Gissberg Ponds	PERM	93-10-053
mandatory cost changes	PERM	93-07-089	Green River	PERM	93-04-053
quality of service	PERM	93-09-050		PROP	93-04-046
	PROP	93-01-027	Mayfield Lake	PROP	93-06-057
	PROP	93-01-152	Newman Lake	PERM	93-10-056
	PERM	93-06-055	Pipers Creek	PERM	93-04-052
reverse data searches of			Spokane River	PERM	93-04-047
E-911 information	PROP	93-05-013		PERM	93-04-050
	PERM	93-11-026		PERM	93-04-049
Water companies			Tucannon River	PROP	93-06-021
customer revenue jurisdictional			Yale Reservoir	PERM	93-10-055
threshold	PROP	93-06-056	steelhead	EMER	93-12-002
	PERM	93-12-062		PERM	93-04-048
public records, availability	PROP	93-06-056	northern squawfish sport-reward fishery	EMER	93-03-039
	PERM	93-12-062		EMER	93-06-061
				PROP	93-06-018
VOCATIONAL EDUCATION, COUNCIL ON				PERM	93-06-019
Meetings	MISC	93-11-059		PERM	93-10-012
				PERM	93-10-013
VOLUNTEER FIREFIGHTERS, BOARD FOR			Game		
Meetings	MISC	93-08-035	dead nonresident wildlife		
			importation and retention prohibited	PERM	93-04-040
WALLA WALLA COMMUNITY COLLEGE			deleterious exotic wildlife		
Meetings	MISC	93-01-059	designation	PERM	93-04-039
			possession, transfer, or release		
WASHINGTON STATE LIBRARY			prohibited	PERM	93-04-039
Library commission			protective measures for wildlife		
meetings	MISC	93-01-053	in captivity	PERM	93-04-039
	MISC	93-05-027	endangered and threatened species		
	MISC	93-05-030	recovery plan	PROP	93-06-016
	MISC	93-11-055	possession, transfer, or release		
	MISC	93-12-036	of certain wildlife species	PERM	93-04-039
				PERM	93-04-038
WASHINGTON STATE PATROL			retention of game	PERM	93-04-075
Board			Game management units		
responsibilities and functions	PROP	93-10-001	boundary description	PROP	93-06-074
Log trucks, load fastening devices	PROP	93-05-028	Hunting restrictions	PERM	93-04-074
	PERM	93-11-017	Hunting seasons		
			closure areas, 1993-94	PROP	93-06-062
				PERM	93-11-011

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

deer and bear, 1993-94	PROP	93-06-064
	PERM	93-11-016
deer and elk, 1993-94	PROP	93-06-063
	PERM	93-11-012
elk, 1993-94	PROP	93-06-059
	PROP	93-06-063
	PERM	93-11-012
	PERM	93-11-015
firearm restrictions, 1993-94	PROP	93-06-062
	PERM	93-11-011
migratory waterfowl, 1992-93	EMER	93-01-100
small game, 1993-94	PROP	93-06-058
	PERM	93-11-014
special species, 1993-94	PROP	93-06-060
	PERM	93-11-013
Rules coordinator	MISC	93-05-001
Wildlife		
dead nonresident wildlife		
importation and retention		
prohibited	PERM	93-04-040
deleterious exotic wildlife		
designation	PERM	93-04-039
possession, transfer, or release		
prohibited	PERM	93-04-039
protective measures for wildlife		
in captivity	PERM	93-04-039
possession, transfer, or release of		
certain wildlife species	PERM	93-04-038
	PERM	93-04-039
Wildlife rescue coalition		
meetings	MISC	93-01-093
WINE COMMISSION		
(See AGRICULTURE, DEPARTMENT OF)		
WORKFORCE TRAINING AND EDUCATION		
COORDINATING BOARD		
Meetings	MISC	93-01-101
	PROP	93-02-045
	MISC	93-02-060
	MISC	93-04-066
	MISC	93-04-093
	PERM	93-06-005
	MISC	93-07-058
	MISC	93-10-052
Organization	PROP	93-02-045
	PERM	93-06-005
Practice and procedure	PROP	93-02-045
	PERM	93-06-005
Public records, availability	PROP	93-02-045
	PERM	93-06-005
Rules coordinator	PROP	93-02-045
	PERM	93-06-005
Vocational schools, private		
nondegree programs	PROP	93-02-044
	PERM	93-06-006
YAKIMA VALLEY COMMUNITY COLLEGE		
Facilities, guidelines for use	PROP	93-12-099
Meetings	MISC	93-03-018

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