

# Washington State Register

**MARCH 2, 1994**

**OLYMPIA, WASHINGTON**

**ISSUE 94-05**



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filed not later than March 22, 1994

## 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

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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

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## 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 March 1994 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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# WASHINGTON STATE REGISTER

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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 OF 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].

**1993 - 1994**

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> 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>
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
94-01	Nov 24	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 25
94-02	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 8
94-03	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 2	Feb 22
94-04	Jan 5	Jan 19	Feb 2	Feb 16	Mar 8
94-05	Jan 19	Feb 2	Feb 16	Mar 2	Mar 22
94-06	Feb 2	Feb 16	Mar 2	Mar 16	Apr 5
94-07	Feb 23	Mar 9	Mar 23	Apr 6	Apr 26
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94-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
94-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
94-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1995

<sup>1</sup>All 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.

<sup>2</sup>A 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.

<sup>3</sup>At 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;

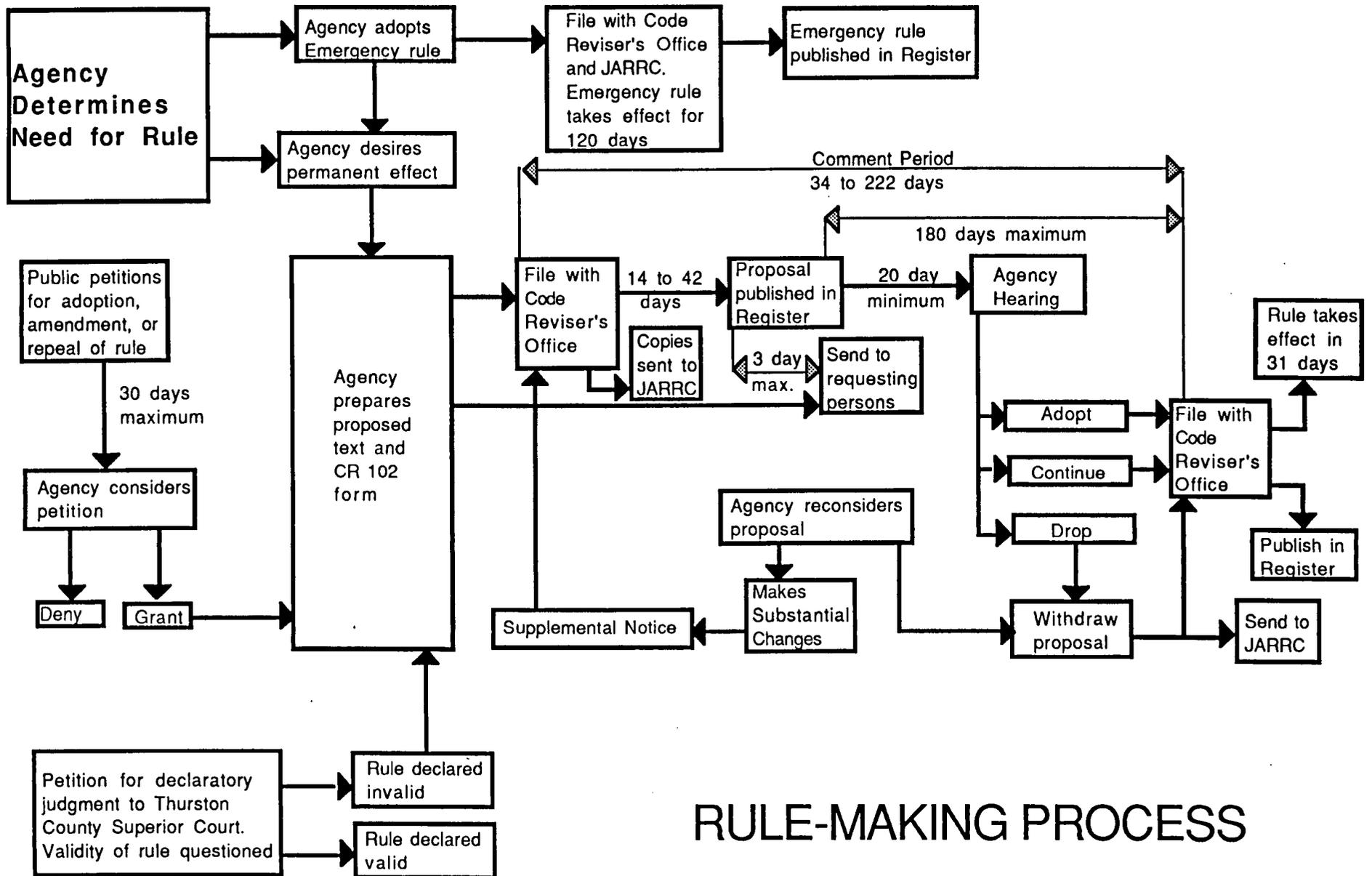
There is no economic impact on business;

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 94-05-012**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed February 4, 1994, 12:05 p.m.]

Original Notice.

Title of Rule: Determination of employee status.

Purpose: To codify the factors considered by the department in determining whether a worker is an independent contractor or an employee subject to retirement system membership.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.40.023 and 41.32.010(26).

Summary: Factors considered by the department in determining employee status.

Reasons Supporting Proposal: Provide guidance to employers and members/retirees for determining whether a particular employment relationship constitutes employer/employee or independent contractor status.

Name of Agency Personnel Responsible for Drafting: Paul Neal and Marc Medeiros, Olympia, Washington, (206) 586-3368; Implementation and Enforcement: Jerry Long, Olympia, Washington, (206) 753-3108.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules clarify factors the department analyzes to determine whether a worker is an employee or independent contractor. To provide guidance to members and employers concerning the department's analysis in determining employee status.

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 Retirement Systems, 1025 East Union Avenue, 2nd Floor Boardroom, Olympia, WA 98504-8380, on April 8, 1994, at 4:00 - 5:00 p.m.

Submit Written Comments to: Paul Neal, Department of Retirement Systems, by April 1, 1994.

Date of Intended Adoption: April 11, 1994.

February 2, 1994

Paul Neal

Rules Coordinator

AMENDATORY SECTION (Amending Order 4, filed 7/27/77)

**WAC 415-02-030 Definitions.** ((+)) Unless the context requires otherwise, the following terms shall have the meanings established below:

((1)) "Department" means the department of retirement systems-

(2) "Director" means the director of retirement systems-

(3) "Clerk" means the director, any assistant director of the department of retirement systems, or the confidential secretary to the director of retirement systems, when used in reference to requests, submittals, papers or pleadings which must be filed with the clerk of one of the retirement boards established by chapters 2.10, 41.26, 41.32, 41.40, and 43.43

RCW or the director of the department of retirement systems-

(4) "Retirement board" means either the Washington judicial retirement board, the Washington law enforcement officers' and fire fighters' retirement board, the board of trustees of the Washington state teachers' retirement system, the Washington public employees retirement board, or the Washington state patrol retirement board.

(5) "Member" means a person who is entitled to membership in one of the retirement systems created by chapters 2.10, 2.12, 41.25, 41.32, 41.40, or 43.43 RCW.

(6) "Employer" means the employer of a particular member.

(7) "Hearings examiner" or "presiding officer" means a person or persons appointed by a retirement board or the director to preside at a contested case hearing and matters related thereto.

(8) "Appeal" means the method by which a party secures a contested case hearing before a retirement board or the director subsequent an initial determination by the board or director of the legal rights, duties or privileges of the specific party.

(9) "Petition" means the method by which a party secures a review of an administrative determination by an assistant director prior to an appeal to the director.) (1) "Appeal" means the method by which a party secures a contested case hearing before a retirement board or the director subsequent to an initial determination by the board or director of the legal rights, duties or privileges of the specific party.

(2) "Clerk" means the director, any assistant director of the department of retirement systems, or the confidential secretary to the director of retirement systems, when used in reference to requests, submittals, papers or pleadings which must be filed with the clerk of one of the retirement boards established by chapters 2.10, 41.26, 41.32, 41.40, and 43.43 RCW or the director of the department of retirement systems.

(3) "Department" means the department of retirement systems.

(4) "Director" means the director of retirement systems.

(5) "Employee" under this chapter, means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(6) "Employer" means the employer of a particular member.

(7) "Hearings examiner" or "presiding officer" means a person or persons appointed by a retirement board or the director to preside at a contested case hearing and matters related thereto.

(8) "Independent contractor" under this chapter, means a worker providing services under contract to a retirement system employer for remuneration who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3). Independent contractors are ineligible to participate as members in any state-administered retirement system.

(9) "Member" means a person who is entitled to membership in one of the retirement systems created by chapter 2.10, 2.12, 41.25, 41.32, 41.40, or 43.43 RCW.

(10) "Petition" means the method by which a party secures a review of an administrative determination by an assistant director prior to an appeal to the director.

(11) "Retirement board" means either the Washington judicial retirement board, the Washington law enforcement officers' and fire fighters' retirement board, the board of trustees of the Washington state teachers' retirement system, the Washington public employees' retirement board, or the Washington state patrol retirement board.

(12) "Retirement system employer" means "employer" as defined in RCW 41.26.030(2), 41.32.010(11), or 41.40.010(4), and a "city" or "cities" as defined in RCW 41.44.030(2).

(13) "Worker" means a person who performs services for a retirement system employer either as an employee or as an independent contractor.

**NEW SECTION**

**WAC 415-02-110 Determination of employee status.**

(1) An employee of a retirement system employer, other than a teachers' retirement system plan I retiree, who otherwise meets the eligibility criteria to participate in a state-administered retirement system is required to establish or continue membership in that system. An independent contractor is not eligible for active membership in any state-administered retirement system.

(2)(a) The department will review the entire relationship between the worker and the retirement system employer in order to determine whether a worker is an independent contractor or an employee. Generally, a worker is an employee if the employing individual or entity has the right to control and direct the work of the worker, not only as to the result to be accomplished, but also as to the means or methods by which the result is accomplished.

(b) Generally, a worker is an independent contractor if the employing entity has the right to control or direct only the result of the labor or services and not the means and methods accomplishing the labor or services.

(c) Whether or not the parties intend to establish an employer-employee relationship, or whether the parties regard the worker as being an independent contractor is not controlling. When the elements of direction and control are present in determining the means and methods of performing the worker's labor or service, any disclaimers to the contrary are not binding on the department for the purpose of determining employer-employee status. The terms of the contract and the actual arrangement under which the labor or services are performed will determine whether a worker is an employee or independent contractor.

(d) In evaluating whether the retirement system employer has direction or control over the means and methods of performing the worker's labor or services, no one factor is determinative. The department will apply several factors, including but not limited to the following:

(i) Is the worker required to comply with detailed work instructions or procedures about when, where and how the worker must perform services? An employer has control if the employer requires or has the right to require the worker

to comply with instructions about the manner in which services must be performed.

(ii) Does the employing individual or entity provide free training for the worker, or have the right to train the worker? Typically, an employer would have the right to train an employee but not an independent contractor.

(iii) Are the worker's services an integral part of the employing individual's or entity's business operation? Usually the regular administrative work of a business is performed by employees rather than independent contractors. Services outside the usual course of the employer's business may imply independent contractor status.

(iv) Is the worker required to perform the labor or services personally? While employees are typically required to personally perform labor or services, independent contractors are not necessarily required to perform personally, but may subcontract part or all of the required labor or services to another party.

(v) Does the employer hire, supervise or pay others to perform the same job as the worker? Usually a person who works the same job or performs the same function as performed by employees of the employer is an employee rather than an independent contractor.

(vi) Does the worker hire, supervise and pay others on the job under a contract to furnish labor and materials? Independent contractors may or may not be responsible for performing the contracted labor or services themselves, and usually have the right to hire and terminate their own employees who perform the contracted labor or services.

(vii) Does the worker perform continuing services for the retirement system employer? Independent contractors are typically hired for a job of relatively short-term or temporary duration and do not have a continuous relationship with or perform continuing services for the employing entity.

(viii) Are the worker's hours, routine or schedule set by the employing entity? The establishment of a set routine or schedule for the worker by the employer indicates employee status. Independent contractors are typically free to set their own hours of work.

(ix) Is the worker required to devote his or her full time to the business of a single employing individual or entity? A worker who is required to work full time for a single employer is likely to be an employee. Independent contractors are usually free to provide labor or services for two or more employing entities concurrently.

(x) Does the employing individual or entity require the worker to perform labor or services on the employer's premises? The employing entity is likely to have the right of control over the worker's method of work if the work is performed solely on the employer's premises, particularly if the worker could perform the required labor or services elsewhere.

(xi) Does the employing individual or entity require the worker to perform labor or services in a set sequence? A worker is likely to be an employee if the worker must perform work in an order or sequence set by the employer.

(xii) Is the worker required to provide regular, oral or written reports to the employer? Regular reports, for example weekly time sheets, are usually required of employees as opposed to independent contractors.

(xiii) Is the worker paid by unit of time (hour, week or month)? Employees are typically paid by unit of time while

independent contractors are typically paid by the job (commission, bid, piecework or lump sum). Payment for labor or services upon completion of the performance of specific portions of a project or on the basis of an annual or periodic retainer usually indicates independent contractor status.

(xiv) Does the employing individual or entity reimburse the worker for the worker's job-related expenses? Independent contractors typically pay their own business or travel expenses; the regular expenses they incur as part of providing labor or services are generally included in the stipulated contract payment and are not reimbursed by the employing entity.

(xv) Does the worker providing labor or services furnish the tools and supplies necessary for the performance of the contracted labor or service? Generally, an employer furnishes tools and supplies for their employees while independent contractors furnish their own.

(xvi) Has the worker invested in the equipment or facilities used in performing the labor or services? A significant investment by the worker in the equipment or facilities used in performing the labor or services usually indicates independent contractor status.

(xvii) Does the worker have a right to realize a profit or have a significant risk of loss as a result of the worker's services? Having the right to a profit or the risk of loss arising from the worker's services implies independent contractor status. The worker may be presumed to have assumed the risk of loss if the worker assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors, and omissions insurance or liability insurance relating to the labor or services provided.

(xviii) Does the worker perform services for several persons or firms concurrently? Performance of services for a number of different unrelated clients indicates independent contractor status.

(xix) Does the worker offer services to the general public on a regular or consistent basis? An individual actively advertising services to the general public and representing to the public that the labor and services are to be provided by an independently established business is typically an independent contractor. The following are evidence of "actively advertising":

(A) The worker uses commercial advertising or business cards as is customary in operating a similar business, or is a member of a trade association;

(B) The worker uses a telephone listing and service for the business that is separate from the worker's personal residence listing and service.

(xx) Does the employer have the right to discharge the worker at will? An employee is typically subject to discharge or layoff at the will of the employer.

(xxi) Does the worker have the right to terminate the employment relationship without incurring liability? The right to terminate the work relationship at will usually indicates employee status.

(3) Typically, an independent contractor works for an employing individual or entity as a specialist in an independently established occupation, profession, trade or business. While the right of control over the method or means of work is determinative, the department shall also consider the following factors in evaluating independent contractor status.

The degree of importance of each factor varies depending on the labor or services to be performed and the context in which the labor or services are performed.

(a) Does the worker perform labor or services only pursuant to written contracts?

(b) Has the worker providing labor or services attained business registrations, professional occupation licenses or certificates required by state law or local government ordinances to perform the contracted labor or services?

(c) Has the worker providing labor or services:

(i) Purchased worker's compensation insurance and paid taxes required for an independent business;

(ii) Filed income tax returns in the name of an independent business; or

(iii) Filed a Schedule of Expenses for the type of business conducted or a Business Schedule C or Farm Schedule F as part of the personal income tax return for the previous year if the worker performed the labor or services as an independent contractor in previous years?

(d) Does the worker providing labor or services maintain a separate set of books or records that reflect all items of business income and expenses as an independently established business?

(e) Has the worker assumed financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors and omissions insurance or liability insurance relating to the labor or services to be provided?

(4) The burden of persuasion in claiming that a worker is an independent contractor or an employee is on the worker or employer making the claim.

**WSR 94-05-013**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
[Filed February 4, 1994, 12:07 p.m.]

Original Notice.

Title of Rule: Actuarial recomputation of Plan II member's retirement allowance following reemployment.

Purpose: To clarify the department's method of actuarially recomputing the retirement allowance of Plan II members who retire, reenter employment causing their retirement allowance to be suspended, and then retire again.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.40.690, 41.26.500, and 41.32.800.

Summary: Clarifies department's method of actuarially recomputing Plan II member's retirement allowance upon retirement following reemployment.

Reasons Supporting Proposal: Provide guidance to Plan II members regarding the department's actuarial recomputation of their retirement allowance upon retirement following reemployment.

Name of Agency Personnel Responsible for Drafting: Paul Neal and Marc Medeiros, Olympia, Washington, (206) 586-3368; Implementation and Enforcement: Jerry Long, Olympia, Washington, (206) 753-3108.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clarifies the department's method to actuarially recompute Plan II members' retirement allowances upon retirement following reemployment. Clarifies and provides guidance to members as to what the actuarially recomputed retirement allowance shall constitute.

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 Retirement Systems, 1025 East Union Avenue, 2nd Floor Boardroom, Olympia, WA 98504-8380, on April 8, 1994, at 4:00 - 5:00 p.m.

Submit Written Comments to: Paul Neal, Department of Retirement Systems, by April 1, 1994.

Date of Intended Adoption: April 11, 1994.

February 2, 1994  
Paul Neal  
Rules Coordinator

NEW SECTION

**WAC 415-108-580 Actuarial recomputation of retirement allowance upon retirement following reemployment.** (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

- (a) Include service credit the member earned following reestablishment of membership if any; and
  - (b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.
- (2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:
- (a) If the member first retired before age sixty-five, the department shall:
    - (i) Calculate the retirement allowance pursuant to RCW 41.40.620 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;
    - (ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and
    - (iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.
  - (b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.40.620 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance credit-

able to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.40.690 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

- (a) The amount of the monthly suspended retirement allowance; plus
- (b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:
  - (i) An amount amortized over the expected term of the recomputed retirement allowance; or
  - (ii) A lump sum payment equal to the suspended retirement allowance plus interest.

NEW SECTION

**WAC 415-104-111 Actuarial recomputation of retirement allowance upon retirement following reemployment.** (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

- (a) Include service credit the member earned following reestablishment of membership if any; and
  - (b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age fifty-five.
- (2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.26.500 as follows:
- (a) If the member first retired before age fifty-five, the department shall:
    - (i) Calculate the retirement allowance pursuant to RCW 41.26.420 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;
    - (ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and
    - (iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.
  - (b) If the member initially retired at or after age fifty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.26.500 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance credit-able to a month during which that individual earned service credit.
- (3) If a retiree's retirement allowance is suspended under RCW 41.26.500 due to reemployment but the retiree

does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payment the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

#### NEW SECTION

**WAC 415-112-840 Actuarial recomputation of retirement allowance upon retirement following reemployment.** (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.32.800 as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.32.760 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.32.800 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.32.800 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

**WSR 94-05-016**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed February 4, 1994, 3:26 p.m.]

Original Notice.

Title of Rule: WAC 388-28-530 Net cash income—Board, room rental, board and room.

Purpose: Amendment to rule will match food stamp program policies as closely as possible to enhance compatibility between the two programs. Identifies that operation of a board, room, or board and room establishment is self-employment income. The allowable deduction from the gross board payment is the current thrifty food plan for an assistance unit size equal to the number of boarders. Removes the \$7.50 deduction for room payments.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Removes the \$7.50 deduction for room payments because this was based on a federal rule which no longer applies to the AFDC program and authorization of expenses associated with maintaining the room as allowable deductions. Modifies current policies to resemble food stamp program policies as closely as possible to enhance compatibility between the two programs.

Reasons Supporting Proposal: Updates policies regarding the determination of net income from the operation of a board, room, or board and room operation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August [March] 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.  
 February 4, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services  
 Administrative Services Division

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

**WAC 388-28-530 Net cash income—Board, room rental, board and room.** (1) ~~The ((net)) department shall determine the adjusted gross self-employment income from ((operating)) the operation of a rooming, boarding, or boarding and rooming home ((shall be computed)) as follows ((effective July 1, 1984.)):~~

(a) Boarder - The board payment received minus ~~(((\$76.)) the current thrifty food plan for an assistance unit size equal to the number of boarders;~~

(b) Roomer - The room rental received minus ~~(((\$7.50,)) expenses of maintaining the room;~~

(c) Boarder and roomer - The board and room payment received minus ~~(((\$83.50)) the current thrifty food plan for an assistance unit size equal to the number of boarders and expenses of maintaining the room.~~

(2) ~~((If a recipient is engaged in the management and operation of a rooming, boarding, or boarding and rooming home, the net)) The department shall treat the adjusted gross income as computed in accordance with subsection (1) of this section ((is considered)) as earned income ((to that recipient)).~~

**WSR 94-05-017  
 PROPOSED RULES  
 DEPARTMENT OF  
 SOCIAL AND HEALTH SERVICES  
 (Public Assistance)**

[Filed February 4, 1994, 3:27 p.m.]

Original Notice.

Title of Rule: WAC 388-24-044 Mandatory monthly reporting.

Purpose: Under the Higher Education Amendments of 1992, educational assistance issued under Title IV or BIA student assistance programs shall not be taken into consideration when determining eligibility for payment under any program funded in whole or in part with federal funds. Assistance units are exempt from monthly reporting requirements whose sole source of earned income or recent work history is derived from Title IV/BIA work study.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This issuance will exempt assistance units whose sole source of earned income or recent work history is derived from Title IV/BIA work study from the monthly reporting system.

Reasons Supporting Proposal: Reduce the number of assistance units required to be in the monthly reporting system and will therefore result in a savings of staff time in processing monthly reports. This issuance will not result in an increase or decrease of eligible recipients.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.  
 February 4, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services  
 Administrative Services Division

AMENDATORY SECTION (Amending Order 3449, filed 8/27/92, effective 9/27/92)

**WAC 388-24-044 Mandatory monthly reporting.** (1) As a condition of continuing eligibility for AFDC, certain assistance units must return to the department a completed monthly report by the fifth day of the month following the month for which the report describes the household circumstances. Assistance units required to report monthly are those with earned income or with a recent work history except:

- (a) Migrant assistance units;
- (b) Homeless assistance units; ~~((or))~~
- (c) Assistance units with a recent work history in which all adult members are elderly or disabled; or

(d) Assistance units with earned income or recent work history received exclusively from college work study issued from the following sources:

- (i) Title IV of the Higher Education Amendments; or
- (ii) Bureau of Indian Affairs student assistance programs.

(2) Migrant assistance units and homeless assistance units, for purposes of mandatory monthly reporting, are defined as follows:

(a) "Migrant assistance unit" means an issuance unit that works in seasonal agricultural employment which requires the assistance unit to be absent from its permanent place of residence overnight;

(b) "Homeless assistance unit" means an assistance unit lacking a fixed and regular nighttime residence of whose primary nighttime residence is a:

- (i) Supervised shelter designed to provide temporary accommodations;
- (ii) Halfway house or similar institution providing temporary residence for persons needing institutionalization;
- (iii) Temporary accommodation in the residence of another person; or
- (iv) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(3) Elderly and disabled, for purposes of mandatory monthly reporting, are defined as follows:

- (a) "Elderly" means a person sixty years of age or older;
- (b) "Disabled" means a person who meets one of the following criteria:

(i) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(ii) Is a veteran:

(A) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(B) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(iii) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(iv) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

(v) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act;

(vi) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(A) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(B) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(vii) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(4) Assistance units, for purposes of mandatory monthly reporting, include assistance units having earned income allocated to them from individuals living with them who have earned income or recent work history.

(5) Recent work history is defined as having received earnings in one of the two months prior to the payment month.

(6) Assistance units with recent work history are required to report for three months, including the last month of earnings.

(7) Newly approved assistance units with recent work history shall be required to report for two months beginning the month following the month of opening.

(8) The first report month for assistance units reporting new employment shall be the month following the month the department becomes aware of the earnings.

(9) Failure to return a completed report by the fifth day of the month shall result in termination except as provided in subsection (11) of this section.

(10) The department shall give advance and adequate notice to the assistance unit which does not submit a completed monthly report timely as defined in subsection (9) of this section.

(11) If the assistance unit furnishes the completed report to the department within ten days from the date of a termination notice pursuant to subsections (1) and (9) of this section, the department shall:

(a) Accept the replacement form; and

(b) Reinstate assistance if the information on the replacement form indicates the assistance unit is still eligible.

(12) If the information on the replacement form indicates the assistance unit is ineligible or eligible for an amount less than the prior month's payment, the department shall give adequate notice to the assistance unit.

(13) Requirements in subsections (4), (5), (6), (7), and (8) of this section are effective with monthly reports generated in November 1985.

**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 94-05-018**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed February 4, 1994, 3:28 p.m.]

Original Notice.

Title of Rule: WAC 388-28-474 Replacement of exempt property.

Purpose: As stated under CFR 233.20 (a)(3)(ii)(F), reflects the federal requirement that settlements for destroyed or stolen exempt property are exempt from consideration as income if the funds are used to repair or replace the destroyed or stolen exempt property for which the settlement was intended.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: 45 CFR 233.20 (a)(3)(ii)(F).

Summary: Adds to current policy on the treatment of settlements for destroyed or stolen exempt property are exempt from consideration as income if the funds are used to repair or replace the destroyed or stolen exempt property for which the settlement was intended.

Reasons Supporting Proposal: Current department policy on the treatment of settlements for destroyed or stolen exempt property does not accurately reflect federal requirements as stated under 45 CFR 233.20 (a)(3)(ii)(F).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 45 CFR 233.20 (a)(3)(ii)(F).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.

February 4, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 3423, filed 7/23/92, effective 8/23/92)

**WAC 388-28-474 Replacement of exempt property.**

(1) A recipient may, within sixty days of receipt:

(a) ~~((Reinvest in other exempt property))~~ Expend funds acquired from a settlement covering destroyed or stolen exempt property to repair or replace the destroyed or stolen exempt property for which the settlement was intended; or

(b) Pay medical bills for which the settlement was intended.

(2) A general assistance recipient may retain cash from the settlement up to the amount of the difference between current resource values and the appropriate resource ceiling for the assistance unit.

(3) The department shall consider any remaining portion of the settlement, after applying subsection (1) and (2) of this section, as newly acquired nonexempt income.

**WSR 94-05-019  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed February 4, 1994, 3:29 p.m.]

Original Notice.

Title of Rule: WAC 388-28-560 Allocating income to an assistance unit.

Purpose: Section 13742 of Public Law 103-66, the Omnibus Reconciliation Act of 1993, amends Section 402 (a)(31)(A) of the Social Security Act by increasing the stepparent work expense disregard. This changes the work expense disregard when allocating income of a nonapplying parent to a minor parent's assistance unit and when allocating the income of an ineligible IRCA alien to an assistance unit.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: Section 13742, Public Law 103-66.

Summary: This issuance increases the work expense disregard from \$75 to \$90 when allocating income of a nonapplying parent to a minor parent's assistance unit and when allocating income of an ineligible IRCA alien to an assistance unit. Allows dependent care disregards when allocating income from a nonassistance unit member to meet assistance unit needs.

Reasons Supporting Proposal: Section 13742 of Public Law 103-66 amends Section 402 (a)(31)(A) and increases the stepparent work expense disregard.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Section 13742, Public Law 103-66.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.

February 4, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 3629, filed 9/8/93, effective 10/9/93)

**WAC 388-28-560 Allocating income to an assistance unit.** The department shall allocate nonexempt income possessed by a nonassistance unit member to meet the needs of the assistance unit as follows:

(1) Minor parent living with nonapplying parent or stepparent. The department shall allocate the income of a nonapplying parent or stepparent to meet the needs of the minor parent's assistance unit after deducting:

(a) ~~((Seventy-five))~~ Ninety dollars per month for each employed parent or stepparent to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the nonapplying parent or stepparent and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for

AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the nonapplying parent or stepparent for federal income tax purposes.

(c) Amounts actually paid by the nonapplying parent or stepparent to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(2) IRCA alien ineligible for AFDC. When determining eligibility and payment for AFDC, the department shall allocate the income of an IRCA alien, ineligible for AFDC pursuant to WAC 388-26-120 (3)(a) and (b), to meet the needs of the assistance unit after deducting:

(a) (~~Seventy-five~~) Ninety dollars per month of the ineligible IRCA alien's gross earned income to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the ineligible IRCA alien and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the ineligible IRCA alien parent for federal income tax purposes.

(c) Amounts actually paid by the ineligible IRCA alien to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(3) All other excluded assistance unit members for AFDC only. The department shall allocate the income of an excluded assistance unit member to meet the needs of the assistance unit after deducting:

(a) (~~Ninety dollars per month~~) Work expense and dependent care disregards for each employed excluded person to meet the cost of employment;

(b) An amount for the support of the parent or stepparent and other dependents, ineligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition; and

(c) An amount for court or administratively ordered support for a legal dependent not living in the parent or stepparent's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(ii) The parent or stepparent is legally obligated to support.

(4) Income of a nonapplying spouse for GAU. The department shall allocate net income from wages, retirement benefits, or separate income or property of the nonapplying spouse to meet the needs of the assistance unit after deducting:

(a) The allowable earned income disregards as specified under WAC 388-28-515, excluding the earned income

exemptions in WAC 388-37-025, to meet the costs of employment.

(b) Court or administratively ordered support actually paid for a legal dependent not living in the GAU client's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parents; or

(ii) The parent is legally obligated to support.

(c) An amount equal to the appropriate one-person payment level to meet the needs of the nonapplying spouse.

(5) Clients in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. The department shall allocate:

(a) The appropriate payment level for the legal dependents living in the family home as stated in chapter 388-29 WAC; and

(b) Any remaining income to meet the needs of the client in the institution, center, facility, or home according to WAC 388-29-125, 388-29-130, 388-29-280, and 388-40-095(1).

#### WSR 94-05-023

#### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed February 7, 1994, 8:41 a.m.]

Original Notice.

Title of Rule: Chapter 446.65 WAC, Private carrier regulations; and WAC 446-65-005 Promulgation.

Purpose: Chapter 446-65 WAC and WAC 446-65-005 are being amended to replace the term "private carrier" with "commercial motor vehicle."

Statutory Authority for Adoption: RCW 46.30.020.

Statute Being Implemented: RCW 46.30.020.

Summary: Chapter 446-65 WAC and WAC 446-65-005 are being amended to replace the term "private carrier" with "commercial motor vehicle."

Reasons Supporting Proposal: This amendment will ensure compliance by commercial motor vehicles.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Captain R. Randolph, 515 15th, Olympia, WA, 586-2229.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 446-65 WAC and WAC 446-65-005 are being amended to change the term "private carrier" to "commercial motor vehicle." This amendment will ensure compliance to federal regulations by commercial motor vehicles.

Proposal Changes the Following Existing Rules: The term "private carrier" is being replaced with the term "commercial motor vehicle."

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

Hearing Location: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, P.O. Box 42607, Olympia, WA 98504-2607, on March 22, 1994, at 1:30 p.m.

Submit Written Comments to: Washington State Patrol, Research and Development Section, P.O. Box 42607, Olympia, WA 98504-2607, by March 22, 1994.

Date of Intended Adoption: March 24, 1994.

February 7, 1994  
Roger W. Bruett  
Chief

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 23, 1994.

February 7, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**Chapter 446-65 WAC**  
**((PRIVATE CARRIER)) COMMERCIAL MOTOR**  
**VEHICLE REGULATIONS**

AMENDATORY SECTION (Amending Order 90-005, filed 3/1/91, effective 4/1/91)

**WAC 446-65-005 Promulgation.** By authority of RCW 46.32.020, the Washington state patrol hereby adopts the following rules establishing standards for ((private carriers)) commercial motor vehicles as defined by chapter 46.32 RCW ((81.80.010(6))).

**WSR 94-05-025**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed February 7, 1994, 12:01 p.m.]

Original Notice.

Title of Rule: WAC 388-95-337 Availability of resources.

Purpose: Clarifies when to consider the resources of the community spouse available to an institutionalized spouse. Clarifies technical language.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Clarifies the availability of resources to an institutionalized spouse.

Reasons Supporting Proposal: Clarification of technical language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

AMENDATORY SECTION (Amending Order 3523, filed 3/10/93, effective 4/10/93)

**WAC 388-95-337 Availability of resources.** (1) Resources are defined under WAC 388-92-005 for ~~((the))~~ a SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer of resources are evaluated under WAC 388-95-395.

(3) The department shall determine ownership of resources following Washington state community property principles~~((:~~

~~((a)))~~ for a person:

~~((i)))~~ (a) Whose most recent period of institutionalization began on or before ~~((October 1, 1989))~~ September 30, 1989; and

~~((ii))~~ Remaining) (b) Who remains continuously institutionalized.

~~((b)))~~ (4) For purposes of Medicaid eligibility, the department shall ~~((presume all))~~ consider resources are:

~~((i)))~~ (a) Community resources ~~((if))~~ when jointly held in the:

(i) Names of both the ~~((husband and wife,))~~ institutionalized and community spouse; or ~~((in the))~~

(ii) Name of the ~~((client))~~ institutionalized spouse only~~((:))~~.

~~((ii)))~~ (b) The separate property of the ~~((nonapplicant))~~ community spouse ~~((if))~~ when:

~~((A-))~~ (i) Held in the separate name of the ~~((nonapplicant))~~ community spouse; or

~~((B-))~~ (ii) Transferred between spouses as described under WAC 388-92-043(6).

~~((e-))~~ (5) The department shall:

(a) Divide, by two, the total value of the community resources the ~~((husband and wife))~~ spouses own; and

(b) Assign one-half of the total value of the community resources to each spouse.

~~((4-))~~ (6) The department shall not consider a person continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive home-based or community-based waived services.

~~((5-))~~ (7) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period

of institutionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources ~~((in WAC 388-95-380 with the exception of subsection (3) under WAC 388-95-380. One automobile per couple is totally excluded without regard to use))~~ as described under WAC 388-92-045;

(b) Consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) ~~Seventy-two thousand ((seven)) six hundred ((forty)) sixty dollars effective ((January 1, 1993))~~ January 1, 1994;

(ii) An amount established by a fair hearing under chapter 388-08 WAC ~~((if))~~ when the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to the community spouse or to another person for sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) As soon as practicable thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse; and

(d) Consider resources greater than such resources in subsection ~~((5))~~ (7)(b) of this section available to the institutional spouse.

~~((6))~~ (8) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse ~~((during a continuous period of institutionalization; or))~~;

(i) The month after the institutionalized spouse is determined eligible for institutional benefits; and

(ii) While the institutionalized spouse remains in a continuous period of institutionalization.

(b) Available to the institutionalized spouse when the;

(i) Institutionalized spouse acquires resources ~~((in excess of))~~ which, when added to resources held by the institutionalized spouse, exceed the one-person resources maximum, if the most recent period of institutionalization began on or after ~~((September 30, 1989))~~ October 1, 1989; or

(ii) Spouse has a break of thirty days or more in a period of institutionalization.

**WSR 94-05-026**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed February 7, 1994, 12:02 p.m.]

Original Notice.

Title of Rule: WAC 388-84-115 Effective date of eligibility.

Purpose: Clarify for field that the effective date of eligibility for an SSI client may be different from the application date for SSI, i.e., a protected filing date. Adds

effective date of eligibility for the QMB, SLMB, and QDWI programs.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Clarification of technical language.

Reasons Supporting Proposal: Clarifies the effective date of eligibility for an SSI client may be different from the application date for SSI. Adds effective date of eligibility for the qualified Medicare beneficiary, special low-income Medicare beneficiary, and qualified disabled working person.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 23, 1994.

February 7, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

AMENDATORY SECTION (Amending Order 3602, filed 7/28/93, effective 8/28/93)

**WAC 388-84-115 Effective date of eligibility.** (1)

The effective date of eligibility for medical assistance shall not be ~~((no))~~ earlier than the third month before the month of application provided the:

(a) ~~((The))~~ Medical services the client received were covered; ~~((and))~~

(b) ~~((The))~~ Client would have been eligible had the client applied; and

(c) ~~((The))~~ Client meets all categorically needy eligibility factors.

(2) The effective date of eligibility for categorically needy medical assistance shall be the first day of the month when the client is eligible at any time during that month.

(3) The effective date of eligibility for the qualified Medicare beneficiary (QMB) program shall be the first day of the month after the department determines the client is eligible for the QMB program.

(4) The effective date of eligibility for the qualified disabled working individual (QDWI) program shall be the later of the:

(a) First day of the month in which the client is enrolled in Part A; or

(b) Retroactive period described under subsection (1) of this section.

(5) The effective date of eligibility for the special low-income Medicare beneficiary (SLMB) program shall be the later of the:

(a) First day of the month in which the client is enrolled in Part B; or

(b) Retroactive period described under subsection (1) of this section.

(6) The effective date of eligibility for medical assistance for an SSI beneficiary shall be the first day of the month the beneficiary (~~applies~~) is determined eligible for SSI.

~~((4))~~ (7) See WAC 388-99-055 for effective date of eligibility for the medically needy program.

~~((5))~~ (8) See WAC 388-100-020 for effective date of eligibility for the medically indigent program.

**WSR 94-05-028  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed February 7, 1994, 12:04 p.m.]

Original Notice.

Title of Rule: WAC 388-92-041 Trusts.

Purpose: Correct typographical errors. Subsection (5) corrected to read October 1, 1993, not October 31, 1993. Corrected punctuation mark in subsection (11).

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Clarification of an effective date. Correct typographical errors.

Reasons Supporting Proposal: Corrects typographical errors, punctuation mark, and effective date.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia,

98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 23, 1994.

February 7, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

AMENDATORY SECTION (Amending Order 3665, filed 11/10/93, effective 12/11/93)

**WAC 388-92-041 Trusts.** (1) For the purposes of this section, the department shall ensure a trust (~~shall~~) includes any legal instrument similar to a trust.

(2) The department shall ensure this section does not apply to any trust or initial trust decree established:

(a) On or before April 6, 1986; and

(b) Solely for the benefit of a (~~mentally retarded~~) client who lives in an intermediate care facility for the mentally retarded (ICFMR).

(3) For trusts established on or before August 10, 1993, the department shall:

(a) Determine if the trust is established by the client, client's spouse, or the legal guardian for (~~an incompetent~~) a client under which:

(i) The client may be the beneficiary of all or part of the payments from the trust;

(ii) The distribution of such payments is determined by one or more of the trustees; and

(iii) The trustees are permitted to use discretion with respect to the distribution of payments to the client.

(b) Consider available to the client the greatest amount of payments permitted to be distributed under the terms of the trust when the conditions defined under subsection (3)(a) of this section exist;

(c) Apply subsection (3)(b) of this section whether or not:

(i) The trust:

(A) Is irrevocable; or

(B) Is established for purposes other than to establish eligibility for medical assistance.

(ii) The trustees actually use the discretion permitted by the trust.

(d) For an irrevocable trust not meeting the description under subsection (3)(a) of this section, consider:

(i) The trust as an unavailable resource when the client establishes the trust for a beneficiary other than the client or the client's spouse;

(ii) As an available resource the amount of the trust's assets:

(A) The client may access; or

(B) The trustee of the trust distributes as actual payments to the client.

(iii) (~~See~~) Referencing WAC 388-95-395 for regulations concerning the transfer of assets.

(e) For a revocable trust, consider:

(i) The full amount of the trust as an available resource of the client when the trust is established by:

(A) The client;

(B) The client's spouse and the client lives with the spouse; or

(C) A person other than the client or the client's spouse only to the extent the client has access to the assets of the trust.

~~((D) Client withdrawal of funds from such trust shall not be considered as income.))~~

(ii) Only the amounts paid to the client from the trust as an available resource when the trust is established by:

(A) The client's spouse and the client does not live with the spouse; or

(B) A person other than the client or the client's spouse and payments are distributed by a trustee of the trust.

(f) Not consider client withdrawal of funds from a trust as described under subsection (3)(e) of this section as income.

(g) Waive the requirements of subsection (3) of this section if undue hardship exists. Undue hardship includes but is not limited to situations in which:

(i) The trustee refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or

(ii) The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.

(4) For trusts established on or after August 11, 1993, the department shall follow subsection (3) of this section to determine eligibility for medical services received on or before September 30, 1993.

(5) For trusts established on or after August 11, 1993, the department shall follow subsections (6) through (14) of this section to determine eligibility for medical services received on or after ~~((October 31, 1993))~~ October 1, 1993.

(6) The department shall consider a trust established by the client when:

(a) All or part of the assets, as defined under WAC 388-95-395, of the trust were from the client; and

(b) The trust was established, other than by will, by:

(i) The client or the client's spouse;

(ii) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(iii) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(7) The department shall consider available to the client only the assets contributed to the trust by the client when part of the trust assets were contributed by any other person.

(8) The department shall not consider:

(a) The purposes for which a trust is established;

(b) Whether the trustees have or exercise any discretion under the terms of the trust;

(c) Restrictions on when or whether distributions may be made from the trust; or

(d) Restrictions on the use of distributions from the trust.

(9) For a revocable trust established as described under subsection (6) of this section, the department shall consider:

(a) The full amount of a revocable trust as an available resource of the client;

(b) Payments from the trust to or for the benefit of the client as income of the client; and

(c) Any payments from the trust other than payments described under subsection (9)(b) of this section as a transfer of client assets.

(10) For an irrevocable trust established as described under subsection (6) of this section, the department shall consider:

(a) As an available resource to the client, the portions of a trust or the income from the trust from which payment can be made to or for the benefit of the client. When payment is made from such irrevocable trust, the department shall consider such payments as:

(i) Income to the client when payment is to or for the client's benefit; or

(ii) The transfer of an asset when payment is made to any person for any purpose other than for the client's benefit.

(b) As a transfer of assets, a trust from which a payment cannot be made to or for the client's benefit. For such trust, the department shall find:

(i) The transfer of assets is effective the date:

(A) Of the establishment of the trust; or

(B) On which payment to the client is precluded, if later.

(ii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(11) For a revocable or irrevocable trust established by persons or with funds other than as described under subsection (6) of this section, the department shall consider such trust under subsection (3)(e) of this section~~((+))~~.

(12) The department shall not follow subsections (6) through (11) of this section for a trust containing~~((=~~

~~((a)))~~ the assets of a person sixty-four years of age and younger who is disabled as defined by SSI criterion and the trust:

~~((+))~~ (a) Is established for the benefit of such person~~((=~~

~~((ii) is established))~~ by such person's parent, grandparent, legal guardian, or a court; ~~((and))~~ or

~~((iii) Stipulates that the state will receive all amounts remaining in trust upon the death of the client up to the amount of Medicaid expended on behalf of such client.~~

~~((b) The assets of a person sixty-four years of age and younger who is disabled as defined by SSI criteria and the trust:~~

~~((+))~~ (b) Is managed by a nonprofit association and the nonprofit association:

~~((A))~~ (i) Maintains separate accounts for each trust beneficiary; and

~~((B))~~ (ii) May only pool such separate accounts for investment and management of fund purposes;

~~((+))~~ (c) Stipulates that the state will receive all amounts remaining in the client's account upon the death of the client up to the amount of Medicaid expended on the client's behalf.

(13) The department shall waive the application of this section if the client establishes undue hardship exists. Undue hardship includes, but is not limited to, situations where the client would be forced to go without life sustaining services.

(14) See WAC 388-95-395 for trusts the department determines a transfer of assets under this section.

**WSR 94-05-029**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed February 7, 1994, 12:06 p.m.]

Original Notice.

Title of Rule: WAC 388-28-484 Treatment of newly acquired nonexempt income and resources.

Purpose: Amendment reflects the federal requirement that the lump sum rule applies to lump sums received by persons required to be included in the assistance unit, but are excluded for reasons of sanction or noncooperation.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: 45 CFR 233.20 (a)(3)(ii)(F).

Summary: This amendment modifies current policy to reflect the federal requirement that the lump sum rule applies to lump sums received by persons included in the assistance unit, but excluded for reasons of sanction or noncooperation.

Reasons Supporting Proposal: Places the application of the lump sum rule in compliance with the federal regulations resulting from DEFRA '84.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 45 CFR 233.20 (a)(3)(ii)(F).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.

February 7, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 3423, filed 7/23/92, effective 8/23/92)

**WAC 388-28-484 Treatment of newly acquired nonexempt income and resources.** (1) Income affects the grant amount according to the provisions of WAC 388-28-483.

(2) When the value of the income is taken into account in the assistance payment as specified in WAC 388-28-483, the department shall apply the following rules:

(a) If the income value plus any other income amounts to less than the payment standard plus authorized additional requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference((-));

(b) For AFDC and refugee assistance, when the assistance unit's nonrecurrent lump-sum income, plus other income, after applicable disregards exceeds the payment standard, plus authorized additional requirements, the unit shall be ineligible for assistance((-)) as follows:

(i) The department shall also apply these requirements to the income of persons required to be included in the assistance unit but are excluded for reasons of sanction or noncooperation;

(ii) Ineligibility shall exist for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements. A minimum period of ineligibility shall be one month((-)); and

((+)) (iii) The department shall treat any income remaining after this calculation as income received in the first month following the period of ineligibility((-);

((+)) (iv) The department may shorten the period of ineligibility when the following conditions are met:

(A) An event occurs which, had the assistance unit been receiving assistance, would result in an increase in the need standard((-); or

(B) The income received, or any part thereof, becomes unavailable to the members of the assistance unit for reasons beyond their control((-); or

(C) Members of the assistance unit incur, become responsible for, and pay medical expenses.

((+)) (v) Assistance is authorized only after the department verifies the event in subsection (2)(b)(ii)(A), (B), or (C) of this section and establishes current eligibility.

(c) The department shall suspend a general assistance grant when a recipient's nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements, but is less than two months' payment level plus authorized additional requirements minus other income.

(i) The recipient's grant is suspended from the effective date specified in WAC 388-28-483.

(ii) The suspense period is determined exactly, that is, up to the date of the absorption of the income.

(d) If the income is recurrent and equal to or in excess of one month's payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated, except for persons in institutions other than nursing homes as provided in WAC 388-34-160.

(e) For general assistance if the income is recurrent or nonrecurrent and its value is in excess of two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances making it impossible for the applicant to live on the resource for the two-month period of ineligibility. The department shall determine the eligibility of a former recipient reapplying on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, the department shall establish an overpayment according to chapter 388-44 WAC.

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time and his or her grant will be suspended or terminated for such period of time due to newly acquired income, and is in need during such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) The department shall treat a person acquiring income during suspended status as a recipient in terms of eligibility, not as an applicant.

(6) The department shall follow rules and ~~((procedures))~~ procedures in chapter 388-44 WAC in respect to overpayment.

(7) An applicant or recipient whose nonexempt gross income exceeds one hundred eighty-five percent of the standard of need for the appropriate household size plus additional requirements authorized for that assistance unit, shall not be eligible for AFDC or refugee assistance from the date specified under WAC 388-28-483. The department shall consider the income of all members of the assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit, residing in the same household, in this test except for income identified in WAC 388-28-575 and in subsection (7)(a) and (b) of this section.

(a) In determining the total income of the family, the department shall exclude:

(i) The earned income of a child who is a full-time student for six consecutive months per calendar year; and

(ii) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family.

(b) Gross income shall be defined as all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(c) Net income shall be defined as gross income less applicable disregards and deductions for which the applicant or recipient is eligible.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments proposed will return the dispensing optician fees to the correct amount.

Proposal Changes the Following Existing Rules: Corrects filing error to return rule to original amounts.

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

Hearing Location: Department of Health, Blue Awning Building, 1102 Quince Street, First Floor Conference Room, Olympia, WA 98504, on March 23, 1994, at 9 a.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890, by March 22, 1994.

Date of Intended Adoption: March 30, 1994.

February 7, 1994

Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending WSR 93-14-011, filed 6/24/93, effective 7/25/93)

**WAC 246-824-990 Dispensing optician fees.** The following fees shall be charged by the professional licensing ~~((division))~~ services division of the department of health:

Title of Fee	Fee
Optician:	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	50.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
Late renewal penalty <del>((75.00))</del> <del>((15.00))</del>	75.00
Duplicate license	15.00
<del>((Certification))</del>	<del>25.00</del>
<u>Certification</u>	15.00
Apprentice registration	75.00
Endorsement application	100.00
Inactive license	35.00

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 94-05-032**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Dispensing Opticians)  
[Filed February 7, 1994, 2:11 p.m.]

**WSR 94-05-033**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed February 7, 1994, 2:14 p.m.]

Original Notice.  
Title of Rule: Dispensing optician fees.  
Purpose: To correct and restore fees for late renewal penalty and certification.  
Statutory Authority for Adoption: RCW 43.70.250.  
Statute Being Implemented: RCW 18.34.070.  
Summary: Corrects filing error.  
Reasons Supporting Proposal: Current fee study supports the original fees.  
Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 1300 S.E. Quince Street, P.O. Box 47863, Olympia, WA 98504-7863, (206) 753-4614.

Original Notice.  
Title of Rule: WAC 246-838-040 Licensure qualifications, 246-838-070 Filing of applications for licensing examination, 246-838-080 Failures—Repeat examinations, 246-838-090 Licensure of graduates of foreign schools of nursing, 246-838-110 Documents which indicate authorization to practice, and 246-838-180 Student records.  
Purpose: WAC 246-838-040, 246-838-070, 246-838-080, and 246-838-110, elimination of interim permits.

Effective April 1994 the practical nurse examination will be administered year around. The need to issue interim permits to allow practice as graduate practical nurses will no longer be required. WAC 246-838-090 housekeeping, brings WACs in compliance with requirements for graduates from U.S. schools of nursing. WAC 246-838-180 housekeeping to bring WAC in compliance with RCW 18.78.060.

Statutory Authority for Adoption: RCW 18.130.050.

Statute Being Implemented: RCW 18.78.050.

Summary: Testing administration two times a year will change to year around testing effective April 1, 1994. The need for interim permits to practice nursing while waiting for exam administration and results will no longer be necessary.

Reasons Supporting Proposal: Public safety is better protected if individuals are not permitted to practice until they have demonstrated competency.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pam Mena, 1300 S.E. Quince, Olympia, WA 98504-7864, 644-9363.

Name of Proponent: Washington State Board of Practical Nursing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 246-838-040, 246-838-070, 246-838-080, and 246-838-110, administration of year around testing eliminates the need for interim permits to practice as graduate practical nurse pending exam administration and receipt of exam results. Prior exam administration offered two times per year. Year around testing will allow applicants to be tested in time previously required to receive the interim permit; WAC 246-838-090 brings WACs for graduates of foreign schools in compliance with requirements for graduates from school within the United States, housekeeping; and WAC 246-838-180, brings WAC in compliance with RCW 18.78.060, housekeeping.

Proposal Changes the Following Existing Rules: Year around testing eliminates the need for interim permits and ensures public safety by requiring individuals demonstrate competency prior to providing services.

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

Hearing Location: The Westin Hotel Seattle, 1900 Fifth Avenue, Glacier Peak Room, Seattle, WA 98101, on March 24, 1994, at 4:30 p.m.

Submit Written Comments to: Pam Mena, Program Manager, P.O. Box 47864, Olympia, WA 98504-7864, by March 23, 1994.

Date of Intended Adoption: March 24, 1994.

February 2, 1994

Patricia O. Brown, R.N., M.S.N.  
Executive Director

**AMENDATORY SECTION** (Amending Order 175B, filed 6/11/91, effective 7/12/91)

**WAC 246-838-040 Licensure qualifications.** (1) In order to be eligible for licensure by examination the applicant shall have satisfactorily completed an approved practical nursing program, fulfilling all the basic course content as stated in WAC 246-838-240, or its equivalent as determined by the board. Every applicant must have satisfactorily

completed an approved practical nursing program within two years of the date of the first examination taken or the applicant must meet other requirements of the board to determine current theoretical and clinical knowledge of practical nursing practice.

(2) An applicant who has not completed an approved practical nurse program must establish evidence of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses, which courses include personal and vocational relationships of the practical nurse, basic science and psychosocial concepts, theory and clinical practice in medications and the nursing process, and theory and clinical practice in medical, surgical, geriatric, pediatric, obstetric and mental health nursing. These courses must be equivalent to those same courses in a practical nursing program approved by the board.

(3) ~~((An interim permit (WAC 246-838-110) and a))~~ A notice of eligibility for admission to the licensing examination may be issued to all new graduates from board approved practical nursing programs after the filing of a completed application, payment of the application fee, and official notification from the program certifying that the individual has satisfactorily completed all requirements for the diploma/certification. ~~((The interim permit is only issued for the first examination period for which the applicant is eligible after graduation.))~~

(4) All other requirements of the statute and regulations shall be met.

**AMENDATORY SECTION** (Amending Order 175B, filed 6/11/91, effective 7/12/91)

**WAC 246-838-070 Filing of application for licensing examination.** (1) All applicants shall file with the Washington state board of practical nursing a completed application, with the required fee ~~((prior to February 15, for the April examination and August 15, for the October examination))~~. The fee is not refundable.

(2) Applicants shall submit with the application one recent U.S. passport identification photograph of the applicant unmounted and signed by the applicant across the front.

(3) Applicants shall request the school of nursing to send an official transcript directly to the board of practical nursing. The transcript shall contain adequate documentation to verify that statutory requirements are met and shall include course names and credits accepted from other programs.

(4) Applicants shall also file an examination application, along with the required fee, directly with the testing service.

(5) Applicants who have filed the required applications and met all qualifications will be notified of their eligibility, and only such applicants will be admitted to the examination.

(6) Persons applying for licensure shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of WAC 246-838-250.

**AMENDATORY SECTION** (Amending Order 109B, filed 12/17/90, effective 1/31/91)

**WAC 246-838-080 Failures—Repeat examination.**

(1) The application form to retake the examination and the required fees shall be filed with the board ~~((on or before~~

~~February 15 for the April examination and August 15 for the October examination~~). The fees are not refundable.

(2) A ninety day waiting period exists between examination dates. The retest may be scheduled no sooner than ninety days following the date of the last exam taken.

(3) Applicants who fail the examination will be permitted to retake the examination three times within the two-year period from the date of first taking the examination.

~~((3))~~ (4) Applicants who fail to pass the examination within the time period specified in ~~((2) above)~~ subsection (3) of this section shall be required to follow remedial measures as specified by the board before being scheduled to retake the examination.

**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 WSR 93-21-006, filed 10/7/93, effective 11/7/93)

**WAC 246-838-090 Licensure of graduates of foreign schools of nursing.** Applicants who received their nursing education outside the United States or its territories shall meet the following requirements for licensure:

(1) Satisfactory completion of a basic nursing education program approved by the country of original licensure. The nursing education program shall be equivalent to the minimum standards prevailing for state board approved schools of practical nursing in Washington at the time of graduation.

(2) Every applicant must have satisfactorily completed the nursing program or have practiced as a nurse within two years of the date of the first examination taken or the applicant must meet other requirements of the board to determine current theoretical and clinical knowledge of practical nursing practice.

(3) Satisfactory passage of the test of English as a foreign language (TOEFL). All applicants with nursing educations obtained in countries outside of the United States and never before licensed in another jurisdiction or territory of the United States, shall be required to take the TOEFL and attain a minimum score of fifty in each section. Once an applicant obtains a score of fifty in a section, the board will require reexamination and passage only in the section(s) failed. Passage of all sections of the TOEFL must be attained and the applicant must cause TOEFL services to forward directly to the board a copy of the official examinee's score record. These results must be timely received with the individual's application before the NCLEX can be taken. Exceptions may be made, in the board's discretion and for good cause, to this requirement.

~~((3))~~ (4) All other requirements of the statute and regulations shall be met.

~~((4))~~ (5) File with the board of practical nursing a completed license application with the required fee ~~(prior to February 15 for the April examination and prior to August 15 for the October examination)~~. The fees are not refundable.

~~((5))~~ (6) Submit one recent United States passport identification photograph of the applicant unmounted and signed by the applicant across the front.

~~((6))~~ (7) Request the school of nursing to submit an official transcript directly to the board of practical nursing. The transcript shall contain the date of graduation and the credential conferred, and shall be in English or accompanied by an official English translation notarized as a true and correct copy.

~~((7))~~ (8) File an examination application, along with the required fee, directly with the testing service.

~~((8))~~ (9) Successfully pass the current state board licensing examination for practical nurses or show evidence of having already successfully passed the state board licensing examination for practical nurses in another jurisdiction or territory of the United States with the passing standard required in Washington.

**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 WSR 93-21-006, filed 10/7/93, effective 11/7/93)

**WAC 246-838-110 Documents which indicate authorization to practice.** The following documents are the only documents that indicate legal authorization to practice as a practical nurse in Washington.

(1) License - Active status. A license is issued upon completion of all requirements for licensure and confers the right to use the title licensed practical nurse and its abbreviation, L.P.N., and to practice in the state of Washington.

~~((2) Interim permit. An interim permit may be issued to a graduate from an approved practical nursing program who has met all qualifications, has filed an application for examination, and is eligible for admission to the licensing examination.~~

~~(a) This permit expires when a license is issued or when the candidate receives first notice of failure, whichever is the earliest date. The permit is not renewable.~~

~~(b) An applicant who does not write the examination on the date scheduled shall return the permit within three days to the division of professional licensing.~~

~~(c) The interim permit authorizes the holder to perform functions of practical nursing as described in chapter 18.78 RCW. The holder of an interim permit must practice under the direct supervision of a health professional as defined in RCW 18.78.010, cannot work as a charge nurse, and cannot work for employment agencies or nursing pools.~~

~~(d) It is in violation of the law regulating the practice of practical nursing to use the title "licensed practical nurse." The title "graduate practical nurse," or its abbreviation G.P.N., may be used.)~~

~~((3))~~ (2) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status (see WAC 246-838-130). This license is valid only while working under the direct supervision of a preceptor and is not valid for employment as a practical nurse.

~~((4))~~ (3) Inactive license. A license issued to a practical nurse who is temporarily or permanently retired from practice. The holder of an inactive license shall not practice practical nursing in this state.

**AMENDATORY SECTION** (Amending Order 109B, filed 12/17/90, effective 1/31/91)

**WAC 246-838-180 Student records.** The school shall maintain records with regard to each student that contain the following:

- (1) Evidence of satisfactory completion of (~~10th grade or its equivalent~~) 12th grade or general educational development certificate or diploma.
- (2) Transcript of practical nursing program and interpretation of credit or unit.

**WSR 94-05-034**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
 [Filed February 7, 1994, 4:09 p.m.]

Original Notice.

Title of Rule: WAC 180-78-266 Internship standards—State-funded administrator interns.

Purpose: Adopt rules to establish standards for the state-funded administrator internship program.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.415.290.

Summary: The proposed new section, WAC 180-78-266, establishes the standards for interns completing a principal or superintendent internship program.

Reasons Supporting Proposal: The statute, RCW 28A.415.290, directs the State Board of Education to adopt standards for the administrator internship program.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-2298; Implementation and Enforcement: Theodore Andrews, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-3222.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal does not change existing rules.

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

Hearing Location: Board Room, North Thurston School District, 305 College Street N.E., Lacey, WA 98516, on March 24, 1994, at 9:00 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, by March 22, 1994.

Date of Intended Adoption: March 25, 1994.

February 2, 1994  
 Dr. Monica Schmidt  
 Executive Director

**NEW SECTION**

**WAC 180-78-266 Internship standards—State-funded administrator interns.** (1) Principal, superintendent, and program administrator interns participating in the

state-funded administrator internship program shall meet the following standards:

(a) Enrollment in a principal, superintendent or program administrator preparation program approved by the state board of education, pursuant to WAC 180-78-028 and 180-78-029.

(b) Completion of all administrator field experience, knowledge and skill certification requirements, pursuant to chapters 180-75, 180-78, and 180-79 WAC.

(c) Completion of at least forty-five internship days for school employees selected for a principal, superintendent or program administrator certification internship when K-12 students are present and a replacement substitute is employed by the local district; provided the internship shall meet the following criteria:

(i) The intern, mentor administrator and college/university intern supervisor shall cooperatively plan the internship, provided that the school district is encouraged to include teachers and other individuals in the internship planning process.

(ii) Principal interns shall demonstrate competency in the National Policy Board for Educational Administration performance domains identified as needing development by the mentor administrator, college/university supervisor, and the intern. Superintendent and program administrator interns shall demonstrate competency in the American Association of School Administrators professional standards identified as needing development by the mentor administrator, college/university supervisor, and the intern.

(iii) The activities to be undertaken to implement the internship shall be outlined in writing.

(d) The intern, college/university supervisor and mentor administrator shall determine whether the forty-five intern days and the selected principal performance domains or superintendent professional standards were demonstrated.

(2) Participating colleges/universities, and school districts may establish additional internship standards and shall report such standards to the state board of education.

(3) Each college/university shall submit a summary report of the internships to the state board of education.

**WSR 94-05-035**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed February 8, 1994, 10:36 a.m.]

Original Notice.

Title of Rule: WAC 246-838-990 Practical nurse fees.

Purpose: Elimination of interim permit fee. The need for interim permits to allow practice as graduate practical nurse while waiting for exam results no longer necessary.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

Summary: Testing administration two times a year will change to year around testing effective April 1, 1994. The need for interim permits to practice nursing while waiting for exam administration and results will no longer be necessary.

Reasons Supporting Proposal: Public safety is better protected if individuals are not permitted to practice until they have demonstrated competency.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pam Mena, 1300 S.E. Quince Street, Olympia, WA 98504-7864, 664-9363.

Name of Proponent: Washington State Board of Practical Nursing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Elimination of interim permit fee. Companion rule amendment eliminates practice as a graduate practical nurse (GPN) under the interim permit. Year around testing allows applicants to receive exam results and licensure in 45 days. Previous exam administration was offered two times per year and applicants were required to wait at least one hundred twenty days for exam results.

Proposal Changes the Following Existing Rules: Eliminates \$15.00 fee for interim permit. Companion rule amendment eliminates practice as a graduate practical nurse.

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

Hearing Location: Department of Health, Blue Awning Building, 1102 Quince Street, First Floor Conference Room, Olympia, WA 98504, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47890, Olympia, WA, by March 22, 1994.

Date of Intended Adoption: March 30, 1994.

February 7, 1994

Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending Order 334 [344], filed 3/9/93, effective 4/9/93)

**WAC 246-838-990 Practical nurse 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)	\$65.00
License renewal	35.00
Impaired practical nurse assessment	4.00
Late renewal penalty	35.00
Inactive renewal	20.00
Inactive late renewal penalty	20.00
Endorsement - reciprocity	65.00
Duplicate license	20.00
Certification	40.00
<del>((Interim permits</del>	<del>15.00))</del>

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

**WSR 94-05-037**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 92-41—Filed February 8, 1994, 4:32 p.m.]

Original Notice.

Title of Rule: Watercraft noise performance standards, chapter 173-70 WAC; Sound level measurement procedures, chapter 173-58 WAC; and Maximum environmental noise levels, chapter 173-60 WAC.

Purpose: This proposal, which is in response to a petition, will repeal chapter 173-70 WAC and amend chapters 173-58 and 173-60 WAC to conform with the repeal of chapter 173-70 WAC. In addition, an amendment is proposed to chapter 173-58 WAC which will allow local governments to effectively manage their noise programs.

Statutory Authority for Adoption: Chapter 70.107 RCW.

Statute Being Implemented: Chapter 70.107 RCW.

Summary: The repeal of chapter 173-70 WAC and amendments to chapters 173-58 and 173-60 WAC are proposed in response to a petition regarding regulation of watercraft noise. Another amendment is proposed to chapter 173-58 WAC to remove the requirement for ecology to certify training for those who enforce noise rules.

Reasons Supporting Proposal: Ecology granted a petition to amend the rules pertaining to watercraft noise performance standards because they conflict with new vessel sound level measurement procedures. The amendment regarding certification of training will assist local governments in implementing noise programs.

Name of Agency Personnel Responsible for Drafting: Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6756; Implementation and Enforcement: Tom Eaton, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6702.

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: Chapters 173-60, 173-70, and 173-58 WAC, establish maximum noise levels permissible in identified environments; noise performance standards for watercraft operating on all waters of Washington state; and standardized procedures for the measurement of sound levels, respectively. Washington State Parks and Recreation Commission recently promulgated a new rule, Vessel sound level measurement procedures, chapter 352-62 WAC, which effectively eliminates the need for ecology's Watercraft noise performance standards, chapter 173-70 WAC. In response to a petition, this chapter has been proposed to be repealed and conforming changes proposed to chapters 173-58 and 173-60 WAC. Watercraft noise will be regulated exclusively under chapter 352-62 WAC by the Washington State Parks and Recreation Commission. Additionally, an amendment was proposed to chapter 173-58 WAC which will eliminate the requirement for ecology to certify training for personnel who enforce noise rules. Ecology has not had a noise program since 1983 and regulation of noise is implemented at the local level. The requirement to certify training has prevented local noise programs from being effectively implemented. The effect of the proposed amendment will be to remove an impediment to effective local enforcement of noise rules, that is, the requirement that ecology must certify training.

Proposal Changes the Following Existing Rules: Chapter 173-70 WAC will be repealed and chapters 173-58

and 173-60 WAC will no longer contain references to the regulation of watercraft noise. Chapter 173-58 WAC will no longer require certification (by ecology) for training of enforcement personnel in the use of sound level measurement procedures.

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

Introduction: The Department of Ecology (ecology) proposes to amend chapter 173-58 WAC, Sound level measurement procedures, chapter 173-70 WAC, Watercraft noise performance standards, and chapter 173-60 WAC, Maximum environmental noise levels. These rules regulate noise pollution in the state of Washington. They currently require that personnel enforcing noise pollution laws be trained in the use of measuring equipment and proper site selection by ecology or by an instructor certified by ecology. The revisions remove these specifications and replace them with more general language stating that enforcement personnel must be qualified in the use of sound measuring equipment.

The authority to change chapters 173-58, 173-70, and 173-60 WAC was given to ecology under chapter 70.107 RCW, Noise Control Act of 1974. Both the Noise Control Act and the regulations previously adopted by ecology make enforcement a local government responsibility. Ecology has not conducted noise pollution control activities since 1983 because of budget cuts. The amended version of chapter 173-58 WAC will give local enforcement agencies greater control over their programs, thus enabling them to be more effective and efficient.

Chapter 173-70 WAC is being repealed, and chapter 173-60 WAC amended, because the Parks and Recreation Commission adopted a new rule, Vessel sound level measurement procedures, chapter 352-67 WAC, which effectively replaces chapter 173-70 WAC. Ecology was subsequently petitioned to repeal its conflicting rule. Ecology is granting the petition.

Economic Compliance and Impact: In accordance with the Economic Policy Act, chapter 43.21H RCW, the Department of Ecology must give appropriate consideration to economic values associated with compliance with a proposed rule during the rule-making process.

The Regulatory Fairness Act (RFA), chapter 19.85 RCW, was adopted in 1982 to reduce disproportionate impacts of state regulations 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." The RFA requires agencies to write a small business economic impact statement (SBEIS) for any rule that has an economic impact on more than 10% of the businesses in any on [one] industry (as identified by a three-digit SIC code).

The changes to the noise rules covered here have been reviewed. They will only result in internal procedural changes. The revisions will directly affect ecology and local government agencies, but will not have an effect on businesses operating in the state of Washington. No SBEIS is required.

Hearing Location: Department of Ecology, 300 Desmond Drive, Room #1S16, Lacey, WA 98503, on March 23, 1994, at 2:30 p.m.

Submit Written Comments to: Patricia Hervieux, by April 1, 1994.

Date of Intended Adoption: May 18, 1994.

February 6, 1994

Mary Riveland

Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- |                |  |
|----------------|--|
| WAC 173-70-010 | Introduction.                                      |
| WAC 173-70-020 | Definitions.                                       |
| WAC 173-70-030 | Identification of receiving property environments. |
| WAC 173-70-040 | Standards.   |
| WAC 173-70-050 | Exemptions.  |
| WAC 173-70-060 | Nuisance regulations not prohibited.               |
| WAC 173-70-070 | Future standards.                                  |
| WAC 173-70-080 | Implementation schedules.                          |
| WAC 173-70-090 | Enforcement.                                       |
| WAC 173-70-100 | Appeals.   |
| WAC 173-70-110 | Cooperation with local government.                 |
| WAC 173-70-120 | Effective date.                                    |

**AMENDATORY SECTION** (Amending Order 74-32, filed 4/22/75, effective 9/1/75)

**WAC 173-60-010 Authority and purpose.** These rules are adopted pursuant to chapter 70.107 RCW, the Noise Control Act of 1974, in order to establish maximum noise levels permissible in identified environments, and thereby to provide use standards relating to the reception of noise within such environments. Vessels, as defined in RCW 88.12.010(21) and regulated for noise under chapter 88.12 RCW (Regulation of recreational vessels), shall be exempt from chapter 173-60 WAC.

**AMENDATORY SECTION** (Amending Order DE 82-42, filed 7/19/83)

**WAC 173-60-020 Definitions.** (1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

(2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Distribution facilities" means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, waste water, natural gas, and electricity.

(6) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

(7) "Existing" means a process, event, or activity in an established area, producing sound subject to or exempt from this chapter, prior to the effective date of September 1, 1975.

(8) "Local government" means county or city government or any combination of the two.

(9) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(10) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

(11) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.

(13) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

(14) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.

~~((15) "Watercraft" means any contrivance, excluding aircraft used or capable of being used as a means of transportation or recreation on water.))~~

**AMENDATORY SECTION** (Amending Order DE 82-42, filed 7/19/83)

**WAC 173-60-050 Exemptions.** (1) The following shall be exempt from the provisions of WAC 173-60-040 between the hours of 7:00 a.m. and 10:00 p.m.:

(a) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.

(b) Sounds created by the discharge of firearms on authorized shooting ranges.

(c) Sounds created by blasting.

(d) Sounds created by aircraft engine testing and maintenance not related to flight operations: *Provided*, That aircraft testing and maintenance shall be conducted at remote sites whenever possible.

(e) Sounds created by the installation or repair of essential utility services.

(2) The following shall be exempt from the provisions of WAC 173-60-040 (2)(b):

(a) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.

(b) Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal

operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the department.

(3) The following shall be exempt from the provisions of WAC 173-60-040, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.

(a) Sounds originating from temporary construction sites as a result of construction activity.

(b) Sounds originating from forest harvesting and silvicultural activity.

(4) The following shall be exempt from all provisions of WAC 173-60-040:

(a) Sounds created by motor vehicles when regulated by chapter 173-62 WAC.

(b) Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.

(c) Sounds created by surface carriers engaged in interstate commerce by railroad.

(d) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.

(e) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.

(f) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health safety or welfare of the community.

(g) Sounds originating from motor vehicle racing events at existing authorized facilities.

(h) Sounds originating from officially sanctioned parades and other public events.

(i) Sounds emitted from petroleum refinery boilers during startup of said boilers: *Provided*, That the startup operation is performed during daytime hours whenever possible.

~~(j) ((Sounds created by watercraft.~~

~~((k))~~ Sounds created by the discharge of firearms in the course of hunting.

~~((l))~~ (k) Sounds caused by natural phenomena and unamplified human voices.

~~((m))~~ (l) Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.

~~((n))~~ (m) Sounds originating from existing natural gas transmission and distribution facilities. However, in circumstances where such sounds impact EDNA Class A environments and complaints are received, the director or his designee may take action to abate by application of EDNA Class C source limits to the facility under the requirements of WAC 173-60-050(5).

(6) Nothing in these exemptions is intended to preclude the department from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

AMENDATORY SECTION (Amending Order DE 77-1, filed 6/1/77)

**WAC 173-60-070 Future regulations.** It is the intention of the department to establish use standards and/or performance standards for the following sources of noise exempted or partially exempted from the requirements of this chapter within two years after adequate legislative funding is made available to conduct studies providing the necessary data.

(1) Sounds created by aircraft engine testing and maintenance not related to flight operations, through the adoption of a new chapter 173-64 WAC.

(2) Sounds created by construction equipment and emanating from construction sites, through the adoption of a new chapter 173-66 WAC.

(3) Sounds created by motor vehicle racing events, through the adoption of a new chapter 173-63 WAC.

~~(4) ((Sounds created by watercraft, through the adoption of a new chapter 173-70 WAC.~~

~~(5))~~ Sounds created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad, to the extent consistent with federal law and regulations through the adoption of a new chapter 173-72 WAC.

AMENDATORY SECTION (Amending Order DE 78-19, filed 3/22/79)

**WAC 173-58-010 Introduction.** (1) Authority. Statutory authority for the guidance and direction contained in these procedures is authorized by chapter 70.107 RCW, the Noise Control Act of 1974.

(2) Purpose. The purpose of these rules is to establish standardized procedures for the measurement of sound levels of sources regulated by the department of ecology, including, but not limited to, environmental noise, ~~((watercraft,))~~ motor racing vehicles, construction, float planes, railroads, and aircraft engine testing. Vessels, as defined in RCW 88.12.010(21) and regulated for noise under chapter 88.12 RCW (Regulation of recreational vessels), shall be exempt from chapter 173-58 WAC.

~~(3) Personnel. For the purposes of enforcement, ((personnel shall have received training in the use of equipment and proper site selection. Certification of competence in the use of the sound level measurement procedures established in this chapter shall be provided by the department of ecology upon a showing that the enforcement personnel can perform these procedures to the satisfaction of the department. Certification is not required for enforcement personnel to use the procedures described in this chapter, however training may be given only by persons certified by the department)) the measurements shall be conducted only by persons qualified by training in the use of sound measuring equipment and proper site selection.~~

(4) These regulations will be amended as needed to include any new instrumentation, equipment, or procedures which the department shall deem necessary to accurately measure sound levels for enforcement purposes.

AMENDATORY SECTION (Amending Order DE 78-19, filed 3/22/79)

**WAC 173-58-020 Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

(1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

(2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

(6) "Impulse sound" means either a single pressure peak or a single burst of multiple pressure peaks which occur for a duration of less than one second as measured on a peak unweighted sound level meter.

(7) "Local government" means county or city government or any combination of the two.

(8) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(9) "Operator" means any person who is in actual physical or electronic control of a ~~((powered watercraft,))~~ motor vehicle, aircraft, off highway vehicle, or any other engine driven vehicle.

(10) "Person" means any individual, corporation, partnership, association, governmental body, state agency, or other entity whatsoever.

(11) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.

(13) "Receiving property" means real property within which the maximum permissible noise levels specified in WAC 173-60-040 shall not be exceeded from sources outside such property.

(14) "Shoreline" means the existing intersection of water with the ground surface or with any permanent, shore-connected facility.

(15) "Sound level meter" means a device or combination of devices which measures sound pressure levels and conforms to Type 1, Type 2, or Type 3 standards as specified in the American National Standards Institute Specification S1.4-1971. An impulse sound level meter shall be a peak or impulse, unweighted sound level meter which is capable of measuring impulse sound in conformance with the Type 1 or Type 2 specifications of ANSI S1.4-1971.

~~((16) "Watercraft" means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water. A new watercraft is any watercraft with an internal or external combustion engine which has been manufactured after December 31,~~

1979, and for which the equitable or legal title has never been transferred to a person who, in good faith, purchases the new watercraft and/or engine for purposes other than resale:))

**AMENDATORY SECTION** (Amending Order DE 78-19, filed 3/22/79)

**WAC 173-58-090** (~~Watercraft sound level measurement procedure.~~) **Reserved.** ((This section establishes specific procedures for the measurement of watercraft sound levels.

(1) ~~Initial inspection.~~ An initial inspection may be made to determine if the watercraft shall be required to undergo the pass-by measurement described in subsections (2), (3), and (4) of this section:

(a) ~~A Type 3 or better sound level meter shall be used to measure the sound level of any watercraft. The microphone shall be located in a boat or on a dock and no closer than 2 feet from any surface of the boat or dock.~~

(b) ~~The watercraft shall be measured as it passes at a distance not less than 50 feet from the microphone.~~

(c) ~~The enforcement officer shall require the watercraft operator to submit to a pass-by or exhaust system sound level measurement if the initial inspection level is within 2 dBA of, or greater than, the levels established in WAC 173-70-040(3).~~

(2) ~~Test site and instrumentation set up.~~ The test site and instrumentation shall be set up as follows:

(a) ~~The test site shall be a calm body of water, large enough to allow full speed pass-bys. The area around the microphone and boat shall be free of large obstructions, other than the deck or platform on which the microphone is standing, such as buildings, boats, hills, large piers, breakwater, etc., for a minimum distance of 100 feet (30 m). Three markers (buoys or posts) shall be placed in line, 50 feet (15 m) apart, to mark the course the boat is to follow while being tested.~~

(b) ~~The sound level meter shall be a Type 2 or better. The microphone shall be placed 50 feet (15 m) from the line determined by the three markers, normal to the line and opposite the center marker. It shall also be placed 4.5 feet (1.2-1.5 m) above the water surface and no closer than 2 feet (0.6 m) from the surface of the deck or platform on which the microphone stands, as near to the end of the deck or platform as possible or overhanging the end of the deck or platform.~~

(3) ~~Watercraft operation.~~ The watercraft shall pass within 1-3 feet (0.3-0.9 meter) on the far side of all three markers, on a straight course:

(a) ~~Watercraft which weigh less than 7,000 lbs. gross weight shall be operated according to the following procedure. The watercraft shall approach the first marker at idle speed. When the bow is even with the first marker, the engine shall be immediately accelerated to its full throttle RPM range. The watercraft shall continue to accelerate until its bow passes the third marker.~~

(b) ~~Watercraft which weigh 7,000 lbs. or more gross weight shall be operated at the midpoint of the manufacturer's recommended maximum continuous (or "cruise") RPM range,  $\pm$  100 RPM. The watercraft shall be at this speed when it passes the first marker, and shall~~

continue to operate at this speed until its bow passes the third marker.

(4) ~~Measurement.~~ The watercraft sound level shall be measured as follows:

(a) ~~The sound level meter shall be set for fast response and on the "A" weighting scale.~~

(b) ~~The meter shall be observed during the entire passby. The applicable reading shall be the sound level obtained as the stern of the watercraft passes the middle marker. Peaks due to unrelated ambient noise, water noise from waves or wakes, propellor cavitation noise, or extraneous impulsive type noise shall be excluded. At least two measurements shall be made for each side of the watercraft. All values shall be recorded.~~

(c) ~~The sound level for each side of the watercraft shall be the average of the two highest readings which are within 1 dBA of each other, rounded to the nearest 0.5 dBA. The reported sound level shall be that of the loudest side of the watercraft.~~

(5) ~~New watercraft shall be tested according to the specifications of the SAE J34 measurement procedure:))~~

#### WSR 94-05-038

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Order 93-38—Filed February 8, 1994, 4:38 p.m.]

Continuance of WSR 94-01-174.

Title of Rule: WAC 173-19-2401 Port Townsend shoreline master program.

Purpose: Continuation of the adoption date from February 4, 1994, to March 7, 1994, and correction of the summary.

Summary: The amendment revises the shoreline master program for the city of Port Townsend.

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

Chapter 19.85 RCW, Regulatory Fairness Act, requires mitigating action and filing of small business economic impact statement when rule adoption will have an economic impact on more than 20% of all business or more than 10% of any one industry. This amendment proposed by Port Townsend does not meet the criteria which require preparation of a small business impact statement.

Date of Intended Adoption: March 4, 1994.

February 7, 1994

Mary Riveland  
Director

#### WSR 94-05-043

#### PROPOSED RULES

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 9, 1994, 10:33 a.m.]

Continuance of WSR 94-02-050.

Title of Rule: New WAC 388-86-04001 Hearing aids; and repealing WAC 388-86-040 Hearing aids.

Purpose: Establishes a new rule on when the department shall pay for a hearing aid; repair a hearing aid; and replace a hearing aid.

Name of Proponent: Department of Social and Health Services, governmental.

Date of Intended Adoption: March 8, 1994.

February 9, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**WSR 94-05-044**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed February 9, 1994, 10:34 a.m.]

Continuance of WSR 94-04-031.

Title of Rule: WAC 388-86-030 Eyeglasses and examinations.

Purpose: Removes the need for prior authorization of vision care services. Restricts adult clients to one eye examination for procurement of eyeglasses every two years.

Name of Proponent: Department of Social and Health Services, governmental.

Date of Intended Adoption: March 8, 1994.

February 9, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**WSR 94-05-048**  
**PREPROPOSAL COMMENTS**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Filed February 9, 1994, 3:40 p.m.]

Subject of Possible Rule Making: Pay telephone call restriction.

Persons may Comment on this Subject in the Following Ways: Written comments will be accepted on the discussion draft shown below. Comments should be submitted to Steve McLellan, Secretary, re: Docket No. UT-940171, Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250. Comments should reach the commission no later than March 9, 1994.

Other Information or Comments by Agency at this Time, if any: The agency's notice of inquiry is shown below, describing the subject's background and providing information.

February 9, 1994  
Steve McLellan  
Secretary

Notice of Inquiry

In re the investigation on the commission's motion: Pay telephone call restriction.

The Washington Utilities and Transportation Commission establishes this inquiry, on a subject of possible rule making, to discover information and to evaluate options to reduce disruptive or illicit activity at locations of public pay telephones in the state.

In 1993, US WEST Communications, Inc. (US WEST), requested a declaratory ruling that WAC 480-120-138, the commission's principal pay telephone rule, allowed the company to configure pay telephones so that location providers or adjacent businesses could temporarily disable the telephones' ability to accept coins, Docket No. UT-930430. The commission entered an order on June 2, 1993, declaring that existing rules did not permit the proposed action. The order recognized the interests involved, and suggested that if U S WEST wished to pursue the issue, it come forward with more information to seek either a waiver of the existing rule or a change in the rule.

The company did request a rule change, Docket No. UT-931556. It also requested a waiver of the rule to allow coin disabling at limited locations, which the commission is considering in Docket No. UT-931491. On December 9, 1993, it petitioned the commission to change WAC 480-120-138 to allow it to restrict certain pay telephones (at the request of the subscriber, community, space provider, or law enforcement agency) from accepting coins between 6:00 p.m. and 6:00 a.m. Emergency access and operator assistance would be available from the coin restricted instruments, and the phones would be clearly posted.

The commission found that it still did not have information sufficient to satisfy it that the proposal was the most appropriate way to handle the varied interests involved. The company withdrew the proposal with the commission's consent at its open public meeting on February 9, 1994.

The commission has recognized the troublesome nature of complex conflicting public interests: In public safety and freedom from illicit activity, on the one hand, and in convenient and predictable telephone access, on the other.

The commission also recognizes that complete removal of a pay telephone is a possible alternative if other measures, including law enforcement intervention, cannot control illicit activity that interferes with personal security or public safety. When that happens, no public telephone service at all is available. The existing rule allows restriction of a pay telephone to one-way service upon written request by a law enforcement agency. Many of the affected phones have already been restricted to one-way service, the illicit behavior is still occurring, and some space providers have asked US WEST to remove the phones.

To learn more about these pay telephone problems and to consider options, the commission has ordered that this Notice of Inquiry be issued and that the commission and its staff gather information and promote dialogue aimed at understanding and resolving conflicting public interests.

The commission has attached to this notice a summary of background factors and potential issues, and a list of questions for commenters to address. Interested persons have the following opportunity to present comments to the commission: Written comments should be sent to Steve McLellan, Secretary, Washington Utilities and Transportation Commission, 1300 Evergreen Park Drive S.W., Olympia, WA 98504-7250, to reach the commission by March 9,

1994. Please mark all comments with Docket No. UT-940171.

Informal work sessions will be held after public comment is received, to allow representatives of affected groups or institutions to discuss information and explore solutions.

The commission also anticipates holding one or more meetings to receive oral comment when specific rule amendments are being evaluated. It will notify every commenter, and every other person who asks for the notification, of the time and place of those meetings.

DATED at Olympia, Washington this 9th day of February 1994.

Washington Utilities and Transportation Commission  
Steve McLellan  
Secretary

#### INQUIRY ON PAY TELEPHONE COIN RESTRICTION DOCKET NO. UT-940171

##### INTERESTS AT ISSUE; SPECIFIC QUESTIONS

The commission invites interested persons to address comments to the following issues and specific questions. Please note that this is not a ballot in which votes will be counted, but a way to identify public opinion and hear suggestions for further discussion. If you see other interests or have comments not addressed to the questions, please describe those to the commission. Every comment is valuable.

##### AFFECTED INTERESTS

The commission has identified the following interests affected by illicit pay phone use and its consequences:

Illicit activity at a pay telephone site can be disruptive to a neighborhood, a potential source of crime and a strong deterrent to law-abiding customers' patronization of nearby businesses.

Reasonable access to pay phones is needed by consumers. Some may not have residential phone service, and pay telephones may be their only source of telecommunications. Some may be tourists or visitors in the community.

Reasonable public telecommunications access is also needed for personal emergencies not involving a direct threat to life or property, such as auto breakdowns, delays, etc.

Areas most prone to illicit behavior near public telephones may be areas in which public telephones are most needed.

Nonemergency calls may be routed to emergency 911, simply because the caller does not have a calling card, coins are not accepted, and the only coin-free access is to 911. Such calls could interfere with emergency 911 service.

Coin restriction also results in higher, operator-assisted rates. Some consumers, for some calls, may be unable to call collect or bill a third party.

Some alternate operator service companies may charge higher than the prevailing operator assisted rates, perhaps paying a commission to the location owner or charging a location surcharge that directly benefits the location owner. This could provide an economic incentive to restrict coin use.

Complete removal of telephones may reduce the public's telecommunications convenience and emergency access.

##### POSSIBLE OPTIONS:

The commission has identified the following possible options. Please describe any experiences you have had with these or other options, state any statistics you have regarding success or failure, and describe public response. Please state your opinion of the various options, and add any additional ideas you may have about the effectiveness of any option.

Allowing coin restriction from 6:00 p.m. to 6:00 a.m. at the option of the pay phone provider, space provider, law enforcement agency, or other decider.

Allowing coin-restricted hours varying by location, when the problem specifically occurs at that telephone location.

Offering debit cards through local merchants.

Replacing coin telephones with credit-only phones.

Replacing touch-tone telephones with rotary dial phones, although this would limit access to tone generated services such as voice mail, bank by phone, out-dialling to pagers.

Disabling key pads after X number of digits are entered — also limiting use of tone-generated services.

Locating pay phones only in well-lighted, clean areas.

Video monitoring the phone (with a notice on or near the phone stating that callers are monitored).

Playing distracting music near the pay telephone.

Reducing the number of phones in a bank of phones.

Removing telephones completely at locations experiencing problems.

##### SPECIFIC QUESTIONS:

The commission asks interested persons to address any potential solutions identified above, and to answer any questions in the following list that are pertinent to your situation.

Do you have residential telephone service? Do you have a calling card? Do you use pay telephones? How often? At what time, in general— daytime, evening, or night, or a combination? When you use pay telephones, generally, do you use coins to make your call, a calling card, or other billing? (Please specify)

Have you been frightened to use a telephone or to patronize a business, because of behavior near a pay telephone? If so, please describe the circumstances.

How would you feel about restricting coin calling from some pay telephones between 6:00 p.m. and 6:00 a.m., if 911 emergency and operator assistance are available? Would you feel differently if the time were shortened, say between 10:00 p.m. and 6:00 a.m.? Would any other times affect your answer? Why?

What circumstances (if any) justify coin restrictions? If a pay telephone were coin restricted, would the problem simply move to a different pay telephone? Would the problem still exist around a coin-restricted pay telephone?

How would a coin restricted phone affect persons in the neighborhood, who may not have a phone? If you have no residential telephone service, do you rely on pay telephones? For what kinds of calls do you use the pay telephone? How do you think a coin restricted phone would affect other residents in the neighborhood? Would locally-available debit

cards offer effective alternative access to coin restricted phones, or would they defeat the purpose of coin restriction in the first place?

Should coin restriction be allowed only when operator services are offered at or below prevailing rates, or at coin rates?

Is the consumer best served by allowing a form of restriction on the use of pay telephone, or simply by removing the phone?

Is it a law enforcement responsibility to work with the companies and affected groups about this issue, rather than the commission's responsibility?

How may we measure the effectiveness of any solution? What criteria can be used?

Please add any other comments about this issue.

For more information please contact Suzanne Stillwell, Consumer Affairs Section, at 1-800-562-6150.

Washington extra fancy and fancy grades after January 31st of the year following the year of production. Only Washington extra fancy and fancy grades of Fuji variety are affected.

Proposal Changes the Following Existing Rules: An emergency rule containing the proposed revision is currently in effect. The proposal will change the permanent rule, which will exempt invisible watercore as a grade defect in the Fuji variety when applying the Washington extra fancy or fancy grades.

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

Hearing Location: Best Western Inn, 1700 Canyon Road, Ellensburg, WA 98926, on March 22, 1994, at 10:00 a.m.

Submit Written Comments to: Jim Quigley, P.O. Box 42560, Olympia, WA 98504-2560, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 8, 1994  
K. Diane Dolstad  
Assistant Director

**WSR 94-05-050**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed February 10, 1994, 8:42 a.m.]

Original Notice.

Title of Rule: Standards for apples marketed within Washington, chapter 16-403 WAC.

Purpose: To exempt watercore as a quality factor in the Fuji variety of apples. Current grading rules consider damage by invisible watercore as a defect of Washington extra fancy and fancy grades after January 31st of the year following the year of production.

Statutory Authority for Adoption: Chapter 15.17 RCW.

Statute Being Implemented: Chapter 15.17 RCW.

Summary: An emergency rule is currently in place exempting the Fuji variety from invisible watercore as a grade defect.

Reasons Supporting Proposal: Watercore is not necessarily detrimental to quality unless the apple discolors internally or breaks down, usually following a long storage period of several months. With the relative inexperience in growing Fuji variety in the Pacific Northwest, and sporadic occurrence of watercore from season to season, it is not yet known how watercore will behave following an extended cold storage. The Fuji variety may react differently from other varieties, e.g. the Fuji apple may not discolor or breakdown as is sometimes the case with red delicious, etc. Given the typical late harvest dates for the Fuji, the storage period is obviously much shorter for the Fuji than for other red varieties of apples.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, 1111 Washington Street, Olympia, WA 98504, (206) 902-1833.

Name of Proponent: 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 rule will exempt the Fuji variety of apples from watercore as a quality factor. Current grading rules consider damage by invisible watercore as a defect of

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

**WAC 16-403-145 Red, partial red or blushed varieties—Washington extra fancy.** ((+)) Washington extra fancy consists of apples of one variety which are mature but not overripe, carefully hand picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible watercore, and broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russeting, sunburn or spray-burn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, and free from damage by invisible watercore after January 31st of the year following the year of production: Provided, That invisible watercore shall not be a quality factor of Fuji variety at any time of the year. Each apple of this grade has the amount of color specified in WAC 16-403-155 for the variety.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

**WAC 16-403-150 Red, partial red or blushed varieties—Washington fancy.** ((+)) Washington fancy consists of apples of one variety which are mature but not overripe, carefully hand picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible watercore, and broken skins and bruises, except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, invisible watercore after January 31st of the year following the year of production, or damage by other means: Provided, That invisible watercore shall not be a quality factor of Fuji variety at any time of the year. Each apple of this grade has the amount of color specified in WAC 16-403-155 for the variety.

PROPOSED

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

**WAC 16-403-290 Damage by invisible watercore.**  
(See chart below.)

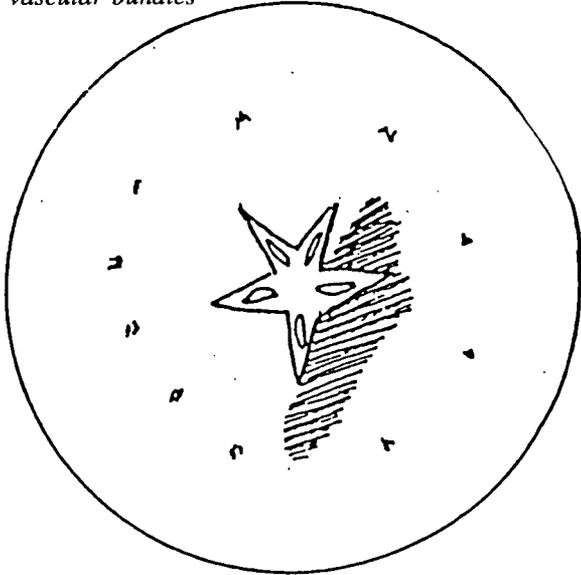
**DAMAGE BY INVISIBLE WATERCORE**

affects:

Wash. extra fancy and Wash. fancy grades, except Fuji variety, after *February 1 of year following production* and affecting U.S. condition standards for export *anytime*.

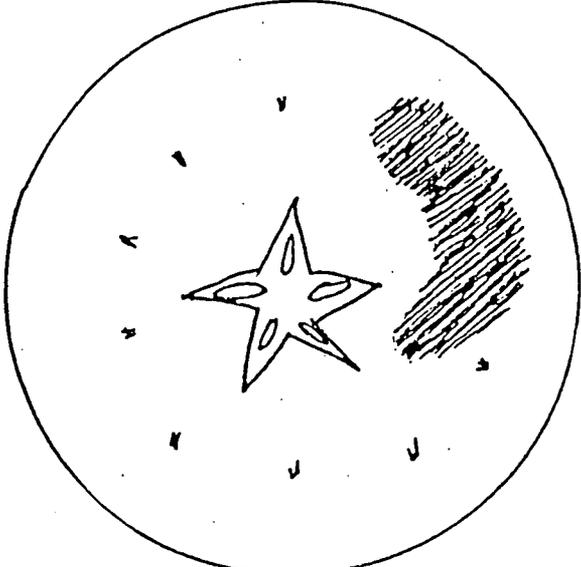
**THIS**

- 1. *existing around core and extending to watercore in vascular bundles*



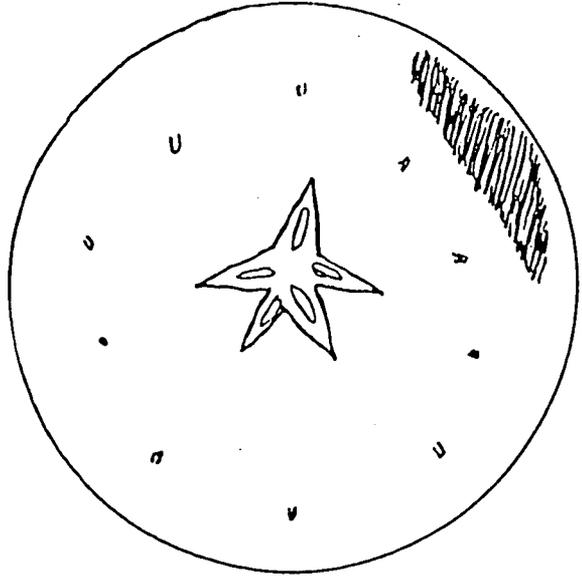
**OR THIS**

- 2. *surrounding vascular bundles when affected areas around three or more bundles meet or coalesce*



**OR THIS**

- 3. *more than slight degree outside circular area formed by vascular bundles*



**WSR 94-05-054**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed February 10, 1994, 1:53 p.m.]

Original Notice.

Title of Rule: WAC 388-28-575 Disregard of income and resources.

Purpose: Promulgates a new policy to disregard the first two thousand dollars of income received by Native Americans which is derived from leases or other uses of individually owned trust or restricted lands; and as income and as a resource in the month paid and the next following month, retroactive AFDC and nonrecurring SSI lump sum payments made to an AFDC recipient. This amendment may result in an increase of eligible clients.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Public Law 103-66 Section 13736 the Omnibus Budget Reconciliation Act of 1993 creates a new income disregard for income received by individual Indians which is derived from leases or other uses of individually owned trust or restricted lands.

Reasons Supporting Proposal: Develops policies regarding the treatment of nonrecurring lump sum SSI retroactive payments paid to AFDC recipients and retroactive corrective AFDC payments which comport with federal regulations 45 CFR 233.20 (a)(13)(ii).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8258.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 103-66 Section 13736, and 45 CFR 233.20 (a)(13)(ii).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.

February 10, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

**AMENDATORY SECTION** (Amending Order 3613, filed 8/11/93, effective 9/11/93)

**WAC 388-28-575 Disregard of income and resources.** Unless otherwise stated, the department shall disregard as income and as a resource the following payments for aid to families with dependent children (AFDC) and general assistance (GA):

(1) For AFDC only, the income of a Supplemental Security Income (SSI) recipient. The department shall not consider nonrecurring lump sum SSI retroactive payments made to an AFDC client as income or as a resource in the month paid or in the following month;

(2) For AFDC only, the monthly child support incentive payment from the office of support enforcement (OSE);

(3) AFDC benefits resulting from a court order modifying a department policy;

(4) Title IV-E, state and/or local foster care maintenance payments;

(5) Adoption support payments if the adopted child is excluded from the assistance unit;

(6) Bona fide loans as specified under WAC 388-28-480(4). The department shall consider loans bona fide when the loan is a debt the borrower has an obligation to repay;

(7) Educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

(a) Title IV of the Higher Education Amendments; or

(b) Bureau of Indian Affairs student assistance programs.

(8) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes;

(9) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-391), for attendance costs as identified by the institution. For a student attending school:

(a) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study,

books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(b) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(10) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (7), (8), and (9) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses;

(11) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (7), (8), (9) or (10) of this section, as allowed under WAC 388-28-578;

(12) The earned income disregards in WAC 388-28-570(6) for AFDC and WAC 388-37-025 for GA-U to any work study earnings received and not disregarded in subsections (7), (8), (9), (10), and (11) of this section;

(13) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(14) The food coupon allotment under Food Stamp Act of 1977;

(15) Compensation to volunteers under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(16) Benefits under women, infants, and children program (WIC);

(17) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(18) Energy assistance payments;

(19) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian tribe (~~(, including but not limited to funds issued under the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420))~~) or individual tribal member;

(20) (~~Per capita judgment funds under P.L. 97-408 to members of the:~~

~~(a) Blackfeet Tribe of the Blackfeet Indian Community, Montana;~~

~~(b) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and~~

~~(c) Assiniboine Tribe of the Fort Belknap Indian Community.~~

~~(21))~~ Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 (~~(, 94-114, 97-458, or)~~) as amended by P.L. 97-458, and 98-64. In addition:

(a) "Initial investments" means real or personal property purchased directly with funds from the per capita payment up to the amount of the funds from the per capita payment;

(b) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484;

(c) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling valued as specified under WAC 388-28-435(1).

When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2). The department shall determine appreciation in value at the time of eligibility review; and

(d) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(21) Income received by Native Americans which is derived from leases or other uses of individually owned trust or restricted lands up to two thousand dollars per person per year (P.L. 103-66). The department shall consider such funds a nonexempt resource in the month after receipt.

(22) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act (P.L. 92-203 and 100-241);

(23) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(24) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(25) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(26) A previous underpayment of assistance under WAC 388-33-195. The department shall not consider such retroactive corrective AFDC payments as income or as a resource in the month paid or in the following month;

(27) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41), made to a Puyallup Tribe member upon reaching twenty-one years of age.

(a) "Initial investments" means real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment.

(b) The department shall treat income derived either from the annuity fund payment or the initial investments as newly acquired income per WAC 388-28-482 and 388-28-484.

(c) When the initial investments are nonexempt resources, the department shall apply appreciation in value to the resource ceiling value as specified under WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2). The department shall determine appreciation in value at the time of eligibility review.

(d) The department shall treat proceeds from the transfer of the initial investments according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-440 (3) and (4) for GA-U.

(28) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(29) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). The effective date of the disregard is retroactive to January 1, 1989;

(30) Payments made under the Disaster Relief Act of 1974 (P.L. 93-288) as amended by Disaster Relief and

Emergency Assistance amendments of 1988 (P.L. 100-707). This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(31) Payments from the Radiation Exposure Compensation Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents; and

(32) Income specifically excluded by any other federal statute from consideration as income or resource.

#### WSR 94-05-056

#### PREPROPOSAL COMMENTS

#### OFFICE OF THE

#### INSURANCE COMMISSIONER

[Filed February 10, 1994, 3:43 p.m.]

Subject of Possible Rule Making: Amendment to chapters 284-30, 284-44 and 284-46 WAC. The Insurance Commissioner has made the following findings:

1. Many persons with AIDS or other terminal diseases today live longer than they previously did. They need custodial care, i.e. unskilled care, to enable them to live at home. Most disability insurance contracts, health care service contracts, and health maintenance agreements exclude benefits for this custodial care.

2. Instead, these disability insurance contracts, health care services contracts, and health maintenance agreements typically provide hospitalization benefits.

3. Medicaid funds usually cannot be earmarked for any one specific disease. There is a qualified exception to this rule, called the "CASA (Community AIDS Services Administration) Waiver." This can provide funds for AIDS patients, to help pay for needed custodial care. However, the "Casa Waiver" is not available to any AIDS patient who has a source of benefits other than Medicare.

4. As a result of this disqualification, many AIDS patients who have paid premiums for private health coverage for long periods of time, find that this coverage is not only illusory, but actually hazardous to their health. In order to qualify for the "CASA Waiver" and pay for the custodial care they actually need, these patients must drop their private sources of coverage. The disability insurer, health maintenance organization or health care service contractor that collected premiums for long periods of time thus escapes having to pay any benefits of any kind. Meanwhile the AIDS patient, who thought that he or she would receive benefits from the private source of coverage, must receive public funding.

5. As to disability insurers, this is a deceptive trade practice in the sense of RCW 48.44.020 (2)(a). It also violates RCW 48.18.110 (1)(c), (d) and (e). As to health care services contractors, hospitalization benefits as described are ambiguous or misleading in the sense of RCW 48.44.020 (2)(a) and also violate RCW 48.44.020 (2)(c), (d), (e) and (g). As to health maintenance organizations, hospitalization benefits as described are ambiguous and misleading in the sense of RCW 48.46.060 (3)(a) and also violate RCW 48.46.060 (3)(b), (c), (d), (e) and (f).

Based upon these findings, the Insurance Commissioner is considering amendments to chapters 284-30, 284-44, and

284-46 WAC. Such amendments may include any or all of the following:

1. A prospective requirement that all from filings from disability insurers, health maintenance organizations and health care service contractors provide custodial care benefits either in addition to, or as an alternative to, hospitalization benefits. Form filings not in compliance with this requirement will be automatically disapproved.

2. With respect to policies, contracts and agreements already in effect: A requirement for a rider or equivalent means of allowing the insured, certificate holder, or subscriber the option of substituting custodial care benefits for hospitalization benefits on some flexible and financially equitable basis. If this option is not made available with respect to any given form, approval for its use will be withdrawn.

3. Making it an unfair and deceptive trade practice for individual and group insurers, and a prohibited or unfair practice for health care service contractors or health maintenance organizations, to continue to offer hospitalization benefits which are illusory, misleading and deceptive as described.

Persons may comment on this subject in writing to the commissioner, P.O. Box 40255, Olympia, WA 98504-0255, no later than March 22, 1994.

Other Information or Comments by Agency at this Time, if any: For more information or details of the possible rules, please contact Rich Nafziger, Deputy Commissioner, (206) 753-3110, or Bill Kirby, Regulation Analyst, (206) 586-5597.

February 10, 1994

Deborah Senn  
Insurance Commissioner

**WSR 94-05-057**  
**PREPROPOSAL COMMENTS**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed February 10, 1994, 3:45 p.m.]

Subject of Possible Rulemaking: New chapter in the Washington Administrative Code relating to regulation of annuities. The commissioner is considering proposing rules which would establish minimum contract standards, uniform definitions, and insurers' performance requirements to assure that annuity contracts meet the public interest and provide consumers with suitable, fair, and understandable choices; and to define methods of competitions and acts and practices that are unfair or deceptive.

Persons may comment on this subject in writing to the commissioner, P.O. Box 40255, Olympia, WA 98504-0255, no later than March 22, 1994.

Other Information or Comments by Agency at this Time, if any: For more information or details of the possible rules, please contact Rich Nafziger, Deputy Commissioner, (206) 753-3110, or Roy Olson, Actuary, (206) 753-7305.

**WAC 284-010 Scope and purpose.** (1) The purpose of this chapter is to establish minimum contract standards, uniform definitions, and insurers' performance requirements to assure that annuity contracts meet the public interest and provide consumers with suitable, fair and understandable choices, and to define methods of competition and acts and practices that are unfair or deceptive.

(2) This chapter applies to group and individual annuities delivered or issued for delivery in this state and to certificates delivered or issued for delivery in this state under group annuities regardless of the location of the group contract or its holder, except as otherwise explicitly provided herein.

**WAC 284-020 Definitions.** The following definitions apply to this chapter and to the identical terms as they appear in Title 48 RCW, including: RCW 48.11.020, 48.18.130, 48.18A.020, 48.18A.030, 48.18A.070, 48.23.010, 48.23.020, 48.23.075, 48.23.085, 48.23.140 through 48.23.210, 48.23.410 through 48.23.520, 48.38.010 through 48.38.070, and 48.74.010 through 48.74.080.

(1) An "annuity" is an obligation to make a series of payments, which, unless it bears a more specific title and is otherwise described, satisfies the following conditions:

(a) The payments are made not less frequently than annually.

(b) The payments in any one year do not exceed 115% of the payments in the immediately preceding year.

(c) Once the payments commence, they continue without reduction for a period of five years or longer, or during the entire lifetime of one or more individuals.

(2) A "pure endowment" is an obligation to pay a fixed sum on a specified date upon the survival of one or more individuals.

(3) A "structured settlement" is an obligation, specifically designated as a structured settlement, to pay specified amounts at future dates. Structured settlements are commonly used in personal injury and wrongful death cases. A structured settlement may be a combination of annuities, pure endowments and lump sum payments not involving life contingencies.

(4) A "charitable gift annuity" is an annuity meeting the requirements of chapter 48.38 RCW.

(5) An "immediate annuity" is an annuity with no cash settlement options whose benefit payments commence within 13 months of the contract date.

(6) A "deferred annuity" is an obligation, other than an immediate annuity, to provide life contingent annuity benefit payments. A deferred annuity has a deferral period called the "accumulation period," followed by a "benefit period." During the benefit period, regular periodic payments are made and there are no cash settlement options. A deferred annuity may provide for settlements not involving life contingencies.

(7) A "variable annuity" is an annuity, authorized under chapter 48.18A RCW, whose benefits are based on investment performance. Benefits may increase by more than 15% from one year to the next, if as the result of favorable investment performance. Benefits may decrease from one year to the next, if as the result of unfavorable investment performance.

(8) A "group annuity" is a contract between an insurer and a group contract holder that provides for annuity benefits on the lives of individuals defined as eligible under the terms of the contract.

**WAC 284-030 Annuity transactions are insurance transactions.** Any transaction relative to an annuity contract involving a life contingency, including its solicitation, negotiations preliminary to execution, execution of the contract, transaction of matters subsequent to execution of the contract and arising out of it, and insuring, is an insurance transaction. Except as to such transactions as are expressly allowed by provisions in Title 48 RCW, as, for example, in RCW 48.23.010 with respect to state universities and colleges, and chapter 48.38 RCW, with respect to charitable gift annuity business, only a life insurer authorized to transact insurance business in this state may transact annuity business in this state. Transactions in this state under a group annuity contract constitute the transaction of insurance herein, regardless of where the group annuity contract was issued or delivered.

**WAC 284-040 Structured settlements—Special requirements.** An insurer authorized to transact life insurance in this state may issue annuity contracts constituting structured settlements, subject to the following additional requirements:

(1) The issuing life insurer has at the time of issue unimpaired capital and surplus of at least \$100,000,000.

(2) The structured settlement must be written on a form that is used exclusively for that purpose and which is labelled prominently on its face page as a "Structured Settlement."

**WAC 284-050 Death benefits under annuities.** (1) An annuity may provide for a death benefit not exceeding a return of the gross considerations plus interest, less any withdrawals made. An annuity contract may provide greater death benefits by rider or supplemental contract provision, in which case, the excess death benefits are regarded as non-incident life insurance benefits.

(2) An annuity which provides for cash settlement must also provide for a death benefit no less than the cash surrender value. The death benefit shall be payable to the named beneficiary in the same manner as a death benefit under a life insurance policy, rather than as a surrender benefit under an annuity contract.

**WAC 284-060 Deferred annuities.** Every deferred annuity contract shall provide for a specific schedule of minimum life contingent annuity benefit payments, or rate schedule which can be applied to the accumulated fund to determine the minimum life contingent annuity benefit payments. If, in the judgment of the commissioner, it is not practical to include certain tables in the contract, the requirements of this section may be met as to such contract by the insurer filing such tables with the commissioner.

**WAC 284-070 Non-guaranteed elements in annuities.** Except for variable annuities, unless the contract provides for non-guaranteed elements, if any, to be declared in advance, the contract shall be defined and designated as participating. If such contract is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

**WAC 284-080 Variable annuities.** (1) Under the variable contract act, chapter 48.18A RCW, an insurer may provide for separate account annuity benefits payable in both fixed and variable amounts. Each portion of such an annuity, the fixed portion and the variable portion, shall be regarded as a separate contract for the purpose of compliance with Title 48 RCW and the rules and regulations thereunder. The variable portion of the contract is subject to the variable contract act, and must provide for direct participation in investment performance. The fixed portion of the contract is subject to statutory provisions applicable to other than variable annuities.

(2) A deferred annuity that provides for a specified benefit at a future date, independent of the insurer's operating results or investment experience, is a fixed benefit obligation of the insurer.

(3) A deferred annuity that provides for benefits based directly upon the performance of specific assets of the insurer, is a variable benefit obligation of the insurer, and shall so state on the first page of the contract. The insurer may further provide for fixed benefit guarantees.

(4) No insurer may provide variable benefits in its annuity contracts unless it is an admitted life insurer having unimpaired capital and surplus of at least \$5,000,000.

**WAC 284-090 Group annuities.** (1) No group annuity contract shall hereafter be delivered or issued for delivery in this state unless to one of the groups as provided for in chapter 48.24 RCW, other than RCW 48.24.040, without regard, however, to minimum amounts of benefits, minimum number of individuals to be covered and minimum amounts required to be contributed by the group contract holder in determining if a particular group qualifies under chapter 48.24 RCW.

(a) Coverage under a group annuity shall not be solicited in this state by an agent or broker who is employed by or otherwise represents the contract holder and who receives compensation for such activity or sales, unless the contract holder is a financial institution under RCW 48.24.095 or unless the individual solicited is an employee or agent of the contract holder.

(b) Where the contract holder is an association pursuant to RCW 48.24.045, the association must have a genuine purpose and existence of significant value to its members independent of its involvement in insurance on behalf of its members. The opportunity to receive advertising or to purchase goods and services, even if at a discount, is not considered of significant value.

(c) Where the contract holder is a public employee association pursuant to RCW 48.24.060, the association must have been established by or formally recognized by the employer of the participants.

(d) Where the contract holder is a trustee group pursuant to RCW 48.24.070, the trust must have been established by or formally recognized by the employer or labor union, if applicable, of the participants.

(e) No group annuity specifically designed for marketing through financial institutions shall be used in this state except to insure depositors or deposit members of the financial institution to whom the group annuity is issued. Where the contract holder is a financial institution pursuant to RCW 48.24.095, the aggregate considerations paid by any individual may not exceed \$5,000.

(2) The following standard provisions are required to be contained in each group annuity contract:

(a) a nonforfeiture provision which in the opinion of the commissioner is equitable to the participants and to the contract holder. Each nonforfeiture provision must bear a reasonable relationship to the sources of contributions.

(b) a provision which entitles the contract holder and the participants to a grace period of thirty-one days for the payment of any consideration due after the first payment.

(c) a provision which specifies that the validity of the contract shall not be contested, except for nonpayment of considerations due, after it has been in force for two years from its date of issue; and a provision that no statement made by an individual participant relating to coverage shall be used to contest the validity of the coverage unless it is contained in a written instrument signed by the individual.

(d) a provision which requires a copy of the application, if any, of the contract holder to be attached to the contract when issued and become part of the contract; and a provision which requires that all statements made by the contract holder or the participants shall be deemed representations and not warranties, and that no statement made by any covered individual shall be used in any coverage contest by the insurer unless a copy of the instrument containing the statement is or has been furnished to the individual or the beneficiary.

(e) a provision specifying an equitable adjustment of premiums, benefits or both to be made in the event the age or sex of a covered person has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

(f) the names of the parties to the contract, the definition of eligible participants, the conditions under which benefits are payable, the conditions under which the group contract terminates, and the options available to the insured participants upon termination of eligibility and upon termination of the group contract.

(g) a provision which requires the insurer, when an individual's annuity benefit payments commence, to issue to the individual a contract or certificate stating the insurer's direct obligation to the individual, independent of the standing of the group contract holder.

(h) a provision which requires the insurer to issue to each individual participant a certificate setting forth a statement as to all contractual benefits and provisions pertaining to the individual, including the name of the group contract holder and its relationship to the individual participant.

**WAC 284- -100 Unfair practice with respect to out-of-state group annuities.** Pursuant to RCW 48.30.010, it is an unfair method of competition and an unfair practice for any insurer to effect group annuity coverage on individuals in this state under a group policy which is delivered to a policyholder outside this state unless the policyholder is one of the groups provided for in WAC 284- -090(1).

**WAC 284- -110 Member pay all group annuities.**

(1) A "member pay all group annuity" for purposes of this chapter is a group annuity under which an individual pays all or substantially all of the cost for the benefits available to that individual under that group annuity.

(2) An "exempt qualified group annuity" for purposes of this chapter is a group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended. Section 401(k) and 457 group annuities are exempt qualified group annuities. Section 403(b) and 408 group annuities are not exempt qualified group annuities.

(3) A member pay all group annuity, other than an exempt qualified group annuity, shall require the insurer to issue to the individual a certificate, and that certificate shall be deemed to be an individual annuity contract, regardless of the situs of the group annuity contract. The certificate is subject to the provisions of chapter 48.23 RCW and must be filed with and approved by the commissioner prior to use in this state.

(4) An individual certificate under a member pay all group annuity, other than an exempt qualified group annuity, shall provide that the certificate and a copy of the application, if endorsed upon or attached to the certificate when issued, shall constitute the entire contract between the parties.

(5) Subsections (3) and (4) of this section do not apply to group annuities that comply with the provisions of WAC 284- -090(2).

**WAC 284- -120 Required application.** Except where a spouse is effectuating an annuity contract on behalf of the other spouse or a parent or guardian or other person upon whom a minor is dependent for support and maintenance is effectuating an annuity contract with respect to a minor child, no individual annuity contract and no individual certificate under a member pay all group annuity, other than an exempt qualified group annuity, shall be made or effectuated unless at the time of the making of the contract, the individual annuitant insured, being of competent legal capacity to contract, in writing applies therefor or consents thereto.

**WAC 284- -130 Optional maturity dates.** RCW 48.23.480 defines the maturity date for purposes of applying RCW 48.23.460 and 48.23.470. The maturity date, optional or not, for purposes of applying RCW 48.23.460 and 48.23.470, shall not be deemed to be later than the anniver-

sary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

**WAC 284- -150 Prohibited conduct.** (1) No insurer or its agent, and no broker shall offer extra-contractual inducements in the solicitation of the purchase of annuities or the transaction of annuity business.

(2) No solicitation material or report to a prospective or existing contract owner shall contain a statement of the interest rate paid on new money unless it contains a statement of the rate paid on funds held.

(3) Any amount functioning as a sign-on bonus must be clearly labelled as such and must not be unfairly discriminatory.

(4) No credit may be offered for penalties incurred by the applicant, such as credit for surrender charges on a contract being replaced, as an inducement to purchase an annuity contract.

(5) Under RCW 48.23.440, the minimum nonforfeiture amount for an individual deferred annuity is defined as an accumulation, at three percent interest, of percentages of the net considerations. No insurer shall reduce such an accumulation through forfeitures of amounts previously credited. For example, if five percent interest is credited by the insurer in one contract year, the insurer may not credit only two percent in the following contract year, even if the result exceeds an accumulation based on three percent interest every year.

**WAC 284- -160 Unfair practices.** Failure of an insurer to comply with the requirements of this chapter shall constitute an unfair method of competition and an unfair act or practice, pursuant to RCW 48.30.010.

February 10, 1994

Deborah Senn  
Insurance Commissioner

**WSR 94-05-060**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed February 11, 1994, 8:20 a.m.]

**Original Notice.**

**Title of Rule:** Chapter 16-200 WAC, rules relating to tonnage fees on commercial feed.

**Purpose:** Increases the commercial feed inspection fee to account for the legislative fund shift for administrative costs from the general fund to local funds.

**Statutory Authority for Adoption:** Chapter 15.53 RCW.

**Statute Being Implemented:** RCW 15.53.9018.

**Summary:** Beginning May 1, 1994, each distributor of commercial feed would be required to pay an inspection fee of eight and one-half cents and beginning July 1, 1994, an inspection fee of nine cents per ton.

**Reasons Supporting Proposal:** In 1993 a fund shift for administrative costs from the general fund to agricultural local funds was made by the legislature. The increase in inspection fee is needed to supplement the loss of funds,

higher operating costs and loss of interest on agric. local funds.

**Name of Agency Personnel Responsible for Drafting:** Ali Kashani, Registrar, P.O. Box 42589, Olympia, (206) 902-2030; **Implementation:** Ted Maxwell, Chief, Registration, P.O. Box 42589, Olympia, (206) 902-2030; and **Enforcement:** Cliff Weed, Program Manager, Compliance, P.O. Box 42589, Olympia, (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 department is proposing to increase inspection fees for commercial feed by a total of one cent in two increments of one half cent each. The inspection fee is currently eight cents per ton. The primary reason for the increase in inspection fees is due to the legislative fund shift in 1993 for administrative costs from the general fund to local funds.

**Proposal Changes the Following Existing Rules:** As stated above.

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

The proposed rule increases the commercial feed inspection fee from .08 to 0.85 cents per ton for the period May 1, 1994, to June 30, 1994; and from .085 to .09 cents per ton for the period beginning July 1, 1994. The sole purpose of the rule is to account for the fund shift for administrative costs from the general fund to local funds, the loss of interest on agricultural local funds, and higher operating costs.

**Revenues:** The estimated loss of revenue to the feed program due to the fund shift - loss on interest and higher operating costs \$100,000 per biennium. Part of this loss has been addressed by an increase in feed product registrations fees. The proposed rule is intended to make up for the remaining loss of revenue.

The estimated increase in revenue during the period May 1 to June 30, 1994, is \$782 (estimate 156,400 tons distributed during this period). The estimated increase in revenue from July 1, to December 31, 1994, is \$8,190 (estimate 819,000 tons distributed during this period). The total estimated increase for 1994 is \$8,972. The estimated increase in revenue beyond 1994 is \$16,010 per year (estimate 1,601,000 tons distributed).

**Impact on Affected Groups:** There are approximately two hundred twenty-five companies that report and pay commercial feed inspection fees, and that will be directly impacted by this proposal. Using the figures above, the average inspection fee paid during 1994 will increase from approximately \$569 per company to \$609 per company. The average inspection fee paid during 1995 and beyond will increase from \$609 per company to approximately \$640 per company.

**Hearing Location:** Washington State Department of Agriculture, Natural Resources Building, 1111 Washington Street, Room 259, Olympia, WA 98504, on March 24, 1994, at 1:00 p.m.

**Submit Written Comments to:** Bill Brookreson, Washington State Department of Agriculture, Pesticide Manage-

ment Division, P.O. Box 42589, Olympia, WA 98504, by March 24, 1994.

Date of Intended Adoption: March 31, 1994.  
February 10, 1994  
William E. Brookreson  
Assistant Director

AMENDATORY SECTION (Amending Order 1747, filed 9/1/81)

**WAC 16-200-805 Tonnage fees.** Pursuant to RCW 15.53.9018, beginning May 1, 1994, each initial distributor of a commercial feed in this state shall pay to the department of agriculture an inspection fee of eight and one-half cents per ton on all commercial feed sold by such person during the year and, beginning July 1, 1994, each initial distributor of a commercial feed in this state shall pay to the department an inspection fee of nine cents per ton on all commercial feed sold during the year. Exceptions to payment of this fee are as authorized in RCW 15.53.9018.

**WSR 94-05-061  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**  
[Filed February 11, 1994, 8:22 a.m.]

Original Notice.

Title of Rule: Ethyl parathion on canola/rape plants in chapter 16-219 WAC.

Purpose: To protect honeybees from ethyl parathion poisoning.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: RCW 15.58.040 and 17.21.030.

Summary: The proposed rule would restrict application of ethyl parathion to blossoming rape/canola to a period beginning two hours prior to sunset and ending at midnight the same day. Additional restrictions would allow applications during this time period only when bloom is at a certain level and only if honeybees are not foraging in the area. EPA recently approved a revised ethyl parathion label which allows a morning application during certain periods of bloom which creates an unacceptable risk to honeybees.

Name of Agency Personnel Responsible for Drafting and Implementation: Ted Maxwell, Chief, Registration, P.O. Box 42589, Olympia, 902-2030; and Enforcement: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, 902-2040.

Name of Proponent: Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules would restrict the use of ethyl parathion when applied to blossoming canola/rape fields. The restrictions include allowing only evening applications and these restrictions would not apply if there are no hives of bees registered with the department within two miles of the field to be treated. The purpose of the rules is to reduce risk of exposure to honeybees.

Proposal does not change existing rules.

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

Ethyl parathion was not relabeled for use on canola until the summer of 1993 and was not used on canola that year. The canola industry has had to rely on other pesticides.

Hearing Location: Walla Walla County Cooperative Extension, Auditorium, 317 West Rose, Walla Walla, WA, on March 22, 1994, at 1:00 p.m.

Submit Written Comments to: Washington State Department of Agriculture, Attn: Max G. Long, 2015 South 1st Street, Yakima, WA 98903, by March 22, 1994, 5:00 p.m.

Date of Intended Adoption: March 31, 1994.  
February 9, 1994  
William E. Brookreson  
Assistant Director

NEW SECTION

**WAC 16-219-100 Ethyl parathion—Restricted use pesticide—Definitions.** (1) The insecticide ethyl parathion is hereby declared to be a restricted use pesticide in all counties of the state of Washington.

(2) The following definitions shall apply to WAC 16-219-105:

(a) The term "blossoming rape and canola" shall mean when there are five or more blooms per square yard on the average in a given field.

(b) The term "registered hives of bees" shall mean hives of bees registered with the department by their owner in accordance with RCW 15.60.050.

NEW SECTION

**WAC 16-219-105 Ethyl parathion—Application restrictions.** (1) Application of ethyl parathion to blossoming rape and canola is allowed only under the following conditions:

(a) Bloom shall be completed on the bottom two thirds of the canola/rape plants with no more than twenty five percent bloom remaining on the top one third of the plants.

(b) The application shall only be made in the evening from two hours before sunset to midnight, and only if bees are not foraging in the area to be treated.

(c) The area to be treated shall be inspected prior to application to ensure bees are not foraging at time of application.

(2) The requirements of subsection (1) of this section need not be met if there are no registered hives of bees within two miles of the field to be treated; or when the owner of the bees agrees to cover the hives during application; and all restrictions on the federally registered label are followed.

**WSR 94-05-065  
PROPOSED RULES  
DEPARTMENT OF HEALTH**  
[Filed February 14, 1994, 9:00 a.m.]

Original Notice.

**Title of Rule:** WAC 246-843-990 Nursing home administrator fees.

**Purpose:** To lower the inactive late renewal penalty fee to half the amount of the inactive renewal fee.

**Statutory Authority for Adoption:** RCW 43.70.250.

**Statute Being Implemented:** Chapter 18.52 RCW.

**Summary:** To lower the inactive late renewal penalty fee to a more reasonable amount.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Karen S. Burgess, 1300 S.E. Quince Street, P.O. Box 47869, 753-3729.

**Name of Proponent:** Board of Nursing Home Administrators, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** WAC 246-843-990 Nursing home administrator fees, add a new fee for inactive renewal penalty to bring the fee more in line with other penalty fees.

**Proposal Changes the Following Existing Rules:** It adds an additional fee to WAC 246-843-990. Inactive renewal penalty fee for \$55.00.

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

**Hearing Location:** Department of Health, Blue Awning Building, 1102 Quince, First Floor Conference Room, Olympia, WA 98504, on March 23, 1994, at 10 a.m.

**Submit Written Comments to:** Ann Foster, Department of Health Rules Coordinator, P.O. Box 47902, Olympia, 98504-7902, by March 22, 1994.

**Date of Intended Adoption:** March 30, 1994.

February 10, 1994

Bruce Miyahara

Secretary

**[AMENDATORY SECTION (Amending WSR 93-14-011, filed 6/24/93)]**

**WAC 246-843-990 Nursing home administrator fees.**

The following fees shall be charged by the ~~health~~ ~~((professional licensing))~~ professions quality assurance division of the department of health:

Title of Fee	Fee
Application (examination and original license)	\$325.00
Reexamination (partial)	125.00
Application - Reciprocity	295.00
Temporary Permit	190.00
Renewal	295.00
Inactive license renewal	110.00
Late renewal penalty	145.00
<u>Late renewal penalty - inactive</u>	<u>55.00</u>
Duplicate license	15.00
Certification	15.00
Administrator-in-training	100.00

**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 94-05-066**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed February 14, 1994, 9:35 a.m.]

**Original Notice.**

**Title of Rule:** Chapter 16-580 WAC, Washington Farmed Salmon Commission.

**Purpose:** Amending WAC 16-580-040 to reduce assessment rate.

**Statutory Authority for Adoption:** RCW 15.65.280.

**Statute Being Implemented:** Chapter 15.65 RCW.

**Summary:** Proposed rule would reduce assessment from one and one-half cents (\$.015) per pound to one cent (\$.01) per pound on the first ten million pounds per year.

**Reasons Supporting Proposal:** Increased competition has reduced prices received by the affected producer. Producers need to reduce cost to remain competitive.

**Name of Agency Personnel Responsible for Drafting:** Walter Swenson, Washington State Department of Agriculture, 1111 Washington Street, Olympia, WA, (206) 902-1928; **Implementation and Enforcement:** Washington Farmed Salmon Commission, Bellingham, Washington, (206) 671-1997.

**Name of Proponent:** Washington Farmed Salmon Commission, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The rule would change the assessment from one and one-half cents (\$.015) per pound to one cent (\$.01) per pound on the first ten million pounds of production per year. The assessment rate for production above ten million pounds would remain the same. Revenue to the commission would be reduced.

**Proposal Changes the Following Existing Rules:** Rule would reduce assessment rate on farmed salmon products.

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

**Hearing Location:** Washington Department of Agriculture, Natural Resource Building, Room 259, 1111 Washington Street, Olympia, WA, on March 23, 1994, at 11:00 a.m.

**Submit Written Comments to:** Walter Swenson, P.O. Box 24560, Olympia, WA 98504-4560, by March 23, 1994.

**Date of Intended Adoption:** April 5, 1994.

February 11, 1994

James M. Jesernig

Director

**[AMENDATORY SECTION (Amending WSR 92-22-062, filed 10/29/92, effective 12/1/92)]**

**WAC 16-580-040 Assessments and collections. (1)**

The assessment on all farmed salmon products shall be one ~~((and one half)) cent((s - \$.015)))~~ (\$.01) per pound on the first ~~((ten million pounds (dressed head on equivalent); one cent (\$0.01) per pound from ten to))~~ fifteen million pounds (dressed head-on equivalent); and one-half cent (\$.005) per

pound over fifteen million pounds (dressed head-on equivalent) produced collectively by affected producers.

(2) The board shall determine the assessment rate each month on the basis of the total production reported, year to date, and bill the producer for his/her production for that month at that rate.

(3) For the purpose of collecting assessments, the board may require the person subject to the assessment to give adequate assurance or security for its payment.

(4) For the purpose of assuring compliance with the recordkeeping requirements and verifying reports filed by producers, the director and the board through its duly authorized employees, shall have access to and the authority to audit such records.

(5) All reports and records furnished or submitted by producers or to, or obtained by the employees of, the board which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular producer or processor from whom received, shall be treated as confidential, and the reports and all information obtained from records shall not be disclosed to board members and shall at all times be kept in the custody and under the control of one or more employees of the board who shall not disclose such information to any person other than the director, or his authorized agents. Compilations of general reports from data and information submitted by producers is authorized subject to the prohibition of disclosure of individual producers' identity or operation.

(6) Any moneys collected or received by the board pursuant to the provisions of the marketing order during or with respect to any year, may be refunded on a pro rata basis at the close of such year or at the close of such period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding year.

(7) Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the marketing order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

(8) Assessments may, with the concurrence of the affected producer, be collected prospectively.

**WSR 94-05-069**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed February 14, 1994, 11:49 a.m.]

Original Notice.

Title of Rule: WAC 388-28-390 Entitlements.

Purpose: Modifies current policy to deny or terminate the assistance unit when a member refuses to either establish the existence of or receive an existing entitlement.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Considers the value of an entitlement when determining need, whether or not the client chooses to receive the entitlement.

Reasons Supporting Proposal: Amendment clarifies federal regulation compliance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, Division of Income Assistance, 438-8311.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 45 CFR 233.20 (a)(3)(ii)(D).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as 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: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on March 22, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by March 8, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, 98504, TELEFAX 586-8487 or SCAN 321-8487, by March 15, 1994.

Date of Intended Adoption: March 29, 1994.

February 14, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

AMENDATORY SECTION (Amending Order 2774, filed 3/10/89)

**WAC 388-28-390 ((Community, separate and jointly owned property—))Entitlements.** (1) "Entitlement" means any claim or interest, payable in cash or in kind, a client may have in the following:

- (a) Benefit;
  - (b) Compensation;
  - (c) Insurance;
  - (d) Pension (retirement, military, etc.);
  - (e) Bonus;
  - (f) Allotment;
  - (g) Allowance, etc.
- (2) The department shall:

- (a) Determine the interest a client may have in any entitlement; and
- (b) Refer the client to the proper agency to apply for such benefits;
- (c) Assist the client, when requested to do so, in obtaining such benefits; and
- (d) Deny ~~((a client who))~~ or terminate the assistance unit when a member refuses to:
- (i) Establish the existence of an entitlement and its value; (and
- ~~(e) Consider the resource amount which the client may claim in computing the financial need whether or not the client chooses to receive the entitlement))~~ or
- (ii) Receive an existing entitlement.

**WSR 94-05-070**  
**PREPROPOSAL COMMENTS**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**  
 [Filed February 14, 1994, 12:53 p.m.]

Subject of Possible Rule Making: Off-label drugs, the commissioner is considering proposing rules regarding off-label drug use. She is seeking comments on the draft shown below and other ideas on how to deal with this problem. She will be working in concert with the Health Services Commission and other interested parties to see if regulations are needed and what form they should take. The Washington Office of Insurance Commissioner has been working with the National Association of Insurance Commissioner to develop a model on this subject.

Some insurers deny payment for drugs that have been approved by the federal Food and Drug Administration when the drugs are used for indication other than those stated in the approved labelling while other insurers with similar coverage terms pay for off-label drug use. Denial of payment for off-label use can interrupt or effectively deny access to necessary and appropriate treatment for a person being treated for a life-threatening illness.

Persons may comment on this subject in writing to the commissioner, P.O. Box 40255, Olympia, WA 98504-0255, by April 22, 1994.

Other Information or Comments by Agency at this Time, if any: For more information or details of the possible rule, please contact Rich Nafziger, Deputy Commissioner, (206) 753-3110, or Bill Kirby, Regulation Analyst, (206) 586-5597.

February 14, 1994  
 Deborah Senn  
 Insurance Commissioner

**NEW SECTION**

**WAC 284-30-450 Off-label drug use** (1) Authority and Purpose

(a) Some insurers deny payment for drugs that have been approved by the federal Food and Drug Administration (FDA) when the drugs are used for indications other than those stated in the labelling approved by the FDA (off-label use) while other insurers with similar coverage terms pay for off-label use. Denial of payment for off-label use can

interrupt or effectively deny access to necessary and appropriate treatment for a person being treated for a life-threatening illness.

(b) Equity among insured residents of this state and fair claims settlement practices and competition among companies providing coverage to residents of this state require comparable reimbursement for prescribed drugs among insurers, health care service contractors and health maintenance organization.

(c) Use of off-label indications often provides efficacious drugs at a lower cost.

(d) To prevent unfair methods of claims settlements, competition and unfair or deceptive acts or practices of insurers and prohibited acts or practices of health care service contractors or health maintenance organizations, this rule is adopted.

(2) Scope

This regulation affects insurance policies and contracts providing coverage for drugs to a resident of this state.

(3) Definitions

(a) "Drug" or "drugs" means any substance prescribed by a physician taken by mouth, injected into a muscle, the skin, a blood vessel, or a cavity of the body, or applied to the skin to treat or prevent a disease, and specifically includes drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication or for the treatment of AIDS patients.

(b) "Medical literature" means scientific studies published in any peer-reviewed national professional journal.

(c) "Policy" or "contract" means any individual, group or blanket policy of insurance written by a disability insurer, health care service contractor or health maintenance organization issued, amended, delivered or renewed on or after the effective date of this regulation which provides coverage to a resident of this state.

(d) "Standard reference compendia" means: (a) the American Hospital Formulary Service-Drug Information, (b) the American Medical Association Drug Evaluation, (c) the United States Pharmacopoeia-Drug Information, or (d) other authoritative compendia as identified from time to time by the Secretary of Health and Human Services or the Insurance Commissioner.

(4) Standards of Coverage

(a) No insurance policy or contract which provides coverage for prescription drugs to a resident of this state shall exclude coverage of any such drug for a particular indication on the ground that the drug has not been approved by the Federal Food and Drug Administration for that indication, if such drug is recognized for treatment of such indication in one of the standard reference compendia, or in medical literature, by the Secretary of Health and Human Services or by the Insurance commissioner.

(b) Coverage of a prescription drug required by this section shall also include medically necessary services associated with the administration of the drug.

(c) This regulation shall not be construed to alter existing law with regard to provisions limiting coverage of drugs that have not been approved by the Federal Food and Drug Administration.

(d) This regulation shall not be construed to require coverage for any drug when the Federal Food and Drug Administration has determined its use to be contra-indicated.

(e) This regulation shall not be construed to require coverage for experimental drugs not otherwise approved for any indication by the Federal Food and Drug Administration.

(5) Effective date

This regulation is effective July 1, 1994.

(3) This regulation shall not apply to any long term care policies or contracts.

(4) It is not the purpose of this regulation to make any accelerated benefit either a mandatory benefit or a mandated offering. This regulation will simply regulate those accelerated benefits which individual life insurers and group life insurers choose to advertise, offer or market on or after the effective date of this regulation.

**WSR 94-05-071**  
**PREPROPOSAL COMMENTS**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed February 14, 1994, 12:55 p.m.]

Subject of Possible Rule Making: Accelerated benefits, the commissioner is considering proposing rules regarding accelerated life insurance benefits. She is seeking comments on the rough draft and alternative proposals shown below.

The purpose of the regulation is to regulate accelerated benefits paid under individual life insurance policies and group life insurance policies, and also to establish minimum required standards of disclosure.

Persons may comment on this subject in writing to the commissioner, P.O. Box 40255, Olympia, WA 98504-0255, by April 22, 1994.

Other Information or Comments by Agency at this Time, if any: For more information or details of the possible rule, please contact: Rich Nafziger, Deputy Commissioner, (206) 753-3110, or Bill Kirby, Regulation Analyst, (206) 586-5597.

February 14, 1994  
 Deborah Senn  
 Insurance Commissioner

ACCELERATED LIFE INSURANCE BENEFITS

**WAC 284-97-010 Title.** This regulation, WAC 284-97-010 through WAC 284-97-160, inclusive, shall be known and may be cited as "The Washington Regulation on Accelerated Life Insurance Benefits." (Statutory Authority: RCW 48.02.060[1] and RCW 48.02.060 [3](a); RCW 48.11.020; RCW 48.18.100; RCW 48.30.010[1]; and RCW 48.30.010[2].

**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.

**WAC 284-97-020 Purpose and scope.** (1) The purpose of this regulation is to regulate accelerated benefits paid under individual life insurance policies and group life insurance policies, and also to establish minimum required standards of disclosure.

(2) This regulation shall apply to all accelerated benefits provisions of all individual life insurance policies and group life insurance policies which are issued or delivered in this state, on or after the effective date of this regulation. The regulation shall apply to both contracts and riders. It shall also apply to solicitations for the sale of accelerated benefits, whether in the form of contracts or riders.

**WAC 284-97-030 Definitions.** (1) "Accelerated Benefits" covered by this regulation are benefits in either an individual life insurance contract or a group life insurance contract, in either a contract or a rider:

(a) Payable to either the policyholder of an individual policy or to the certificate holder of a group policy, during the lifetime of either, in anticipation of death, or upon the occurrence of certain specific life-threatening, terminal, or catastrophic conditions defined by the policy or rider; and

(b) Which reduce or eliminate the death benefit otherwise payable under the life insurance contract or rider; and

(c) Which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time the accelerated benefit is paid.

(2) "Qualifying event" shall mean one or more of the following:

(a) A medical condition which would result in a drastically limited life span as specified in the contract or rider, such as the following example: twenty-four (24) months or less; or

(b) A medical condition which has required or will require extraordinary medical intervention such as, but not limited to, any of the following: major organ transplants or continuous life support, without which the insured would die; or

(c) Any condition which usually requires continuous confinement in any eligible institution as defined in the contract or rider, if the insured is expected to remain there for the rest of his or her life; or

(d) Any medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span of the insured. Such medical conditions may include, but are not limited to, one or more of the following:

(1) Coronary artery disease resulting in an acute infarction or requiring surgery; or

(2) Permanent neurological deficit resulting from cerebral vascular accident; or

(3) End stage renal failure; or

(4) Acquired Immune Deficiency Syndrome (AIDS); or

(5) Other medical conditions which the Insurance Commissioner approves for any particular filing.

**WAC 284-97-040 Type of product.** Accelerated benefits in life insurance contracts or riders are primarily mortality risks rather than morbidity risks. They are also optional modes of settlement of proceeds under life insurance contracts, as described in RCW 48.11.020.

**WAC 284-97-050 Assignees and beneficiaries.** Prior to the payment of any accelerated benefit, the insurer must obtain from any assignee or irrevocable beneficiary a signed consent to the payout. If the insurer paying the accelerated benefit is itself an assignee, no such consent is required.

**WAC 284-97-060 Criteria for payment.** 1. Payment options must include, but are not limited to, the option of taking the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

2. No restrictions are permitted upon the use made of the proceeds from the payment of accelerated benefits.

3. If any part of the death benefit remains after payment of accelerated benefits, then any accidental death benefit payable under the contract or rider shall not be affected by the payment of the accelerated benefits.

**WAC 284-97-070 Disclosure.** 1. The words, "Accelerated Benefit" must be included in the descriptive title of the life insurance policy or rider. Products regulated under this regulation shall not be described, advertised, marketed or sold as either long term care insurance or as providing long term care benefits. Each violation of this subsection shall constitute an unfair trade practice under RCW 48.30.010.

2. Tax consequences or consequences on eligibility for receipt of medicare, medicaid, Social Security, Supplemental Security Income (SSI) or other sources of public funding.

(a) A disclosure statement must be provided to the applicant for an individual or group life insurance policy, at the time the application is made; or with the rider at the time a rider is provided to the policy owner. The disclosure statement must be prominently displayed on the first page of the policy or rider and any other related materials.

(b) At the time the owner of an individual life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid, the insurer must provide the disclosure statement to the individual insured.

(c) At the time an individual certificate holder of a group life insurance policy submits a request for payment of accelerated benefits, and before those accelerated benefits are paid, the insurer must provide the disclosure statement directly to the individual certificate holder. It is not sufficient to provide it only to the holder of the group policy.

(d) The disclosure statement must contain substantially the following, prominently displayed: "If you receive payment of accelerated benefits from a life insurance policy, you may lose your right to receive certain public funds, such as medicare, medicaid, Social Security, Supplemental Security Income (SSI) and possibly others. ALSO, if you receive payment of accelerated benefits from a life insurance policy, this may have tax consequences for you. We cannot give you advice about this. You may need to obtain advice from a tax professional or an attorney, before you decide to receive accelerated benefits from a life insurance policy."

3. The disclosure statement shall give a brief and clear description of the accelerated benefit. It must define all qualifying events which trigger payment of the accelerated benefit. It shall also describe the effect of payment of

accelerated benefits upon the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to the application, or at the time the application is made. Written acknowledgement of the disclosure shall be signed by the applicant and the writing agent.

(b) In the case of a solicitation by direct response, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a written notice that a full premium refund shall be made if the policy is returned to the insurer within the free look period.

(c) In the case of group insurance policies, the disclosure form shall be contained in the certificate of coverage, or in any other related document furnished by the insurer to the certificate holder.

(2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of an accelerated benefit upon the policy's cash value, accumulation account, death benefit, premium, policy loans or policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant either before the application is taken, or concurrently with the application.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant concurrently with delivery of the policy to the applicant.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of insurance or any related document furnished by the insurer to the certificate holder.

(3) Disclosure of Premium Charge:

(a) Insurers with financing options other than as described in subsections 120 (1)(b) and (c) of this regulation, shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any premium or cost of insurance charge, if he or she is required to pay all or any part of such a premium or cost of insurance charge.

(b) Insurers shall furnish an actuarial demonstration to the Insurance Commissioner when filing the product, showing the method used to calculate the cost for the accelerated benefit.

(4) Disclosure of Administrative Expense Charge:

(a) The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any administrative expense charge if he or she is required to pay all or any part of any such charge.

(5) Effect of the Benefit Payment.

(a) When the owner of an individual policy or the certificate holder of a group policy requests payment of an accelerated benefit, the insurer shall send a statement to that person, and to any irrevocable beneficiary, showing any effect that payment of an accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. This shall be in

addition to the disclosure statement mentioned in foregoing subsections of this regulation. When the insurer pays the accelerated benefit, it shall issue an amended schedule page to the owner of an individual policy, or to the certificate holder of a group policy, showing any new, reduced-in-force amount of the contract. When more than one payment of accelerated benefits is permitted under the contract or rider, the insurer shall send a revised statement to the owner of an individual policy, or to the certificate holder of a group policy, where a previous statement has become invalid due to payment of accelerated benefits.

**WAC 284-97-080 Effective date of the accelerated benefit.** If an accident is defined as a qualifying event for payment of accelerated benefits, then the accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than thirty (30) days following the effective date of the policy or rider.

**WAC 284-97-100 Waiver of premiums.** The insurer may, but is not required to, offer a waiver of premium for the accelerated benefit provision, in the absence of a regular waiver of premium provision being in effect. At the time payment of the accelerated benefit is requested, the insurer shall explain to the owner of an individual policy, or the certificate holder of a group policy, any continuing premium requirement necessary to keep the policy in force.

**WAC 284-97-110 Discrimination.** No insurer shall unfairly discriminate between insureds with different qualifying events covered under the policy or rider. No insurer shall unfairly discriminate between insureds with similar or identical qualifying events covered under the policy or rider.

**WAC 284-97-120 Actuarial standards.** 1. Financing Options.

(a) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit.

(b) The insurer may pay a present value of the face amount. The calculation shall be based upon any applicable discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based upon sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no more than the greater of:

- (1) The current yield on 90 day treasury bills; or
- (2) The current maximum statutory adjustable policy loan interest rate.

(c) The insurer may accrue an interest charge on the amount of the accelerate benefits. The interest rate or the interest rate methodology used in the calculation shall be based upon sound actuarial principles and disclosed in the contract or the actuarial memorandum. The maximum interest rate used shall be no more than the greater of:

- (1) The current yield on 90 day treasury bills; or
- (2) The current maximum statutory adjustable policy loan interest rate.

The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

2. Effect on Cash Value.

(a) Except as provided on section 120 (2)(b) of this regulation when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based upon the percentage of death benefits accelerated to produce the accelerated benefit payment.

(b) Alternatively, the payment of accelerated benefits, any administrative expense charges, any future premiums, and any accrued interest can be considered a lien against the death benefit of the policy or rider, and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy amounts.

3. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment.

When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

**WAC 284-97-130 Actuarial disclosure and reserves.**

1. Actuarial Memorandum.

A qualified actuary should describe the accelerated benefits, the risks, the expected costs, and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commissioner upon request.

2. Reserves.

(a) When benefits are provided through the acceleration of benefits under group or individual policies, or riders to such policies, policy reserves shall be determined in accordance with the Standard Valuation Law. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the NAIC may be used, as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate shall be sufficient to cover:

- (1) Policies upon which no claim has yet arisen; and
- (2) Policies upon which a claim for one or more payments of accelerated benefits has arisen.

(b) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.

(c) Policy liens and policy loans, including accrued interest, represent assets of the insurer for statutory reporting purposes. For any policy on which the policy lien exceeds

the policy's statutory reserve liability, such excess must be held as a non-admitted asset.

**WAC 284-97-140 Filing requirement.** The filing of all forms containing accelerated benefits provisions, including both contracts and riders, is required, pursuant to WAC 48-18-100 and WAC 284-58-130.

**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.

**WAC 284-97-150 Administrative expenses.** If there will be any administrative charge or processing fee, known by those or any other names, for the payment of accelerated benefits, all such charges or fees must be disclosed in the policy or rider. They must also be described in the disclosure statement. Any such charge or fee must be reasonable under all the circumstances, it may be charged only once, and it may not exceed the maximum amount of \$500.

**WAC 284-97-160 Resolution of disputes regarding occurrence of qualifying events.** In those cases where there is a dispute between the claimant's physician and a physician appointed by the insurer, as to whether a qualifying event has occurred, the opinion of the insurer's physician shall not be binding. The contract or rider offering the accelerated benefit must contain a dispute resolution mechanism that provides for a simple and economical method of obtaining a binding third opinion from some referee or arbitrator who is acceptable to both the claimant and the insurer. The dispute resolution mechanism must adjudicate the dispute within 60 days after the insurer communicates to the insured its determination that a qualifying event has not occurred. The insurer shall bear all costs of using the dispute resolution mechanism.

**WSR 94-05-072**  
**PROPOSED RULES**  
**BOARD OF BOILER RULES**  
[Filed February 14, 1994, 1:41 p.m.]

Original Notice.

Title of Rule: WAC 296-104-281.

**Purpose:** The purpose of this rule is to exempt from regulation, with certain provisions, small electric boilers used for such purposes as generating steam in such applications as espresso machines. To comply with actions taken by the Board of Boiler Rules.

**Statutory Authority for Adoption:** RCW 70.79.040.

**Statute Being Implemented:** Rules and regulations—Scope.

**Summary:** After deciding that small electric boilers used in such applications as espresso machines came under regulation as defined in chapter 296-104 WAC, the board felt these vessels, with certain provisions, pose no safety problems and should be exempt from regulation.

**Reasons Supporting Proposal:** To comply with actions taken by the Board of Boiler Rules.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Dick Barkdoll, 7273 Linderson Way S.W., Tumwater, (206) 956-5270.

**Name of Proponent:** Board of Boiler Rules, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** WAC 296-104-281 Small electric boilers, this new rule will exempt small electric boilers used in such applications as espresso machines, with certain conditions, from regulation and inspection. No safety problems have been cited and if these vessels meet the special criteria in the new rule the board felt they should be exempted.

**Proposal Changes the Following Existing Rules:** Under existing rules of chapter 296-104 WAC, these vessels are considered boilers and are subject to regulation. This rule exempts them from regulation.

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

The Board of Boiler Rules and the department have considered whether these rules are subject to the Regulatory Fairness Act and have determined that they are not for the following reasons: The new ruling in effect exempts small businesses from regulation and therefore adopting this rule helps in removing any monetary costs that would be required under existing rules.

**Proposed Amendments to Rule:** The department is proposing the addition of a new section, WAC 296-104-281 Small electric boilers, to the Washington Administrative Code. The proposed amendment would exempt small electric boilers (as defined in the proposed rule) used in such applications as espresso machines from the rules in chapter 296-104 WAC. Small electric boilers that meet certain criteria would be exempt from inspection and certification fees.

**Regulatory Fairness Act:** The Washington Regulatory Fairness Act, chapter 19.85 RCW, requires that proposed rules which have an economic impact on more than 20 percent of all industries, or 10 percent of any one industry as determined by the standard industry classification (SIC) codes, shall be reviewed to determine if there exists a proportionately higher economic burden of compliance on small businesses. Small businesses are defined as businesses having fifty or less employees.

**Summary of Economic Analysis:** The department has determined that the proposed amendments would not have an adverse economic impact on more than 20 percent of all industry, or 10 percent of any one industry as defined by the standard industrial classification (SIC) codes. The department has further determined that the proposed rule would not cause an adverse economic impact to small business in the state of Washington.

**Conclusion:** The department has evaluated the economic impact of the proposed rule changes in accordance with the Regulatory Fairness Act and concluded that the proposed amendments would have no adverse economic impact on small business. Thus, neither a more substantive small business economic impact statement nor a proposal for the mitigation of a potentially adverse economic impact is necessary.

Hearing Location: Labor and Industries, 616 120th Avenue N.E., Suite C-201, Bellevue, WA 98005-3037, on March 22, 1994, at 10:00 a.m.

Submit Written Comments to: Dick Barkdoll, P.O. Box 44410, Olympia, WA 98504-4410, by March 22, 1994.

Date of Intended Adoption: April 23, 1994  
 January 24, 1994  
 Robert E. Reid  
 Chairman

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

Hearing Location: Washington Department of Agriculture, Natural Resources Building, Room 259, 1111 Washington Street, Olympia, WA, on March 23, 1994, at 10:30 a.m.

Submit Written Comments to: Walter Swenson, Washington State Department of Agriculture, P.O. Box 24560, Olympia, WA, by March 23, 1994.

Date of Intended Adoption: April 5, 1994.  
 February 10, 1994  
 James M. Jesernig  
 Director

NEW SECTION

**WAC 296-104-281 Small electric boilers.** Small electric boilers used for purposes as generating steam in such applications as espresso machines shall be exempt from the rules of this chapter provided such devices:

- (1) Have a tank volume of 1.5 cubic feet (0.0425 cubic meters) or less;
- (2) Have a maximum allowable working pressure of 50 psig (0.345 MPa.) or less;
- (3) Have a pressure relief system to prevent excessive pressure; and
- (4) Are constructed to the ASME code or are approved or otherwise certified by a nationally recognized or foreign testing laboratory (including but not limited to UL, ETL, and ISPESL).

**WSR 94-05-073**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed February 14, 1994, 2:02 p.m.]

Original Notice.

Title of Rule: Chapter 16-514 WAC, Washington Egg Commission.

Purpose: Amending WAC 16-514-020 (4)(d) to remove the term limit on elected board members.

Statutory Authority for Adoption: RCW 15.65.280.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The proposal would amend the current rule by eliminating the term limit of elected board members.

Reasons Supporting Proposal: Due to the changing structure of the poultry and egg industry, there are fewer organizations to provide leadership to the commission.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, Washington State Department of Agriculture, 1111 Washington Street, Olympia, WA, (206) 902-1928; Implementation and Enforcement: Washington Egg Commission, Olympia, Washington, (206) 754-4401.

Name of Proponent: Washington Egg Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Under the current rule, board members are limited to two consecutive, three-year terms on the commission. The proposed rule would remove the term limit on elected board members.

Proposal does not change existing rules.

Remove term limits current in place.

AMENDATORY SECTION (Amending Order 1957, filed 11/13/87)

**WAC 16-514-020 Egg commodity board.** (1) **Administration.** The provisions of this marketing order and the applicable provisions of chapter 15.65 RCW shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of eight members. Seven members shall be affected producers or their representatives elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the state of Washington, and members shall be elected members at large.

(3) **Board membership qualifications.** The affected producer members of the board or their representatives shall be producers of eggs and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing eggs within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his/her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member appointed by the director, position seven.

(c) The term of office for the initial board members shall be as follows:

- Positions one and two - one year;
- Positions three and four - two years;
- Positions five, six, and seven - three years.

~~((d) No elected individual member of the board may serve more than two full consecutive three-year terms.))~~

(5) **Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members.

Notice of every such meeting shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this marketing order, nominations may be made at the issuance hearing.

**(6) Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of October under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

**(7) Vacancies prior to election.** In the event of a vacancy on the board, the remaining elected members shall select a qualified person to fill the unexpired term.

**(8) Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

**(9) Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**(10) Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish an "egg board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not-to-exceed one hundred dollars, shall be deposited weekly.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon the person by the act or the order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: *Provided*, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**WSR 94-05-074**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 14, 1994, 2:05 p.m.]

Original Notice.

Title of Rule: Washington state egg seals.

Purpose: To raise the assessment on shell eggs sold intrastate to provide a more adequate level of funding for the egg inspection program.

Other Identifying Information: Level of assessment to increase from .0025 cents per dozen eggs to .002675 cents per dozen eggs sold in intrastate commerce exclusive of the exemptions found under RCW 69.25.170 and 69.25.290.

Statutory Authority for Adoption: RCW 69.25.250.

Statute Being Implemented: Partial implementation of RCW 69.25.250 to remain within the physical growth factor (WAC 16-108-010).

Summary: Sets the assessment level at .002675 cents per dozen eggs sold intrastate.

Reasons Supporting Proposal: To better provide funding for inspections to maintain a reasonable staff level in order to better protect consumers and the shell egg industry from certain qualities of shell eggs that are injurious to the public welfare or destroy markets for wholesome, unadulterated eggs and egg products.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Andy Scarborough, P.O. Box 42560, Olympia, 902-1830.

Name of Proponent: Washington Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will raise the shell egg assessment for graded eggs sold intrastate exclusive of the exemptions found under RCW 69.25.170 and 69.25.290 from .0025 cents per dozen eggs to .002675 cents per dozen eggs. These additional assessment dollars will be used to conduct more inspections of shell egg grading plants for quality factors and to access compliance with facility requirements, and to enforce/administer the provisions of chapter 69.25 RCW. Effect: Greater compliance with WAC rules adopted under the authority of chapter 69.25 RCW.

Proposal Changes the Following Existing Rules: Change amount of shell egg assessment from .0025 cents per dozen to .002675 cents per dozen eggs sold in intrastate commerce.

Small Business Economic Impact Statement: We are filing this impact statement because 29 companies paying the current fee of 1/4 cent per dozen eggs sold to retail markets have fewer than 50 employees out of a total of 38 companies. Twenty companies have less than 3,000 bird flocks. These are mostly hobby businesses that sell the eggs from the place of production to individual consumers, and are therefore exempt from assessments and regulation under WSDA and federal laws. Another 9 producers have 100,000 thousand hens or less. Nine companies additionally have over 100,000 thousand birds. Three companies have more than one million birds. One other company has more than two million birds. This assessment has not been raised beyond the current level of 1/4 cents per dozen eggs sold since January 29, 1986.

We mitigated the impact to small business and the overall egg industry before this assessment increase was proposed, because we did not want to raise this fee. Those mitigation measures were:

1. We leased less expensive vehicles.
2. We are buying used vehicles and driving our own vehicles for official business to keep transportation costs down.
3. More emphasis has been put on audits and record checks to identify and collect any unreported assessment dollars.
4. More emphasis has been placed on prioritizing travel, even though some aspects of the inspection program have suffered from the absence of WSDA staff.
5. This rule making will not require business to keep any additional records.
6. It will not take extra equipment to meet the rule requirements.

EXAMPLE COSTS PER 100 DOLLARS OF SALE

SCENARIO 1:

If eggs sold at .75 cents per dozen, and 133 dozen were sold; the costs would be 99 dollars and seventy five cents. 133 dozen times the assessment fee of .002675 = .3557 cents per 100.00 dollars of sale approximately.

SCENARIO 2:

The largest ten percent of the shell egg industry has one million hens or more. Seventy percent of those hens lay one egg per day. Seven hundred thousand eggs divided by twelve eggs per dozen equals 58,333 dozen per day produced. If assessments are owed on all 58,333 dozen; the costs would be:

58,333	x	.0025 current rate =	145.83 per day
58,333	x	.75 sold at retail =	43,749.75 per day
58,333	x	.002657 proposed rate =	156.04 per day
58,333	x	.75 sold at retail =	43,749.75 per day

AGENCY STATEMENT:

In our opinion this rule will have minor or negligible economic impact to small business. For approximately 75,000,000 million dozen shell eggs sold to consumers in

Washington state annually, it is expected the proposed fee increase would generate an additional thirteen thousand dollars approximate increase in revenue from the current level of funding per fiscal year. The largest egg marketing companies would pay the bulk of this increase in the fee rate.

Hearing Location: Natural Resources Building, 2nd Floor, Room 259, Olympia, Washington 98504, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: Andy Scarborough, P.O. Box 42560, Olympia, WA 98504, by March 23, 1994.

Date of Intended Adoption: April 5, 1994.

February 10, 1994

John Daly

Assistant Director

AMENDATORY SECTION (Amending Order 1878, filed 1/29/86)

**WAC 16-108-010 Rate.** A fee of ~~((two and one half mills))~~ .002675 cents per dozen eggs is hereby established for every egg handler or dealer who pays assessments monthly in lieu of seals and for Washington state egg seals and facsimile type Washington state egg seals imprinted on egg containers.

**WSR 94-05-075**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed February 15, 1994, 11:12 a.m.]

Original Notice.

Title of Rule: WAC 260-48-328 Trifecta rules, explains the type of wager, exact [order] of finish of the first-three finishers in a race.

Purpose: Clarify the rules as it relates to a coupled entry(ies) or mutuel field.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Will explain in detail the affect of the trifecta wager to the wagering public when used in coupled entry(ies) or mutuel field.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (206) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explain to the wagering public that in a trifecta wager the result of the wager when the entry(ies) is a coupled entry or mutuel field.

Proposal Changes the Following Existing Rules: This change will amend WAC 260-48-328 Trifecta rules, with regard to a coupled entry(ies) or mutuel field.

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

The enactment above is not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3); chapter, Laws

of 1982. Therefore, a small business economic impact statement has not been prepared.

Hearing Location: Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on March 22, 1994, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, by March 21, 1994.

Date of Intended Adoption: March 22, 1994.

February 15, 1994

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending WSR 93-14-125, filed 7/6/93)

**WAC 260-48-328 Trifecta rules.** (1) Trifecta means a betting transaction in which the purchaser of a ticket undertakes to select in the exact order of finish the first three horses to finish a race on which the feature is operated.

(2) ~~((No trifecta feature pool shall be operated on any race when there is an entry or mutuel field.))~~ Coupled entires and mutuel fields shall be prohibited in trifecta races.

(3) No association shall offer to sell trifecta tickets on any race when there are less than eight horses scheduled to start.

(4) Each association shall include in its printed program these trifecta rules and/or post copies of these rules in conspicuous areas accessible to the betting public.

(5) The trifecta is not a parlay and has no connection with or relation to the win, place and show pools. All tickets on the trifecta will be calculated in an entirely separate pool.

(6) The pay-out price for a trifecta pool shall be calculated in the following manner:

(a) The legal percentages shall be deducted from the total amount bet in any such pool to determine a net pool;

(b) The net pool shall be divided by the value of tickets bet on the winning combination; and

(c) The quotient obtained pursuant to paragraph (b) of this subsection shall be multiplied by the purchase price of each ticket on the winning combination.

(7) The net trifecta pool shall be distributed to the winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool shall be refunded on trifecta wagers for that race.

(8) In the event of a dead heat, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets and distribution of the pool shall be made in

accordance with established pari-mutuel practice relative to dead heats.

**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 94-05-076**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed February 15, 1994, 11:14 a.m.]

Original Notice.

Title of Rule: WAC 260-48-324 Exacta rules, explains the type of wager where the first two finishers are wagered and finish in the exact order of the wager bet.

Purpose: To clarify the exacta wager as it would relate to a coupled entry or mutuel field.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: This will clarify the exacta wager relating to a coupled entry in a mutuel field to the wagering public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (206) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amend WAC 260-48-324 Exacta rules, to clarify to the wagering public the exacta rules with regard to a coupled entry or mutuel field.

Proposal Changes the Following Existing Rules: This enactment will amend WAC 260-48-324 to clarify to the wagering public the exacta rules with regard to a coupled entry or mutuel field.

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

The enactment above is not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

Hearing Location: Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on March 22, 1994, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, by March 21, 1994.

Date of Intended Adoption: March 22, 1994.

February 15, 1994

Bruce Batson  
Executive Secretary

AMENDATORY SECTION (Amending Order 73.8, filed 10/23/73)

**WAC 260-48-324 Exacta rules.** Exacta-type betting may be authorized at the discretion of the racing commission upon written application by an association subject to the following procedures:

(1) The exacta is not a parlay and has no connection with or relation to the win, place and show pools shown on the totalizator board. All tickets on the exacta will be calculated in an entirely separate pool.

(2) ~~((All exacta tickets will be for the win and place combination only. Each person purchasing an exacta ticket shall designate the exact order in which the first two horses will finish in an exacta race. For example, if number 3 is selected to finish first and number 6 is selected to finish second, they must come in number 3 first, and number 6 second, in order to win.))~~ The exacta requires selection of the first two finishers, in their exact order, for a single race.

(3) ~~((The racing secretary shall prefer for exacta races, races in which there are not entries or field horses. In the event an exacta race is run in which entries or field horses are entered, they shall race as a single wagering interest for the purpose of mutuel pool calculations and payouts to the public. If, in))~~ In the event that any part of ((the)) a coupled entry or ((the)) mutuel field is a starter, there shall be no refund to persons wagering on such coupled entry or mutuel field. In the event any part of ((the)) a coupled entry or ((the)) mutuel field finishes first, the order of finish of all other horses making up such coupled entry or mutuel field will be disregarded in determining which horse finished second for the purpose of this rule.

(4) Should any horse or horses entered in an exacta race be scratched or excused by the stewards after wagering has commenced or should any horse or horses be prevented from racing because of the failure of stall doors of the starting gate to open, all tickets including such horse or horses shall be deducted from the exacta pool and money refunded to the purchasers of tickets on the horse or horses so excused or prevented from racing.

(5) In the event that no ticket is sold on the winning combination of an exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

(6) In the event of a dead heat between two horses for first place, the net pool shall be calculated and distributed as a place pool to holders of the winning combinations.

(7) In the event of a dead heat between two or more horses for place, all tickets designating the proper first horse to win which are coupled with any of the place horses involved in a dead heat shall be the winners of the exacta race and payoffs calculated according to their respective interest in the net pool.

(8) In the event of a dead heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combinations. If no tickets combine the winning horse with either of the place horses in the dead heat, the exacta pool shall be calculated and distributed to holders of tickets designating the winning horse or either of the place horses according to their respective interest in the net pool.

(9) In the event of a dead heat between three or more horses for first place, the net pool shall be calculated and distributed to holders of tickets designating any two of the horses participating in the dead heat according to their respective interest in the net pool.

(10) In the event that no ticket is sold that would require distribution to any winner as above defined, the exacta shall be deemed "no race" and all money in the exacta shall be promptly refunded.

(11) Each association conducting an exacta pool shall publish the foregoing rule in the manner approved by the commission.

**WSR 94-05-077**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**  
 [Filed February 15, 1994, 11:16 a.m.]

Original Notice.

Title of Rule: WAC 260-48-322 Quinella rules, explains to the wagering public quinella wagering, i.e., selecting the first two finishers, irrespective of order, for a single contest.

Purpose: To explain the wager with regard to coupled entry(ies) or mutuel field.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: To explain to the wagering public the affect of the quinella rules with regard to a coupled entry or mutuel field.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (206) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explain WAC 260-48-322 Quinella rules, to the wagering public as it relates to coupled entry(ies) or mutuel field.

Proposal Changes the Following Existing Rules: Amend WAC 260-48-322 to allow for coupled entry(ies) or mutuel field in a quinella wager.

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

The enactment above is not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

Hearing Location: Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on March 22, 1994, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, by March 21, 1994.

Date of Intended Adoption: March 22, 1994.

February 15, 1994

Bruce Batson  
Executive Secretary

AMENDATORY SECTION (Amending Order 73.8, filed 10/23/73)

**WAC 260-48-322 Quinella rules.** Quinella-type betting may be authorized at the discretion of the racing commission upon written application by an association subject to the following procedures:

(1) The quinella is not a parlay and has no connection with or relation to the win, place and show pools shown on the totalizator board. All tickets on the quinella will be calculated in an entirely separate pool.

(2) ~~((All quinella tickets will be for the win and place combination only. When purchasing a quinella ticket two horses are selected, which must finish 1-2, or 2-1. For example, if numbers 3 and 6 are selected they must come in 3 first, and 6 second; or 6 first, and 3 second.))~~ The quinella requires selection of the first two finishers, irrespective of order, for a single contest.

(3) ~~((The racing secretary shall prefer for quinella races, races in which there are not entries or field horses. In the event a quinella race is run in which entries or field horses are entered, they shall race as a single wagering interest for the purpose of mutuel pool calculations and payouts to the public.))~~ ~~((If, in))~~ In the event that any part of ((the)) a coupled entry or ((the)) mutuel field is a starter, there shall be no refund to persons wagering on such coupled entry or mutuel field. In the event any part of ((am)) a coupled entry or ((the)) mutuel field finishes first, the order of finish of all other horses making up such coupled entry or mutuel field will be disregarded in determining which horse finished second for the purpose of this rule.

(4) Should any horse or horses entered in a quinella race be scratched or excused by the stewards after wagering has commenced or should any horse or horses be prevented from racing because of the failure of stall doors of the starting gate to open, all tickets including such horse or horses shall be deducted from the quinella pool and money refunded to the purchasers of tickets on the horse or horses so excused or prevented from racing.

(5) Should there be no tickets sold on the winning combination in a quinella race, any and all quinella tickets bearing the number of the individual win horse and any and all quinella tickets bearing the number of the individual place horse shall be deemed winning tickets and the payoff shall be calculated as a place pool.

(6) Should there be no tickets sold on the winning combination in a quinella race and should there be no quinella tickets sold bearing the number of the individual win horse, any and all quinella tickets bearing the number of the individual place horse shall be deemed winning tickets and the payoff shall be calculated as a win pool.

(7) Should there be no tickets on the winning combination in a quinella race, and should there be no quinella tickets sold bearing the number of the individual place horse, any and all quinella tickets bearing the number of the individual win horse shall be deemed winning tickets and the payoff shall be calculated as a win pool.

(8) Should there be no tickets on the winning combination in a quinella race, and should there be no quinella tickets sold bearing the number of the individual win horse, and should there be no quinella tickets sold bearing the number of the individual place horse, the quinella shall be

deemed "no race," and all money in the quinella shall be promptly refunded.

(9) Should, after an official start is effected, only one horse finish the quinella race, the total money is figured as a win pool, with those who have picked that one horse in the race participating in the pool.

(10) Should a two-horse dead-heat for win result in a quinella race, the two horses involved in the dead heat shall be the winners of the quinella race.

(11) Should a multiple dead-heat for win result in a quinella race, all horses involved in the dead heat shall be the winners of the quinella race and payoffs figured accordingly. Example: Should numbers 1, 3, 5, and 7 dead-heat for win, the winning quinella combination would be 1-3, 1-5, 1-7, 3-5, 3-7, and 5-7. The net pool after deducting the amounts wagered on the winning combination will be equally distributed in payoff calculations on the winning combinations.

(12) Should a two-horse dead-heat for place result in a quinella race, the total pool is calculated as a place pool.

(13) Should a multiple dead-heat for place result in a quinella race, all combinations coupling the winning horse with the individual place horses shall be winners of the quinella race and payoffs calculated accordingly.

(14) Each association conducting a daily quinella pool shall publish the foregoing rule in a manner approved by the commission.

**WSR 94-05-078**  
**PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
 [Filed February 15, 1994, 11:49 a.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-245 1994-95 Deer and elk permit hunting seasons; and repealing WAC 232-28-237 1993-94 Deer and elk permit hunting seasons.

Purpose: To adopt WAC 232-28-245 Deer and elk permit hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Establishes permit quotas for deer and elk hunts in specific game management units.

Reasons Supporting Proposal: To provide recreation opportunity and harvest available surplus deer and elk.

Name of Agency Personnel Responsible for Drafting and Implementation: Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will adopt permit only deer and elk seasons for deer and elk. In some cases these seasons will reduce damage potential to agricultural crops.

Proposal does not change existing rules.

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

Hearing Location: Ramada Inn Governor House, 621 Capitol Way South, Olympia, WA 98504, on April 8, 1994, at 8:00 a.m.

Submit Written Comments to: Richard J. Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 14, 1994

Richard J. Poelker

Administrative Rules Officer

REPEALER

The following section of the Washington Administrative Code is repealed.

WAC 232-28-237 1993-94 Deer and elk permit hunting seasons

NEW SECTION

**WAC 232-28-245 1994-95 Deer and elk permit hunting seasons**

Application Instructions

NOTE: Hunt numbers and GMU numbers are not the same.

A permit gives a hunter additional opportunity but it does not give him/her an extra deer or elk.

To apply for Special Deer Permit: You must have a valid 1994 Washington hunting license and a modern firearm or muzzleloader deer tag. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special deer permit application for 1994.

To apply for Special Elk Permit: You must have a valid 1994 Washington hunting license and a valid late modern firearm, muzzleloader, or archery elk tag. Each hunter must have the proper tag (identified in the tables) to apply for an elk permit. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for the Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special permit application for elk. You may not submit an elk permit application if you were drawn for any elk permit during 1992 or 1993. Permit hunters may hunt only with a weapon in compliance with their tag.

Application Deadline: To qualify for the drawing all applications must be postmarked no later than July 22, 1994 or received no later than 5:00 p.m. on July 22, 1994 at the Department of Wildlife headquarters in Olympia or at any of the regional Department of Wildlife offices.

- Permits will be drawn by random computer selection.
- There are no refunds or exchanges for deer or elk tags for persons applying for special permits.

Special Hunting Season Permits

You MUST have a valid hunting license and tag to apply for any special hunting season set by the Wildlife Commission.

(Special hunting seasons do not include hunts open to all hunters.)

SPECIAL DEER PERMIT HUNTING SEASONS  
(Open to Permit Holders Only)

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1001	Curlew A	300	Oct. 8-14	Whitetail, Antlerless Only	GMU 100
1002	Boulder	250	Oct. 8-14	Whitetail, Antlerless Only	GMU 103
1003	Kelly Hill	400	Oct. 8-14	Whitetail, Antlerless Only	GMU 105
1004	Douglas	800	Oct. 8-14	Whitetail, Antlerless Only	GMU 108
1005	Aladdin A	150	Oct. 8-14	Whitetail, Antlerless Only	GMU 111
1006	Aladdin B	25	Nov. 23-27	Whitetail, Either Sex	GMU 111
1007	Selkirk	100	Oct. 8-14	Whitetail, Antlerless Only	GMU 113
1008	Chewelah	400	Oct. 8-14	Whitetail, Antlerless Only	GMU 118
1009	Boyer A	550	Oct. 8-14	Whitetail, Antlerless Only	GMU 119
1010	Boyer B	25	Nov. 23-27	Whitetail, Either Sex	GMU 119
1011	Huckleberry	1,750	Oct. 8-14	Whitetail, Antlerless Only	GMU 121
1012	Mt. Spokane	1,000	Oct. 8-14	Whitetail, Antlerless Only	GMU 124
1013	Cheney	100	Oct. 8-14	Whitetail, Antlerless Only	GMU 130
1014	Roosevelt	500	Oct. 8-14	Antlerless Only	GMU 133
1015	Harrington	150	Nov. 9-20	Antlerless Only	GMU 136
1016	Steptoe	300	Nov. 9-20	Antlerless Only	GMU 139
1017	Almota	400	Nov. 9-20	Antlerless Only	GMU 142
1018	Mayview A	300	Oct. 15-23	Antlerless Only	GMU 145
1019	Mayview B	100	Oct. 15-23	Whitetail, Antlerless Only	GMU 145
1020	Starbuck	200	Nov. 9-20	Antlerless Only	GMU 148
1021	Blue Creek	150	Nov. 9-20	Whitetail, Antlerless Only	GMU 154
1022	Touchet	75	Nov. 9-20	Whitetail, Antlerless Only	GMU 160
1023	Eckler	75	Nov. 9-20	Whitetail, Antlerless Only	GMU 161
1024	Marengo A	125	Nov. 9-20	Whitetail, Antlerless Only	GMU 163
1025	Marengo B	175	Nov. 9-20	Antlerless Only	GMU 163
1026	Peola	200	Nov. 9-20	Antlerless Only	GMU 178
1027	Couse A	100	Nov. 9-20	Whitetail, Antlerless Only	GMU 181
1028	Blue Mtns. Foothills A	100	Nov. 9-22	Whitetail, 3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1029	Blue Mtns. Foothills B	100	Nov. 9-22	Whitetail, 3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1030	East Okanogan	50	Dec. 8-14	Whitetail, Either Sex	GMUs 200, 206
1031	West Okanogan	50	Dec. 8-14	Whitetail, Either Sex	GMUs 209, 218, 224, 231, 233
1032	Wannacut A	50	Oct. 31- Nov. 6	Antlerless Only	GMU 209
1033	Sinlahekin A	50	Oct. 31- Nov. 6	Whitetail, Antlerless Only	GMU 215
1034	Sinlahekin B	25	Dec. 7-14	Whitetail, Either Sex	GMU 215
1035	Chewuch	100	Oct. 31- Nov. 6	Antlerless Only	GMU 218
1036	Pearrygin	250	Oct. 31- Nov. 6	Antlerless Only	GMU 224
1037	Gardner	100	Oct. 31- Nov. 6	Antlerless Only	GMU 231
1038	Pogue	100	Oct. 31- Nov. 6	Antlerless Only	GMU 233
1039	Big Bend A	50	Oct. 17-23	Antlerless Only	GMU 248
1040	Badger	50	Oct. 17-23	Antlerless Only	GMU 266
1041	Moses Coulee A	50	Oct. 17-23	Antlerless Only	GMU 269
1042	Beezley	50	Oct. 17-23	Antlerless Only	GMU 272
1043	Entiat	100	Nov. 1-13	Either Sex	GMU 308

1044	Mission	50	Nov. 1-13	Either Sex	GMU 314
1045	Wenatchee	200	Nov. 1-15	Antlerless Only	Portion of GMU 314*
1046	Naueum	25	Nov. 5-13	Either sex	GMU 328
1047	Quilomene	25	Nov. 5-13	Either sex	GMU 329
1048	Teanaway	100	Nov. 1-4	Either sex	GMU 335
1049	Taneum	25	Nov. 1-4	Either sex	GMU 336
1050	Manastash	25	Nov. 1-4	Either sex	GMU 340
1051	Umtanum	50	Nov. 1-4	Either sex	GMU 342
1052	Douglas	100	Nov. 1-4	Either sex	GMUs 352, 356, 360
1053	Green River A	40	Oct. 22-28	Either Sex	GMU 485
1054	Green River B	35	Oct. 22-28	Antlerless Only	GMU 485
1055	Lincoln	200	Oct. 22-31	Either Sex	GMU 501
1056	Mossyrock	100	Oct. 22-31	Either Sex	GMU 505
1057	Willapa Hills	75	Oct. 22-31	Either Sex	GMU 506
1058	Stormking	50	Oct. 22-31	Either Sex	GMU 510
1059	Sawtooth	50	Oct. 22-31	Either Sex	GMU 512
1060	Packwood	30	Oct. 22-31	Either Sex	GMU 516
1061	Ryderwood	50	Oct. 22-31	Either Sex	GMU 530
1062	Coweeman	60	Oct. 22-31	Either Sex	GMU 550
1063	Lewis River	50	Oct. 22-31	Either Sex	GMU 560
1064	Siouxon	50	Oct. 22-31	Either Sex	GMU 572
1065	Hoko	50	Oct. 22-31	Either Sex	GMU 601
1066	Pysht	100	Oct. 22-31	Either Sex	GMU 603
1067	Soleduck	35	Oct. 22-31	Either Sex	GMU 607
1068	Goodman	50	Oct. 22-31	Either Sex	GMU 612
1069	Clearwater	70	Oct. 22-31	Either Sex	GMU 615
1070	Olympic	130	Oct. 22-31	Either Sex	GMU 621
1071	Coyle	100	Oct. 22-31	Either Sex	GMU 624
1072	Mason Lake	60	Oct. 22-31	Either Sex	GMU 633
1073	Skokomish	100	Oct. 22-31	2 Pt. Min. or Antlerless	GMU 636
1074	Wynoochee	75	Oct. 22-31	Either Sex	GMU 648
1075	North River	25	Oct. 22-31	Either Sex	GMU 658
1076	Minot Peak	75	Oct. 22-31	Either Sex	GMU 660
1077	Capitol Peak	30	Oct. 22-31	Either Sex	GMU 663
1078	Deschutes	75	Oct. 22-31	Either Sex	GMU 666
1079	Skookumchuck	200	Oct. 22-31	Either Sex	GMU 667
1080	Palix	25	Oct. 22-31	Either Sex	GMU 669
1081	Fall River	75	Oct. 22-31	Either Sex	GMU 672
1082	Nemah	25	Oct. 22-31	Either Sex	GMU 678
1083	Bear River	20	Oct. 22-31	2 Pt. Min. or Antlerless	GMU 681

\*Successful applicants will be mailed a map of the hunt boundary.

DEER MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1084	Blue Creek B	50	Nov. 23- Dec. 4	Whitetail, 3 Pt. Min. or Antlerless	GMU 154
1085	Wannacut B	100	Nov. 12-20	Mule Deer, Antlerless Only	GMU 209
1086	Chiliwist	200	Nov. 12-20	Whitetail, Either Sex Mule Deer, Antlerless Only	GMU 239
1087	Alta	150	Nov. 12-20	Whitetail, Either Sex Mule Deer, Antlerless Only	GMU 242
1088	Moses Coulee B	50	Nov. 26- Dec. 18	Antlerless Only	GMU 269
1089	Chiwawa	100	Nov. 12-20	Either Sex	GMU 304

1090	Manson	100	Nov. 12-20	Either Sex	GMU 300
1091	Yale	50	Nov. 23- Dec. 13	Either Sex	GMU 554

YOUTH HUNTER OPPORTUNITY

Applicants must be 16 years old or younger and must be accompanied by an adult during the hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1092	Northeast A	500	Oct. 15-31	Whitetail Only, Either Sex	GMUs 100-124
1093	Mica, Cheney	100	Oct. 15-23	Either Sex	GMUs 127, 130
1094	Lincoln	100	Oct. 15-23	Either Sex	GMUs 133, 136
1095	Whitman	100	Oct. 15-23	Either Sex	GMUs 139, 142
1096	Big Bend B	25	Oct. 17-23	Antlerless Only	GMU 248
1097	Blue Mtns. Foothills C	125	Oct. 15-23	Either Sex	GMUs 148, 151, 154, 160, 161, 166
1098	Blue Mtns. Foothills D	125	Oct. 15-23	Either Sex	GMUs 145, 172, 175, 178, 181
1099	Toutle	25	Oct. 22-31	Either Sex	GMU 556
1100	Wind River	25	Oct. 22- Nov. 6	Either Sex	GMU 574
1101	Skookumchuck	40	Oct. 22-31	Either Sex	GMU 667

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Only hunters who have successfully completed the Department of Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt deer in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1102	Curlew B	25	Dec. 4-12	Whitetail, Either Sex	GMU 100
1103	Roosevelt A	25	Nov. 23-27	Whitetail, Either Sex	GMU 133
1104	Almota	25	Nov. 23-27	Whitetail, Either Sex	GMU 142

In addition, other AHE permits are available on Private Land Management hunts.

SPECIAL HUNT FOR DISABLED, BLIND OR VISUALLY HANDICAPPED

Hunters must purchase a hunting license and modern firearm or muzzleloader deer tag prior to purchase of a special hunting season permit application. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for these permits.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1105	Big Bend C	25	Oct. 20-25	Antlerless Only	GMU 248
1106	Margaret	25	Oct. 15-30	Antlerless	GMU 524

In addition, special hunts for disabled, blind or visually handicapped are available on Private Land Management hunts.

DEER PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Wilson Creek Area

There will be up to 20 hunters authorized to participate in a special hunt for which an access fee will be charged. The hunter must have a valid hunting license, transport tag, and written authorization from the landowner to participate in this hunt. Only Modern Firearm hunters may apply for the hunts on PLWMA 201. All other hunting regulations apply.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
*	Wilson A	20	Oct. 1-31	Buck Only	PLWMA 201
1107	Wilson B	2	Oct. 1-31	Buck Only, Young Hunters Only**	PLWMA 201
1108	Wilson C	50	Oct. 1-	Antlerless Only, Young	PLWMA 201

			Dec. 31	Hunters Only**	
1109	Wilson D	10	Oct. 1- Dec. 31	Antlerless Only, Disabled Only	PLWMA 201
1110	Wilson E	10	Oct. 1- Dec. 31	Antlerless Only, AHE Only	PLWMA 201

\* No hunt number because hunter contact landowner, David Stevens, for access.

\*\*Applicants must be 16 years old or younger and must be accompanied by an adult during the hunt.

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1111	Kapowsin North	50	Dec. 9-13	Antlerless Only, Senior Hunters (Age 65+)	PLWMA 401 North
1112	Kapowsin Central	100	Dec. 9-13	Antlerless Only	PLWMA 401 Central
1113	Kapowsin South	100	Dec. 10, 11 17, 18	Antlerless Only, Young and Disabled	PLWMA 401 South

Special Elk Hunting Seasons  
(Open to Permit Holders Only)

Hunters must purchase a hunting license and elk tag prior to purchase of a permit application. Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see Elk Tag Prefix required to apply for each hunt). Hunters drawing a permit for a hunt after the first of the year can use their 1994 license and tag during the hunt.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2001	Aladdin	30	Oct. 29- Nov. 6	Either Sex	BL or BM	GMU 111
2002	Selkirk	50	Oct. 29- Nov. 6	Either Sex	BL or BM	GMU 113
2003	Mount Spokane	30	Oct. 29- Nov. 6	Antlerless Only	BL or BM	GMU 124
2004	Mica, Cheney	250	Oct. 29- Nov. 6	Either Sex	BL or BM	GMU 127, 130
2005	Blue Creek A	50	Oct. 29- Nov. 6	Spike Bull or Antlerless	BL or BM	GMU 154
2006	Blue Creek B	15	Oct. 26- Nov. 6	Any Bull	BE	GMU 154
2007	Watershed	100	Oct. 29- Nov. 6	3 Pt. Min. or Antlerless	BL or BM	GMU 157
2008	Touchet	15	Oct. 26- Nov. 6	Any Bull	BE	GMU 160
2009	Eckler	15	Oct. 26- Nov. 6	Any Bull	BE	GMU 161
2010	Touchet, Eckler, Marengo	50	Dec. 15- Jan. 15, 1995	Antlerless Only	BL or BM	GMUs 160*, 161*, 163*
2011	Tucannon	20	Oct. 26- Nov. 6	Any Bull	BE	GMU 166
2012	Wenaha A	5	Oct. 1-6	Any Bull	BE	GMU 169
2013	Wenaha B	15	Oct. 26- Nov. 6	Any Bull	BE	GMU 169
2014	Mountain View A	25	Dec. 15- Jan. 15, 1995	Antlerless Only	BL or BM	GMU 172
2015	Mountain View B	15	Oct. 26- Nov. 6	Any Bull	BE	GMU 172
2016	Couse A	75	Oct. 29- Nov. 6	Spike Bull or Antlerless	BL or BM	GMU 181

2017	Couse B	3	Oct. 26- Nov. 6	Any Bull	BE	GMU 181
2018	Joseph/Black Butte	1	Oct. 26- Nov. 6	Any Bull	BE	GMUs 184- 185
2019	Chelan	40	Oct. 15- Nov. 1	Any Elk	CL or CM	GMUs 300, 301, 304, 306, 308, 316
2020	Naneum A	100	Oct. 23-25	Antlerless Only	CL or CM	GMU 328
2021	Naneum B	80	Oct. 26- Nov. 1	Any Bull	CL or CM	GMU 328
2022	Malaga A	150	Sept. 1- Oct. 6	Antlerless Only	CL or CM	Elk Area 032
2023	Malaga B	150	Nov. 2- Jan. 15	Either Sex	CL or CM	Elk Area 032
2024	Peshastin A	150	Sept. 1- Oct. 6	Antlerless Only	CL or CM	Elk Area 033
2025	Peshastin B	150	Nov. 2- Jan. 15	Either Sex	CL or CM	Elk Area 033
2026	Quilomene A	200	Oct. 23-25	Antlerless Only	CL or CM	GMU 329
2027	Quilomene B	40	Oct. 26- Nov. 1	Any Elk	CL or CM	GMU 329
2028	West Bar A	25	Oct. 23	Antlerless Only	CL or CM	GMU 330
2029	West Bar B	25	Oct. 24	Antlerless Only	CL or CM	GMU 330
2030	West Bar C	25	Oct. 25	Antlerless Only	CL or CM	GMU 330
2031	Swauk	75	Oct. 25- Nov. 13	Any Bull	CL or CM YL or YM	GMU 302, 335
2032	Taneum	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 336
2033	Manastash	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 340
2034	Shushuskin	100	Nov. 23- Dec. 15	Antlerless Only	YL or YM	Elk Area 031
2035	Umtanum A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 342
2036	Peaches Ridge	80	Oct. 25- Nov. 13	Any Elk	YL or YM	GMU 336, 346
2037	Little Naches	25	Oct. 1- Nov. 13	Any Elk	YL or YM	GMU 346
2038	Observatory	65	Nov. 5-13	Any Elk	YL or YM	GMU 340, 342
2039	Douglas	90	Oct. 25- Nov. 13	Any Elk	YL or YM	GMU 352, 356
2040	Naches	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 346
2041	Nile	150	Nov. 1-4	Antlerless Only	YL or YM	GMU 352
2042	Bumping	600	Nov. 1-4	Antlerless Only	YL or YM	GMU 356
2043	Bethel A	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 360
2044	Bethel B	50	Nov. 5-13	Any Elk	YL or YM	GMU 360
2045	Rimrock A	400	Nov. 1-4	Antlerless Only	YL or YM	GMU 364
2046	Rimrock B	20	Oct. 25- Nov. 13	Any Elk	YL or YM	GMU 364
2047	Cowiche A	200	Nov. 1-4	Antlerless Only	YL or YM	GMU 368
2048	Cowiche B	35	Nov. 5-13	Any Elk	YL or YM	GMU 368
2049	White River A	25	Nov. 2-13	Any Bull	WE or WM	GMU 472
2050	Green River Cow A	25	Nov. 12-16	Antlerless Only	WL or WM	GMU 485
2051	Green River Bull	15	Nov. 12-16	3 Pt. Min. or Antlerless	WL or WM	GMU 485
2052	Green River Spike	5	Nov. 12-16	Spike or Antlerless Only	WL or WM	GMU 485
2053	Lincoln	25	Nov. 15-20	Antlerless Only	WL or WM	GMU 501
2054	Willapa Hills	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 506
2055	Packwood	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 516
2056	Margaret Cow	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 524
2057	Margaret Bull	30	Nov. 2-13	3 Pt. Min.	WL or WM	GMU 524
2058	Ryderwood	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 530
2059	Toutle Cow	75	Nov. 15-20	Antlerless Only	WL or WM	GMU 556

2060	Toutle Bull	200	Nov. 2-13	3 Pt. Min.	WL or WM	GMU 556
2061	Marble	60	Nov. 15-20	Antlerless Only	WL or WM	GMU 558
2062	Lewis River	125	Nov. 15-20	Antlerless Only	WL or WM	GMU 560
2063	Siouxon	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 572
2064	Dickey Bull A	10	Oct. 1-9	3 Pt. Min.	WL or WM	GMU 602
2065	Dickey Bull B	75	Nov. 1-13	3 Pt. Min.	WL or WM	GMU 602
2066	Soleduck	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 607
2067	Goodman	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 612
2068	Matheny	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 618
2069	Quinault Ridge	5	Oct. 1-13	3 Pt. Min.	WL or WM	GMU 638
2070	Wynoochee	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 648
2071	Palix	30	Nov. 15-20	Antlerless Only	WL or WM	GMU 669
2072	Nemah	50	Nov. 15-20	Antlerless Only	WL or WM	GMU 678
2073	Backbone	55	Nov. 24- Dec. 14	Either Sex	WL or WM	Elk Area 025
2074	Curtis	50	Dec. 20-31	Antlerless Only	WL or WM	Elk Area 050
2075	Boistfort A	50	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 054
2076	East Valley	25	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 055
2077	Carlton	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 057
2078	West Goat Rocks	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 058
2079	Mt. Adams	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 059
2080	Mt. Tebo	5	Oct. 1-13	3 Pt. Min.	WL or WM	Elk Area 061
2081	South Willapa	10	Jan. 1-15, 1995	Antlerless Only	WL or WM	Elk Area 067

\*Outside of Umatilla National Forest.

**SPECIAL HUNT FOR DISABLED, BLIND OR VISUALLY HANDICAPPED**

Hunters must purchase a hunting license and modern firearm or muzzleloader elk tag prior to purchase of a special hunting season permit application. Note elk tag required. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2082	Naches D	10	Oct. 1-14	Either Sex	YL or YM	GMU 346
2083	Green River Cow B	5	Nov. 12-16	Antlerless Only	WL or WM	GMU 485
2084	Centralia Mine A	11	Nov. 19-20	Antlerless Only	WL or WM	Portion of GMU 667*
2085	Centralia Mine B	11	Nov. 26-27	Antlerless Only	WL or WM	Portion of GMU 667*
2086	Centralia Mine C	8	Dec. 3-4	Either Sex	WL or WM	Portion of GMU 667*

\*Successful applicants will be mailed a map of the hunt boundary.

**MUZZLELOADER ONLY**

Hunters must purchase a hunting license and muzzleloader elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2087	Blue Creek C	50	Dec. 1- Jan. 31, 1995	Antlerless Only	BM	GMU 154
2088	Mountain View C	50	Oct. 7-13	Spike Bull or Antlerless	BM	GMU 172
2089	Mountain View D	6	Oct. 7-13	Any Bull	BM	GMU 172
2090	Mission	75	Oct. 7-12	Any Bull	CM	GMU 314
2091	Cle Elum A	30	Oct. 1-12	Any Elk	YM	ML Area 910
2092	Cle Elum B	50	Nov. 16- Dec. 8	Any Elk	YM	ML Area 910

2093	Umtanum B	20	Oct. 8-12	Any Elk	YM	GMU 342
2094	Cowiche C	60	Oct. 8-12	Any Elk	YM	GMU 368
2095	Stella	50	Nov. 23- Dec. 13	Either Sex	WM	GMU 504
2096	Boistfort B	50	Jan. 16-31	Either Sex	WM	Elk Area 054
2097	Yale	75	Nov. 23- Dec. 13	Either Sex	WM	GMU 554
2098	Toledo	150	Jan. 2-16, 1995	Antlerless Only	WM	Elk Area 029
2099	Hoko River A	15	Jan. 1-15, 1995	Antlerless Only	WM	ML Area 961
2100	Hoko River B	15	Jan. 16- Feb. 15, 1995	Antlerless Only	WM	ML Area 961
2101	Chinook	5	Jan. 16- Feb. 15, 1995	Antlerless Only	WM	Elk Area 069
2102	North River	30	Nov. 19- Dec. 7	Antlerless Only	WM	GMU 658
2103	Minot Peak	100	Oct. 8-13	Antlerless Only	WM	GMU 660
2104	Elwha A	5	Dec. 15- Jan. 15, 1995	Antlerless Only	WM	ML Area 962

ARCHERY ONLY

Hunters must purchase a hunting license and archery elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2105	Blue Mountains West	22	Oct. 1-12	Either Sex	BA	GMUs 154, 160, 161, 166, 169
2106	Blue Mountains East	10	Oct. 1-12	Either Sex	BA	GMUs 178, 181, 184, 185
2107	Colockum	21	Oct. 1-12	Any Elk	CA	GMUs 328, 329
2108	Robinson	90	Oct. 1-12	Any Elk	YA	GMUs 336, 340
2109	Taneum	25	Nov. 23- Dec. 8	Any Elk	YA	GMU 336
2110	Douglas	150	Oct. 1-12	Any Elk	YA	GMUs 352, 356
2111	Divide	60	Nov. 23- Dec. 8	Any Elk	YA	Bow Area 806, 807
2112	Cottonwood	175	Oct. 1-12	Any Elk	YA	GMUs 364, 366, 368
2113	White River	10	Oct. 1-12	Either Sex	WA	GMU 472

Private Lands Wildlife Management Permit Opportunities

Champion's Kapowsin Tree Farm

Muzzleloader Elk Permits

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
2114	Kapowsin North	80	Nov. 23- Dec. 5	Spike Bull or Antlerless Only	PLWMA 401 North
2115	Kapowsin Central	15	Nov. 23- Dec. 5	Spike Bull or Antlerless Only	PLWMA 401 Central
2116	Kapowsin South	15	Nov. 23- Dec. 5	Spike Bull or Antlerless Only	PLWMA 401 South

**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 94-05-079  
PROPOSED RULES  
DEPARTMENT OF WILDLIFE**

[Filed February 15, 1994, 11:51 a.m.]

Original Notice.

**Title of Rule:** Adopting WAC 232-28-244 Special species hunting seasons and regulations; and repealing WAC 232-28-236 Special species hunting seasons and regulations.

**Purpose:** Adopting WAC 232-28-244 1994-95 Special species hunting seasons and regulations.

**Statutory Authority for Adoption:** RCW 77.12.040.

**Statute Being Implemented:** RCW 77.12.040.

**Summary:** Establishes hunting seasons for moose, mountain sheep, mountain goat and cougar by permit only.

**Reasons Supporting Proposal:** To provide recreation opportunity and harvest available surplus in each area of the state.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Bob Everitt, AAD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Enforcement Division, Olympia, (206) 753-5740.

**Name of Proponent:** Washington Wildlife Commission, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule will adopt permit only hunting seasons for moose, bighorn sheep, mountain goat and cougar.

Proposal does not change existing rules.

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

**Hearing Location:** Ramada Inn Governor House, 621 Capitol Way South, Olympia, WA 98504, on April 8, 1994, at 8:00 a.m.

**Submit Written Comments to:** Richard J. Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by March 26, 1994.

**Date of Intended Adoption:** April 8, 1994.

February 14, 1994

Richard J. Poelker

Administrative Rules Officer

**REPEALER**

The following section of the Washington Administrative Code is repealed.

WAC 232-28-236 1993-94 Special species hunting seasons and regulations

**NEW SECTION**

**WAC 232-28-244 1994-95 Special species hunting seasons and regulations**

PERMIT APPLICATION INSTRUCTIONS

You must have a valid 1994 Washington hunting license to apply for any special hunting season permit.

**Application Deadline:** Applications must be postmarked no later than July 1, 1994, or received not later than 5:00 p.m., July 1, 1994, at the Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, or any Department of Wildlife regional office.

**Computer Drawing:** Drawings for goat, bighorn sheep, moose, and cougar will be done by computer selection. All applicants will be notified by August 10, 1994.

**Disqualification:** Anyone who submits more than one application for each species will be disqualified for drawings for that species.

**Incomplete Applications:** To be eligible for the permit drawing, applications must contain hunt number and hunt name, date of birth, and hunting license number. Applicant's complete name and address including zip code must be included.

**Permit Hunting Report:** A hunter questionnaire report will be sent to each permittee. This questionnaire must be returned to the Department of Wildlife within ten days after the close of the hunting season.

MOOSE

**Permit Season:** Oct. 1 to Nov. 30, 1994, both dates inclusive.

**Who may apply:** Anyone with a valid 1994 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

**Bag Limit:** One moose of either sex.

Moose Unit 1

GMU 113

6 Special Moose Permits will be issued.

Moose Unit 2

GMU 124

4 Special Moose Permits will be issued.

Moose Unit 3

GMU 118

4 Special Moose Permits will be issued.

Moose Unit 4

GMU 119

3 Special Moose Permits will be issued.

Moose Unit 5

GMU 111

2 Special Moose Permits will be issued.

MOUNTAIN SHEEP (BIGHORN)

**Permit Seasons:** Separate seasons are indicated for each bighorn sheep hunt.

**Who may apply:** Anyone with a valid 1994 Washington hunting license; EXCEPT those who drew a bighorn permit during 1989, 1990, 1991, 1992, or 1993, or have been successful in taking a bighorn in Washington State.

**Bag Limit for Permit Holders:** One bighorn ram.

Any Legal Weapon

Sheep Unit 2  
Vulcan Mountain:  
Permit Season: Sept. 24-Oct. 11, both dates inclusive.  
4 Special Permits will be issued.

Sheep Unit 3  
Tucannon River:  
Permit Season: Sept. 3-25, both dates inclusive.  
2 Special Permit will be issued.

Sheep Unit 5  
Umtanum:  
Permit Season: Sept. 24-Oct. 11, both dates inclusive.  
3 Special Permits will be issued.

Sheep Unit 8  
Mountainview  
Permit Season: Sept. 3-25, both dates inclusive  
2 Special Permits will be issued.

Sheep Unit 9  
Blackbutte:  
Permit Season: Sept. 1-18, both dates inclusive.  
2 Special Permits will be issued.

Sheep Unit 10  
Mt. Hull:  
Permit Season: Sept. 3-25, both dates inclusive.  
1 Special Permit will be issued.

Sheep Unit 11  
Wenaha Wilderness:  
Permit Season: Sept. 3-25, both dates inclusive.  
3 Special Permits will be issued.

MOUNTAIN GOAT  
Permit Season: Sept. 17-Oct. 31, 1994, both dates inclusive,  
in all goat hunts.

Who may apply: Anyone with a valid 1994 Washington  
hunting license; EXCEPT those who drew goat permits in  
1989, 1990, 1991, 1992 or 1993.

Bag Limit: One (1) adult goat of either sex with horns four  
(4) inches or longer. The Department of Wildlife urges  
hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1  
Mount Chopaka:  
1 Special Permit will be issued.

Goat Unit 2-2  
Methow:  
8 Special Permits will be issued.

Goat Unit 3-2  
North Wenatchee Mountains:  
1 Special Permit will be issued.

Goat Unit 3-4  
Snoqualmie:  
1 Special Permit will be issued.

Goat Unit 3-6  
Naches Pass:  
10 Special Permits will be issued.

Goat Unit 3-7

Bumping River:  
3 Special Permits will be issued.

Goat Unit 3-9  
Tieton River:  
5 Special Permits will be issued.

Goat Unit 4-1  
Ruth Creek:  
10 Special Permits will be issued.

Goat Unit 4-3  
Chowder Ridge:  
2 Special Permits will be issued.

Goat Unit 4-4  
Lincoln Peak:  
2 Special Permits will be issued.

Goat Unit 4-6  
Dillard Creek:  
5 Special Permits will be issued.

Goat Unit 4-7  
Avalanche Gorge:  
5 Special Permits will be issued.

Goat Unit 4-8  
East Ross Lake:  
10 Special Permits will be issued.

Goat Unit 4-9  
Jack Mountain:  
2 Special Permits will be issued.

Goat Unit 4-32  
Foss River:  
10 Special Permits will be issued.

Goat Unit 4-34  
Pratt River:  
10 Special Permits will be issued.

Goat Unit 5-2  
Tatoosh:  
5 Special Permits will be issued.

Goat Unit 5-4  
Goat Rocks:  
10 Special Permits will be issued.

Muzzleloading Goat Hunts

Goat Unit 3-5  
Cle Elum:  
1 Special Permit will be issued.

Goat Unit 3-8  
Bumping River:  
3 Special Permits will be issued.

Goat Unit 4-24  
Sloan Peak:  
3 Special Permits will be issued.

Archery Goat Hunts

Goat Unit 3-3  
Goat and Davis Mountains:  
1 Special Permit will be issued.

Goat Unit 4-18

Sauk River:  
4 Special Permits will be issued.

Goat Unit 4-21  
Liberty Mountain:  
4 Special Permits will be issued.

Goat Unit 4-23  
Twin Peaks:  
4 Special Permits will be issued.

Goat Unit 4-38  
Corral Pass:  
4 Special Permits will be issued.

Goat Unit 5-3  
Smith Creek:  
3 Special Permits will be issued.

Goat Unit 6-2  
Quilcene River:  
20 Special Permits will be issued.

Goat Unit 6-3  
Hamma Hamma River:  
10 Special Permits will be issued.

4	Spokane	25
5	Blue Mountains	50
6	Okanogan	40
7	Wenatchee	40
8	Nooksack	5
9	Skagit	10
10	Snoqualmie	8
11	North Olympic Peninsula	30
12	South Olympic Peninsula	10
13	Rainier	10
14	South Puget Sound	3
15	Cowlitz	2
16	Skamania	2

LYNX  
Season closed statewide.

**NATIVE CATS**

A valid hunting license is required to hunt (including pursuit seasons) native cats. A hound stamp is required for all hunters if dogs are used to hunt any native cats.

**COUGAR**

Pursuit-Only Season (Cougar may not be killed or injured.): Sept. 1-30 and Nov. 23, 1994-Jan. 31, 1995 in the cougar units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 15, 1994.

Early Permit Season (Permit required. Permit holders may not kill cougar with the use of hounds during the early cougar permit season.): Oct. 15-Nov. 22.

General Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. 23, 1994-Jan. 31, 1995.

Who May Apply: Anyone with a valid 1994 Washington hunting license may submit one special permit application for cougar during the 1994-95 season. Successful cougar applicants must purchase a cougar tag by October 1, 1994. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be voided and cougar permits will be issued to other applicants. Cougar permit hunters failing to return their cougar hunting questionnaire by February 15, 1995, will be ineligible to apply for a permit the following season.

Bag Limit: One (1) cougar during the 1994-95 hunting season except that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

<u>Unit</u>	<u>Description</u>	<u>Permits</u>
1	Pend Oreille	35
2	Colville	40
3	Republic	40

**WSR 94-05-080**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed February 15, 1994, 12:42 p.m.]

**Original Notice.**

Title of Rule: Licensing without examination, dismissal from examination, foreign language documents, requirement for continuing education.

Purpose: To tighten up the rules regarding reciprocity, to add new rules for handling cheating at examinations, to provide continuing education hours as a requirement for licensing renewal and to provide that documents be translated for submission.

Statutory Authority for Adoption: RCW 18.108.025(1).  
Statute Being Implemented: Chapter 18.108 RCW.

Summary: Rules to establish licensure without examination, to establish a continuing education requirement and to establish needed exam processes.

Reasons Supporting Proposal: New rules will clarify or establish procedures and processes for providing the consumer with professional, prepared practitioners.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice K. Boden, 1300 Quince Street S.E., Olympia, 753-3199.

Name of Proponent: Board of Massage, governmental.  
Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Licensing without exam, should provide a process for qualifying practitioners with valid licenses who have been licensed by comparable exam processes elsewhere; continuing education, establishment of a requirement should provide the public with practitioners who are continually upgraded by education effort; dismissal from examination, establishes method for handling cheating on examinations; and documents in a foreign language, requires documents submitted in support of applications to be translated, assures applicant of proper evaluation.

Proposal Changes the Following Existing Rules: Repeals unclear reciprocity/endorsement rule with confusing language and replaces it with clearer process for licensure without examination.

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

Hearing Location: Sheraton Hotel, North 322 Spokane Falls Court, Spokane, WA 99201-0165, on April 18, 1994, at 1:30 p.m.

Submit Written Comments to: Ann Foster, Rules Management, 1112 Quince Street, P.O. Box 47890, Olympia, WA 98504-7890, by April 15, 1994.

Date of Intended Adoption: April 18, 1994.

December 28, 1993  
Mimi L. Fields, MD  
for Bruce Miyahara  
Secretary

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-830-030 Reciprocity.

### NEW SECTION

#### **WAC 246-830-035 Licensing without examination.**

(1) A license to practice massage shall be issued without examination provided an individual holds a current license to practice massage in another jurisdiction that has examination and education requirements substantially equivalent to those in Washington.

(2) An individual applying for a license without examination shall submit to the department;

(a) A completed application on a form provided by the department;

(b) The required non-refundable application fee;

(c) Documentation that the examination and education requirements of the other jurisdiction are substantially equivalent to those in Washington;

(d) Successful completion of an open book test which demonstrates a working knowledge of Washington law as contained in RCW 18.108, RCW 18.130, and WAC 246-830 provided by the department;

(e) Proof of compliance with WAC 246-830-050 AIDS prevention and information education requirements.

(f) Written certification from all jurisdictions in which the applicant has practiced massage verifying that the applicant has a record of good standing and has not been the subject of any disciplinary action.

(3) Restrictions:

(a) All applicants shall be subject to the grounds for denial or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160;

(b) An individual who has failed the Washington state licensing examination shall not be eligible for licensing without examination.

(4) If application for licensing without examination is denied, the applicant may apply for licensing as set forth in RCW 18.108.070.

(5) A license issued without examination is subject to an original license fee and all other renewal requirements set forth in this chapter.

### NEW SECTION

**WAC 246-830-280 Dismissal from examination.** Any applicant whose conduct interferes with the testing process may be dismissed from the examination and that applicant's examination will be rejected. Disciplinary action may be taken by the secretary in response to a report of an applicant's dismissal from the examination. Such conduct will include but not be limited to the following:

a) Giving or receiving examination data, either directly or indirectly, during the examination process;

b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;

c) Endangering the life or health of a model, other applicants or examination staff;

d) The introduction of unauthorized materials during any portion of the examination;

e) Any attempt to remove examination materials or notations from the testing site.

### NEW SECTION

#### **WAC 246-830-290 Documents in a foreign language.**

All application documents submitted in a foreign language shall be accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Costs of translation of all documents shall be at the expense of the applicant.

### NEW SECTION

#### **WAC 246-830-460 Continuing education requirement - Amount.**

The licensee shall demonstrate continued professional competency by completing sixteen hours of acceptable continuing education every two years. (1) Hours for continuing education shall be measured in full academic hours (a fifty-minute period equals one hour). (2) Continuing education credit shall be granted for class hours only and not preparation time.

### NEW SECTION

#### **WAC 246-830-465 Effective date of requirement.**

The effective date of the continuing education requirement shall be July 1, 1994. Acceptable courses taken after that date may be included in the first computation of continuing education hours necessary for renewal which is reportable on or after July 1, 1996. The first reporting date for newly licensed practitioners shall be two years from their initial licensure date.

### NEW SECTION

#### **WAC 246-830-470 Use of the National Certification for Professional Massage and Bodywork to satisfy the continuing education requirement.**

(1) A passing score on the National Certification Examination for Professional Massage and Bodywork may be used to satisfy four hours of continuing education requirement. (2) A passing score on

this examination shall be used to demonstrate competency only once every six years.

NEW SECTION

**WAC 246-830-475 Exemptions.** Upon a showing of good cause by a licensee, the secretary with advice from the board, may exempt such licensee from any, all, or part of the continuing education requirement. Exemptions are effective for one year.

NEW SECTION

**WAC 246-830-480 Qualification of program for continuing education credit.** Completion of a formal program of learning which serves to enhance the professional knowledge and development of the licensee shall qualify as continuing education credit. For the purposes of this chapter, a formal program of learning shall be defined as any of the following: (1) Attendance at a local, state, national or international continuing education program having a featured speaker; (2) First aid, CPR or emergency related classes; (3) Viewing of educational video tapes not to exceed four credits; (4) Teaching a seminar for the first time, not to exceed eight hours; (5) Business and management courses not to exceed six hours; Specialized training in an aspect of massage therapy provided by an individual who has expertise in that area, has been licensed in this state for no less than three years, and who charges a fee; (7) Courses from a state, county, or city school or program or approved massage school, program, national education institution, or apprenticeship trainer in massage therapy or related topics; or (8) Training provided by a health care professional certified or licensed in their area of expertise.

**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 246-830-485 Certification of compliance.** (1) Each licensee shall submit an affidavit of compliance every two years on a form provided by the secretary indicating the sixteen hours of continuing education has been completed. The secretary, with recommendations from the board, reserves the right to require any licensee to submit evidence of training in order to demonstrate compliance with the continuing education requirement. It is therefore the responsibility of each licensee to maintain records, or certificates or other evidence of compliance with the continuing education requirements for up to three years. (2) Failure on the part of a licensee to demonstrate that the continuing education requirement has been met shall be grounds for disciplinary action.

**WSR 94-05-081**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Podiatric Medical Board)  
[Filed February 15, 1994, 12:44 p.m.]

Original Notice.

Title of Rule: WAC 246-922-500 Adjudicative proceedings.

Purpose: To adopt the model procedural rules for adjudicative proceedings.

Statutory Authority for Adoption: RCW 18.22.015 and 18.130.050.

Statute Being Implemented: Chapter 18.130 RCW.

Summary: To implement the model procedural rules.

Reasons Supporting Proposal: Implementation of the model will provide consistency of the disciplinary process with other professions in the Department of Health.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, Program Manager, 1300 Quince Street, Olympia, 586-8438.

Name of Proponent: Washington State Podiatric Medical Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Implementation of the model procedural rules for adjudicative proceedings. To provide consistency with other professions within the agency.

Proposal does not change existing rules.

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

Hearing Location: WestCoast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on March 25, 1994, at 9:30 a.m.

Submit Written Comments to: Arlene Robertson, Program Manager, 1300 Quince Street S.E., P.O. Box 47868, Olympia, WA 98504-7868, by March 23, 1994.

Date of Intended Adoption: March 25, 1994.

February 15, 1994  
Arlene Robertson  
Program Manager

NEW SECTION

**WAC 246-922-500 Adjudicative proceedings.** 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.

**WSR 94-05-082**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed February 15, 1994, 2:47 p.m.]

Continuance of WSR 94-02-080.

Title of Rule: Chapter 173-224 WAC, Wastewater discharge permit fees.

Purpose: To extend public comment period to March 4, 1994.

Submit Written Comments to: Department of Ecology, Attn: Bev Poston, P.O. Box 47600, Olympia, WA, 98504-7600, by March 4, 1994.

Date of Intended Adoption: April 27, 1994.

February 14, 1994  
Mary Riveland  
Director

**WSR 94-05-088**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed February 15, 1994, 3:55 p.m.]

Original Notice.

Title of Rule: WAC 180-29-147 Retained percentage law related requirements, 180-29-135 Disbursement of moneys—General provisions applicable to payments, and 180-29-170 Liens.

Purpose: The addition of new WAC 180-29-147 will clarify the retainage process and the choices available to local districts. Amendments to WAC 180-29-135 and 180-29-170 will reflect and clarify the inclusion of WAC 180-29-147 and its stipulation into chapter.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: Section 24 (8)(e), chapter 233, Laws of 1992.

Summary: In response to authority granted in RCW 60.28.011(6), a series of options and requirements for local districts to manage the public works retainage process are instituted. In the option of the OSPI management, the current administrative process is set forth without change.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-2298; Implementation: David Moberly, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6742; and Enforcement: Michael Roberts, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6702.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The key recommendations which are incorporated into WAC 180-29-147 are: The local district is responsible for determining the form of retainage; the district may manage the retainage on its own, including releasing of funds, or may designate OSPI as its agent to manage the process; if the district elects to accept the bond, the decision will be by board resolution and on a form provided by OSPI with a surety that will be registered with the state Insurance Commissioner.

Proposal does not change existing rules.

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

Hearing Location: North Thurston School District, 305 College Street S.E., Lacey, WA 98504 [98503], on March 24, 1994, at 9 a.m.

Submit Written Comments to: Monica Schmidt, State Board of Education, P.O. Box 47200, Olympia, WA 98504-7200, by March 22, 1994.

Date of Intended Adoption: March 25, 1994.

February 15, 1994  
 Dr. Monica Schmidt  
 Executive Director/Secretary

NEW SECTION

**WAC 180-29-147 Retained percentage law related requirements.** (1) State school building assistance is conditioned upon a school district's compliance with the cash, or bond in lieu of cash, retained percentage requirements of chapter 60.28 RCW and this section. A school district may elect to administer compliance with all requirements of chapter 60.28 RCW or, in part, designate the state board of education acting through the superintendent of public instruction as agent of the school district for purposes of administering retained percentage moneys reserved under RCW 60.28.011.

(2) Under RCW 60.28.011, a school district either:

(a) Must provide for the reservation of five percent of all moneys earned by a contractor either by the district, deposited by the district in an interest-bearing account or placed in escrow as provided in RCW 60.28.011(4); or

(b) As an alternative to reserving such moneys, may elect to consent to the request of the contractor to submit a bond for all or any portion of the moneys, subject to the requirements of subsection (4) of this section.

As a general rule, the state board of education prefers and recommends the cash retainage option for reasons which include the security and ease of enforcement which the cash option affords.

(3) Cash retainage.

(a) If the school district elects to reserve five percent of all moneys earned by the contractor in a retainage trust fund as provided under RCW 60.28.011(1), moneys deposited in that trust fund (whether retained by the district, deposited by the district in an interest-bearing account, or placed in escrow), may be paid to the contractor without prior written consent by the superintendent of public instruction. The superintendent of public instruction shall make available to the school district model procedures and forms for setting up the trust fund selected by the contractor under RCW 60.28.011(4).

(b) At the request of the school district, the state board of education acting through the superintendent of public instruction may be designated as agent of the school district for cash retainage and will:

(i) Administer the retained percentage trust fund in accordance with RCW 60.28.011, inclusive of depositing, releasing and accounting for such moneys;

(ii) Establish and administer the retained percentage trust fund in accordance with the terms of chapter 60.28 RCW, and such terms as may be established by the superintendent of public instruction to ensure compliance with chapter 60.28 RCW, the security of trust fund moneys and efficient administration; and

(iii) Ensure that no moneys lawfully deposited in the retained percentage trust fund shall be paid to the contractor without the prior written consent of the superintendent of public instruction, except for the payment of interest earnings as may be required by law.

(4) If a school district desires to consent to the bond in lieu of cash retained percentage option at the request of a contractor, the following conditions apply:

(a) The school district board of directors shall make the decision to accept a bond in lieu of cash retained percentage at an open public meeting;

(b) The bond shall be in terms and of a form approved and established by the superintendent of public instruction to ensure that the bond adequately addresses the purposes of chapter 60.28 RCW; and

(c) The bond shall be signed by a surety that is:

(i) Registered with the Washington state insurance commissioner; and

(ii) On the currently authorized insurance list published by the Washington state insurance commissioner.

(5) The release of retainage, whether cash or bond-in-lieu, shall be conditioned upon satisfactory compliance with the provisions of WAC 180-29-165.

**AMENDATORY SECTION** (Amending Order 12-83, filed 10/17/83)

**WAC 180-29-135 Disbursement of moneys—General provisions applicable to payments.** Disbursement of moneys shall be in accordance with the following provisions:

(1) Payments to contractor(s) by school district. Payments to contractors shall be on the basis of work completed. Contractors shall submit to the school district monthly estimates of work completed which shall be supported by the architect/engineer's certificate for payment. No payments shall be made without certification from the architect/engineer that such work has been completed.

(2) Payments to others. Payments to others as per chapter 180-27 WAC shall be made in accordance with the contract provisions for those services.

(3) Retainage. The provisions of chapter 60.28 RCW relating to public works contracts and of WAC 180-29-147 shall govern retainage on contract payments.

**AMENDATORY SECTION** (Amending Order 12-83, filed 10/17/83)

**WAC 180-29-170 Liens.** In the event that liens are filed with the school district, the provisions of RCW 60.28.010 through 60.28.060 shall apply. If the district elects cash retainage under WAC 180-29-147 (2)(a), the amount of each lien plus three thousand dollars or twenty-five percent of the claim, whichever is greater, for potential attorney fees, plus ten percent of the lien claim for court costs, shall be withheld from the retainage until any lien has been removed.

**WSR 94-05-089  
PROPOSED RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**  
[Filed February 15, 1994, 4:10 p.m.]

Original Notice.

Title of Rule: Life and disability reinsurance agreements.

Purpose: To establish minimum requirements for reinsurance agreements for life and disability reinsurance, as prerequisite to allowing the reinsurance to be reflected on the financial statements; required for NAIC accreditation.

Other Identifying Information: Insurance Commissioner Matter No. R 94-4, based on NAIC model regulation, with some changes.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.250, and 48.05.400.

Statute Being Implemented: RCW 48.05.250 and 48.05.400.

Summary: Credit will not be allowed for reinsurance unless there is an actual, binding transfer of risk.

Reasons Supporting Proposal: This will help to stop abuses in the use of "financial reinsurance" that purports to improve balance sheets but does not transfer risk. Required for NAIC accreditation.

Name of Agency Personnel Responsible for Drafting: George W. Taylor, Jr., Insurance Building, Olympia, Washington, (206) 753-7306; Implementation: Roy Olson, Insurance Building, Olympia, Washington, (206) 753-7305; and Enforcement: Rich Nafziger, Insurance Building, Olympia, Washington, (206) 753-3110.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Agreements must be written, must actually transfer some specified risk, must be real insurance transactions and not merely paper charades, and must meet specified accounting requirements. Based on NAIC model.

Proposal Changes the Following Existing Rules: Complete rewriting of the regulation to conform to current NAIC model.

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

This rule sets forth the requirements in order for a domestic life and disability insurer to reduce any liability or establish any asset in any financial statement filed with the commissioner as the result of any reinsurance agreement. It does not require any additional forms, fees, appearances, or other actions on the part of businesses and has no economic impact.

The rule is one of a number of rules and laws required in order that Washington will meet the standards imposed by the National Association of Insurance Commissioners in order for a state to be "certified" as capable of ensuring the solvency of insurers. All states are moving toward "certification," so that insurers will be subjected to the same requirements, including, to a large extent, those imposed by the proposed rule, regardless of their state of domicile. Most insurers transacting insurance in our state, including domestics, also do so in other states and will thereby become subject to largely the identical requirement. Therefore, if a domestic insurer does business in other states, it will become subject to the standards of the NAIC either by reason of Washington requirements or those of the member states of the NAIC.

Hearing Location: John L. O'Brien Building, Hearing Room E, State Capitol Campus, Olympia, Washington, on March 24, 1994, at 9:00 a.m.

Submit Written Comments to: Insurance Commissioner, Attn: Roy Olson, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, by March 24, 1994.

Date of Intended Adoption: March 29, 1994.

February 15, 1994  
Deborah Senn  
Insurance Commissioner

**LIFE AND HEALTH  
REINSURANCE AGREEMENTS**

NEW SECTION

**WAC 284-13-800 Scope and definition.** (1) This regulation (WAC 284-13-800 through 284-13-830) applies to all domestic life and disability insurers. It applies to all other life and disability insurers holding certificates of authority but that are not subject to a substantially similar regulation in their domiciliary state. It applies to property and casualty insurers that hold certificates of authority, with respect to their disability business. This regulation does not apply to assumption reinsurance, yearly renewable term reinsurance, or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

(2) For purposes of this regulation (WAC 284-13-800 through 284-13-830) "domiciliary commissioner" means the insurance commissioner, director, superintendent, or like official of the state of domicile of the ceding insurer.

NEW SECTION

**WAC 284-13-810 Accounting requirements.** (1) No insurer subject to this regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the commissioner if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exists:

(a) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured. Those expenses include but are not limited to commissions, premium taxes, and direct expenses including, but not limited to, billing, valuation, claims, and maintenance expected by the company at the time the business is reinsured;

(b) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer. For purposes of this section, termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as earned modified coinsurance reserve adjustments, earned interest and adjustments on funds withheld, and tax reimbursements, is not such a deprivation of surplus or assets, if that termination is made before a finding by the commissioner, the domiciliary commissioner, or a court that the ceding insurer is insolvent.

(c) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement. For purposes of this section, neither reducing experience refunds by offsetting against current and prior years' losses without interest under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses without interest under the agreement upon voluntary termination of in force reinsurance by the ceding insurer is such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provi-

sion is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty. If the commissioner, the domiciliary commissioner, or a court finds the ceding insurer to be insolvent, the ceding insurer shall not be required to reimburse the reinsurer for any unrecovered surplus relief or any past or current losses;

(d) The ceding insurer must, at specific times scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(e) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it would be such a payment for a ceding company to pay reinsurance premiums or other fees or charges to a reinsurer that are greater than the direct premiums collected by the ceding company; or to pay interest on negative experience or interest that is not earned on the invested assets supporting the business;

(f) The agreement does not transfer all of the significant risk inherent in the business being reinsured. The following table identifies, for a representative sampling of products or types of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

Risk categories:

- (i) Morbidity
- (ii) Mortality
- (iii) Lapse

This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

- (iv) Credit Quality (C1)

This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

- (v) Reinvestment (C3)

This is the risk that interest rates will fall and funds reinvested (coupon payments or moneys received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase. The risk includes transaction costs and appropriate differences between statement value and market value of the assets involved.

- (vi) Disintermediation (C3)

This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals. The risk includes transaction costs and appropriate differences between statement value and market value of the assets involved.

+ - Significant 0 - Insignificant

RISK CATEGORY

	i	ii	iii	iv	v	vi
Disability - other than LTC/LTD*	+	0	+	0	0	0
Disability - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+

\*LTC = Long Term Care Insurance  
LTD = Long Term Disability Insurance

(g)(i) The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in (g)(ii) of this subsection) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner that legally segregates, by contract or contract provision, the underlying assets.

(ii) Notwithstanding the requirements of (g)(i) of this subsection, the assets supporting the reserves for the following classes of business and any classes of business that do not have a significant credit quality, reinvestment, or disintermediation risk may be held by the ceding company without segregation of such assets:

- Disability Insurance - LTC/LTD
- Traditional Non-Par Permanent
- Traditional Par Permanent
- Adjustable Premium Permanent
- Indeterminate Premium Permanent

The associated formula for determining the reserve interest rate adjustment must use a formula that reflects the ceding company's investment earnings on assets reasonably allocated to the reinsured business and incorporates realized and unrealized gains and losses reflected in the statutory statement. If no assets have been segregated for reinsured business, the following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG - IMR - AVR)}{X + Y - I - CG + IMR + AVR}$$

Where: I is net investment income,

CG is capital gains less capital losses, net of capital gains taxes on realized capital gains and losses,

IMR is the change in the Interest Maintenance Reserve,

AVR is the change in the Asset Valuation Reserve,

X is the current year cash and invested assets plus investment income due and accrued less borrowed money, and

Y is the same as X but for the prior year.

(h) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety days of the settlement date;

(i) Expense allowances are withheld by the reinsurer, rather than paid in cash or offset against premiums, investment earnings, or reserves released;

(j) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured, including offsets against transactions not part of the reinsurance agreement;

(k) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured;

(l) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged;

(m) The reinsurance agreement is not administered according to its terms, or contains any provision for interpretation or application that does not relate to the terms of the reinsurance agreement. The agreement may provide that a court or arbitrator, in resolving genuine disputes or ambiguities, may consider and be guided in part by the customs and practices of the insurance industry.

(2) Nothing in this regulation, WAC 284-13-800 through 284-13-830, limits the authority of the commissioner to disapprove any accounting procedures, in accordance with RCW 48.12.030 or otherwise.

(3) Notwithstanding subsection (1) of this section, an insurer subject to this regulation may, with the prior approval of the commissioner, take such reserve credit or establish such asset as the commissioner may deem consistent with Title 48 RCW and Title 284 WAC, including actuarial interpretations or standards adopted by the Commissioner.

(4)(a) Each agreement entered into after the effective date of this regulation that involves the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the commissioner within thirty days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the commissioner. The actuary shall maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this regulation.

(b) Any increase in surplus net of federal income tax resulting from arrangements described in (a) of this subsection shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, Page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Net income" line, Page 4 of the Annual Statement, as earnings emerge from the business reinsured.

{For example, on the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus Account. In the Summary of Operations, \$20 million is reported as income on the "Commissions and expense allowances on reinsurance ceded" line, while \$13.2 million is reported on the "Aggregate write-ins for deductions" line.}

{At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66% of (\$4 million - \$1 million - \$.5 million) up to a maximum of \$13.2 million), and the \$1 million experience refund, separately, on the "Aggregate write-ins for miscellaneous income" line of the Summary of Operations. The Capital and Surplus Account would include - \$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line.}

#### NEW SECTION

**WAC 284-13-820 Written agreements.** (1) No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the commissioner unless the agreement or amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

(2) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable time, not exceeding ninety days, from the date the letter of intent is executed, in order for credit to be granted for the reinsurance ceded.

(3) The reinsurance agreement shall provide that:

(a) The agreement constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

(b) Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

#### NEW SECTION

**WAC 284-13-830 Existing agreements.** Insurers subject to this regulation shall reduce to zero by December 31, 1995, any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation (WAC 284-13-800 through 284-13-830) that, under this regulation, would not be entitled to recognition of the reserve credits or assets, but that would have been so entitled immediately before the effective date of this regulation.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-13-110	Purpose.
WAC 284-13-120	Scope.
WAC 284-13-130	Accounting requirements.
WAC 284-13-140	Written agreements.
WAC 284-13-150	Existing agreements.

#### **WSR 94-05-092**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed February 16, 1994, 10:12 a.m.]

Original Notice.

Title of Rule: Rules restricting the use of mevinphos (Phosdrin) in chapter 16-219 WAC.

Purpose: Places restrictions on the use and application of mevinphos (Phosdrin).

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Statute Being Implemented: RCW 15.58.040 and 17.21.030.

Summary: The proposal requires that only certified applicators shall be allowed to mix, load, apply and handle mevinphos (Phosdrin) and requires an observer to be present during all mixing and loading, and prohibits aerial application within 150 feet of an inhabited building unless written permission is given.

Reasons Supporting Proposal: Action is taken due to human exposure incidents which occurred in 1993.

Name of Agency Personnel Responsible for Drafting and Enforcement: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, WA 98504, (206) 902-2040; and Implementation: William E. Brookreson, Assistant Director, P.O. Box 42589, Olympia, WA 98504, (206) 902-2011.

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 proposal is due primarily to human exposure incidents involving mevinphos (Phosdrin) in 1993. The proposal prohibits the use of mevinphos on many crops including tree fruits and allows its use only on those crops which have been identified in past hearings as critically needed for production. The proposal requires that only certified applicators shall be allowed to mix, load, apply and handle mevinphos and requires that an observer be present during all mixing and loading activities and prohibits aerial applications within 150 feet of an inhabited dwelling unless written permission is received. The proposal also requires that the department be notified prior to any application with specific information relating to the time, location, crop to be treated and name of person making the application. Dealers are required to provide a copy of the rules and a safety sheet to a purchaser of mevinphos (Phosdrin).

Proposal Changes the Following Existing Rules: As noted above.

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

Hearing Location: On March 23, 1994, at 7:00 p.m., WSU Research and Ext., 1468 Memorial Highway, Mt. Vernon, WA; and on March 24, 1994, at 7:00 p.m., Big Bend Community College, 7662 Chanute Street, Building 1400, Moses Lake, WA.

Submit Written Comments to: Cliff Weed, Program Manager, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98504-2589, by March 24, 1994.

Date of Intended Adoption: March 31, 1994.

February 16, 1994  
William E. Brookreson  
Assistant Director

AMENDATORY SECTION (Amending Order 3015, filed 7/23/93, effective 8/23/93)

**WAC 16-219-015 Restricted use pesticides—Mevinphos (Phosdrin).** For the purposes of WAC 16-219-015 through ~~((16-219-030))~~ 16-219-031, all formulations of mevinphos (Phosdrin) are declared to be restricted use pesticides due to its acute toxicity. If any restriction in WAC 16-219-015 through ~~((16-219-030))~~ 16-219-031 is in conflict with restrictions on the pesticide label, the most restrictive statement will apply.

NEW SECTION

**WAC 16-219-017 Use requirements—Mevinphos (Phosdrin).** (1) The use of all formulations containing the active ingredient mevinphos (Phosdrin) shall be prohibited throughout the state of Washington: *Provided*, That the use of mevinphos (Phosdrin) shall be allowed on the following crops:

- (a) Green peas grown west of the Cascades;
- (b) Fresh vegetable crops consisting of broccoli, brussels sprouts, cauliflower, and lettuce; and
- (c) Seed crops consisting of beets, bok-choi, cabbage, carrots, collards, kale, kohlrabi, leeks, mustard, onion, parsley, parsnip, radish, spinach, and turnip.

(2) A permit may be issued by the director, upon written request, for use of mevinphos (Phosdrin) on seed crops and fresh vegetables not listed in subsection (1) of this section when a pest problem with no viable alternatives for control is identified.

NEW SECTION

**WAC 16-219-018 Certified applicator requirements—Mevinphos (Phosdrin).** All mixing and loading of any apparatus for application, the handling and all applications of mevinphos (Phosdrin) shall be conducted by a certified applicator who is licensed to apply the product. When an aerial application of mevinphos (Phosdrin) is to be made, the pilot making the application may not act as the certified applicator for mixing and loading or otherwise assist in the mixing and loading operation.

AMENDATORY SECTION (Amending Order 3015, filed 7/23/93, effective 8/23/93)

**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)) 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. For purposes of this section, periodic visits by the observer at least once every hour to the actual mixing and loading site shall suffice for the observer requirements.

(2) Do not apply with hand equipment.

~~((9))~~ (3) 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.)~~ (4) Aerial applications shall not be applied within one hundred and fifty feet of an inhabited building: *Provided*, That this requirement may be waived if the applicator responsible for the application has written permission from the occupant of the dwelling(s) to apply.

NEW SECTION

**WAC 16-219-022 Closed systems—Mevinphos (Phosdrin).** No mixing and loading of any apparatus for application of mevinphos (Phosdrin) shall be allowed unless a closed system, as approved by the department, is utilized. The effective date for compliance with this section shall be April 1, 1995.

AMENDATORY SECTION (Amending Order 3015, filed 7/23/93, effective 8/23/93)

**WAC 16-219-025 Restricted entry interval—Posting—Mevinphos (Phosdrin).** (1) Entry into ~~((a pear or apple orchard))~~ an area 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))~~ until such time as the restricted entry interval, as outlined on the product label, has expired: *Provided*, That entry into the

treated area may occur under the conditions outlined on the product label.

(2) Any time mevinphos (Phosdrin) is applied to (~~pears or apples~~) any crop or site, the area being treated shall be posted with warning signs.

#### NEW SECTION

**WAC 16-219-027 Prior notification—Mevinphos (Phosdrin).** (1) All applications of mevinphos (Phosdrin) is prohibited unless the department is notified of the intent to make application at least twenty-four hours prior to commencing the actual application.

(2) Notice of intent to apply mevinphos (Phosdrin) shall be made by one of the following:

(a) By telephone or facsimile to the department office:

(i) For applications east of the Cascades, phone number (509) 575-2746 or facsimile (509) 575-2210;

(ii) For applications west of the Cascades, phone number (206) 902-2040 or facsimile (206) 902-2093.

(b) Other conditions to be designated by the department.

(3) The notice of intent shall include the following information:

(a) Name and telephone number of person making the application;

(b) Location of the land where the mevinphos (Phosdrin) is to be applied, specifying township, range and section;

(c) Year, month, day and time the mevinphos (Phosdrin) is to be applied; and

(d) Crop or site to be treated.

(4) Application of mevinphos (phosdrin) shall not begin prior to the day and time provided in the notice of intent. If the application cannot be started or completed within twenty-four hours from the day and time stated in the notice of intent, a new notice of intent shall be made to the department.

#### NEW SECTION

**WAC 16-219-029 Dealer requirements—Mevinphos (Phosdrin).** Pesticide dealers of mevinphos (Phosdrin) shall provide a copy of the mevinphos (Phosdrin) rules, as well as the WSDA safety information sheet to the purchaser at the time of distribution.

#### NEW SECTION

**WAC 16-219-031 Weather conditions—Mevinphos (Phosdrin).** No application of mevinphos (Phosdrin) shall be made when there is a temperature inversion, or if wind speed exceeds ten miles per hour or when the temperature exceeds eighty degrees Fahrenheit.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-219-030 Training—Mevinphos (Phosdrin).

**WSR 94-05-093**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
[Filed February 16, 1994, 10:20 a.m.]

Original Notice.

Title of Rule: WAC 314-16-150 No sale of liquor to minors, intoxicated persons, interdicted persons, etc.

Purpose: To strengthen the current language to include the "physical possession" of liquor at A, B, C, D, or H on-premises establishments by apparently intoxicated persons as a violation.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.44.200.

Summary: The changes proposed would make physical possession of liquor on a class A, B, C, D, or H on-premises establishment by an apparently intoxicated person a violation.

Reasons Supporting Proposal: Proposal removes unnecessary references to "interdicted person(s)"; "or classification" and "except where liquor is administered to such person by his physician or dentist for medicinal purposes."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gary W. 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: The current rule prohibits, in part, sale of liquor to and consumption of liquor by apparently intoxicated persons. The purpose of the proposed change is to amend current language to include the physical possession of liquor by such persons on on-premises licensed establishments as a violation. The current language includes "permitting to consume" as a violation; this proposal would add "physically possess" and clarifies what type of licensed premises this would apply to. It is anticipated this change will enable local law enforcement and/or liquor control agents to better control the problem of overservice of liquor. The other changes remove unnecessary references: In the title and body of the rule to "interdicted person(s)"; "or classification"; and "except where liquor is administered to such person by his physician or dentist for medicinal purposes."

Proposal Changes the Following Existing Rules: This change would amend the current rule to include "permit to possess liquor" on a class A, B, C, D, or H licensed premises by apparently intoxicated persons as a violation.

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

Hearing Location: Liquor Control Board, Fifth Floor Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, P.O. Box 43080, Olympia, WA 98504-3080, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 15, 1994  
Joseph L. McGavick  
Chairman

AMENDATORY SECTION (Amending Rule 30, filed 6/13/63)

**WAC 314-16-150 No sale of liquor to minors, intoxicated persons, (~~interdicted persons,~~) etc.** (1) No retail licensee shall give or otherwise supply liquor to any person under the age of (~~(21)~~) twenty-one years, either for his/her own use or for the use of his/her parent or of any other person; or to any person apparently under the influence of liquor; (~~or to any interdicted person (habitual drunkard);~~) nor shall any licensee or employee thereof permit any person under the said age or in said condition (~~or classification~~) to consume liquor on his/her premises, or on any premises adjacent thereto and under his/her control (~~(, except where liquor is administered to such person by his physician or dentist for medicinal purposes).~~).

(2) No class A, B, C, D, or H licensee shall permit any person apparently under the influence of liquor to physically possess liquor on the licensed premises.

**WSR 94-05-094  
PROPOSED RULES  
LIQUOR CONTROL BOARD**  
[Filed February 16, 1994, 10:22 a.m.]

Original Notice.

Title of Rule: FAS/FAE warning signs, requiring signs in all on-premises licensed businesses, WAC 314-12-185.

Purpose: Requires all on-premises licensees to post signs warning of the potential danger of consuming alcohol shortly before conception or during pregnancy and the possibility of birth defects.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Requires all on-premises licensees posting signs warning of the danger which may be present for birth defects to occur from the consumption of alcohol shortly before conception and during pregnancy.

Reasons Supporting Proposal: State liquor stores are already required to have such signs to provide consumers of potential hazards. Similar signs could be instrumental in preventing FAS/FAE births.

Name of Agency Personnel Responsible for Drafting: Carter Mitchell, Public Information Officer, Washington State Liquor Control Board, 1025 East Union, Olympia, 753-6276; Implementation and Enforcement: Gary Gilbert, Chief of Enforcement, Washington State Liquor Control Board, Olympia, 586-3052.

Name of Proponent: Washington State 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 would require that all on-premises licensees post signs warning of the potential dangers the consumption of alcohol might have for birth defects and specifically FAS and FAE. Signs must be visible upon entering an area where alcohol is served and must be of sufficient size so as to be easily read.

Proposal does not change existing rules.

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

Cost for creating and producing a sign that meets with the requirements of this rule should be minimal as the style and design is up to the individual licensee.

Hearing Location: Fifth Floor Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA 98504, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Office, Washington State Liquor Control Board, 1025 East Union, Olympia, WA 98504, FAX (206) 664-9689, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 10, 1994  
Joseph L. McGavick  
Chairman

NEW SECTION

**WAC 314-12-185 FAS/FAE warning signs** All licensees or holders of liquor permits serving alcohol by the drink shall post, in a conspicuous place within every portion (room or area) of their premises where alcohol is served, a sign warning persons that consumption of alcohol shortly before conception or during pregnancy may cause birth defects, including fetal alcohol syndrome and fetal alcohol effects. The sign must be visible and of sufficient size so anyone entering the area where alcohol is served may easily read the warning contained thereon.

**WSR 94-05-095  
PROPOSED RULES  
LIQUOR CONTROL BOARD**  
[Filed February 16, 1994, 10:24 a.m.]

Original Notice.

Title of Rule: The summary of the individual rules pertaining to WAC 314-25-010, 314-25-020, 314-25-030, and 314-25-040 regarding "ships chandler's" license is as follows: WAC 314-25-010 Definition and limitations, to define the holder of a duty free exporter's license as a "ships chandler" for the purposes of this section, to clarify that a ships chandler is considered a wholesaler for purposes of tied house, and to clarify that a ships chandler license is for beer and wine only; WAC 314-25-020 Purchase and receipt of beer and wine, to clarify who a ships chandler (the holder of a duty free exporter's license) may purchase beer and wine from; WAC 314-25-030 Location—Auxiliary location—Inspection, to clarify how and where a ships chandler (the holder of a duty free exporter's license) may distribute beer and wine, to clarify that the board may authorize auxiliary locations from which to store and distribute beer and wine, and to clarify that ships chandlers, their vehicles and secondary locations must be open to inspection by board employees; and WAC 314-25-040 Delivery of beer and wine—Records, to clarify the requirements regarding the delivery of beer and wine by a ships chandler and to clarify records requirements. This summary explains the rule, its purpose and anticipated effects on an individual basis.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.530.

Summary: See Title of Rule above.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, 1025 East Union, Olympia, WA, 586-6701; Implementation and Enforcement: Gary W. 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: See Title of Rule above.

Proposal does not change existing rules.

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

Hearing Location: Liquor Control Board, Fifth Floor Board Room, Capital Plaza Building, 1025 East Union, Olympia, WA, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Information Officer, Washington State Liquor Control Board, P.O. Box 43080, Olympia, WA 98504-3080, FAX (206) 664-9689, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 15, 1994

Joseph L. McGavick  
Chairman

#### NEW SECTION

**WAC 314-25-010 Definition and limitations.** (1) The holder of a duty free exporter's license, designated as a class S license by RCW 66.24.530 and a class NS license by WAC 314-22-010(7) shall be referred to as a "ships chandler" for the purposes of this section.

(2) A ships chandler is considered to be a wholesaler of beer and wine for the purposes of RCW 66.28.010.

(3) A ships chandler is authorized to sell beer and wine and is not authorized to sell, possess, deliver or transfer any spirituous liquor without an additional liquor importers license.

#### NEW SECTION

**WAC 314-25-020 Purchase and receipt of beer and wine.** (1) As authorized by RCW 66.24.530, a ships chandler may purchase beer and wine, from (a) a licensed Washington brewery or winery, (b) a licensed Washington beer or wine wholesaler, (c) a licensed beer or wine importer located within the state of Washington and (d) breweries and wineries located within the United States who hold a certificate of approval to ship their product into Washington as authorized by RCW 66.24, (e) a ships chandler who is currently licensed by the state of Washington with a class S (NS) license.

(2) A ships chandler may not purchase beer or wine from any source other than those listed above.

(3) All beer and/or wine purchased by a ships chandler must be delivered to the licensed address of the ships chandler, unless an auxiliary location has been authorized by the Board.

#### NEW SECTION

**WAC 314-25-030 Location—Auxiliary location—Inspection.** (1) A ships chandler may distribute beer and wine from their licensed location to ships doing business in foreign commerce, to other class S (NS) licensees, and to interstate common carriers class CCI-1 licensed under RCW 66.24.395 with no additional notification.

(2) The ships chandler must notify the Board of every auxiliary distribution location, its secondary business name, if applicable, the street address and mailing address.

(3) No distribution of beer and wine shall be made to a ship except from an authorized location.

(4) All ships chandlers license holders, their auxiliary locations and any vehicle used to transport beer and wine will be open to inspection by employees of the Board.

#### NEW SECTION

**WAC 314-25-040 Delivery of beer and wine—Records.** (1) Sales made by a ships chandler of beer and wine to an approved recipient may only be delivered to another ships chandler, a vessel for use in foreign commerce, a contracted CCI-1 carrier, or employees thereof.

(2) Beer and wine may only be delivered when the ships chandler has on file a signed statement, in a format approved by the Board, which indicates the Captain of the ship or manager of the authorized purchasing business understands and agrees that (a) no beer or wine purchased will be consumed in Washington waters or territory or within three miles of the shores of the State of Washington (b) no beer or wine purchased will be consumed while the ship is docked in a Washington port and (c) local law enforcement officers and board enforcement officers have the right to board and inspect the vessel while in Washington waters.

(3) Every statement will be notarized and remain valid for 12 calendar months after the date of signing and be signed by the master of the ship or his/her agent with the ships stamp affixed and countersigned by the ships chandler or their employee.

(4) A ships chandler or their employee must deliver any beer and wine directly to an authorized recipient purchasing the alcoholic beverage and it must be immediately placed into a locked storage area. The ships chandler must obtain the signature and printed name of the master or agent of the ship, S (NS) licensee or contracted ICC carrier on the delivery document which will contain the following information: (a) name of ship, (b) country of registry, if known, (c) type and amount of product delivered (d) date of delivery, (e) name and address of ships chandler making the sale and (f) signature and printed name of crew member receiving the liquor.

(5) The ships chandler will maintain records of all sales to ships, S (NS) licensees and CCI-1 approved licensees doing business in foreign commerce to include all federally mandated documents including order forms, bills of lading, affidavits, delivery to auxiliary location, etc. for a period of 2 years. Such records, or their computerized equivalent, will be available for inspection and copying by employees of the Board upon request.

(6) Board employees have the right to enter and inspect, without warrant, any business, ship, aircraft, vessel, or

transport vehicle from which beer and wine is delivered to or from a licensed ships chandler.

**WSR 94-05-096**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed February 16, 1994, 10:25 a.m.]

Original Notice.

Title of Rule: WAC 314-16-050 Hours of operation.

Purpose: To strengthen the current language by amending to make "physical possession" of liquor after hours at class A, B, C, D, or H on-premises establishments a violation; and to eliminate the 3:00 a.m. exception for New Year's Day.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: The changes proposed amend current language to make "physical possession" of liquor on a class A, B, C, D, or H premises after hours a violation; clarifies that persons working on such premises may, while in the performance of their official duties, possess liquor; and eliminates the 3:00 a.m. exception on New Year's Day for closing hours.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, 1025 East Union, Olympia, WA, 586-6701; Implementation and Enforcement: Gary W. 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: The current rule addresses hours of operation concerning liquor service. Purpose of changes is to amend current language to make "physical possession" of alcohol after hours on class A, B, C, D, or H licensed premises in the performance of their official duties may possess liquor without violation. The proposed language would also remove the 3:00 a.m. exception for New Year's Day for closing and make the closing hour 2:00 a.m. The changes would only apply to on-premises licensees. It is anticipated this change will enable local law enforcement and/or liquor control agents to make after-hours consumption cases easier to prove. The removal of the 3:00 a.m. exception for New Year's Day would make the rule consistent and simple and local law enforcement would not have to maintain additional staff to deal with the extended hour of legal alcohol consumption.

Proposed Changes the Following Existing Rules: This change would amend the current rule to include the addition of "physical possession" of liquor after hours on classes A, B, C, D, or H premises as a violation, and include the clarification that persons working on such premises may, while in the performance of their official duties, possess liquor. It would also eliminate the 3:00 a.m. exception for New Year's Day closing.

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

Hearing Location: Liquor Control Board, Fifth Floor Board Room, 1025 East Union, Olympia, WA 98504, on March 23, 1994, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, P.O. Box 43080, Olympia, WA 98504-3080, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 15, 1994  
 Joseph L. McGavick  
 Chairman

AMENDATORY SECTION (Amending Order 53, filed 2/15/77 and 2/16/77, effective 3/18/77)

**WAC 314-16-050 Hours of operation.** (1) No retail licensee, or employee thereof, shall sell, deliver, offer for sale, serve or allow to be consumed upon the licensed premises any liquor, nor permit the removal of any liquor from the licensed premises in any manner (~~whatsoever~~), whatever, nor shall a class A, B, C, D or H licensee permit the physical possession of any liquor, between the hours of ((2))2:00 a.m. and ((6)) 6:00 a.m., ((except on New Year's Day when the hour of closing shall not be later than 3 a.m.)) however, persons working on the class A, B, C, D or H premises may, while in the performance of their official duties possess liquor.

(2) Any municipality may fix later opening hours or earlier closing hours than those specified in this rule (~~Provided, however, That~~), however, such later opening hours or earlier closing hours shall apply to all licensed premises.

**WSR 94-05-097**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed February 16, 1994, 10:55 a.m.]

Original Notice.

Title of Rule: WAC 390-16-238 Personal use of contributions—Standard, 390-16-245 Pledges, 390-17-300 Contribution designation for primary and general election, and 390-17-315 Political committees—Qualifications to contribute.

Purpose: WAC 390-16-238, establish a standard for what constitutes personal use of campaign funds as referenced in chapter 42.17 RCW; WAC 390-16-245, explains when a campaign contribution that takes the form of a pledge may not be made or redeemed; WAC 390-17-300, establish a uniform mechanism for state office candidates regarding designation of contributions for the primary or general election; and WAC 390-17-315, pursuant to RCW 42.17.640(10), clarifies what qualifications a political committee must have before it may contribute to a candidate for state office.

Statutory Authority for Adoption: RCW 42.17.390.

Statute Being Implemented: Chapter 42.17 RCW.

Summary: WAC 390-16-238, a prohibited use of a contribution includes any expenditure of candidate funds that is not directly related to the candidate's election campaign; WAC 390-16-245, a pledge may not be made or redeemed during the time period when state officials may not solicit or accept contributions, nor may a pledge in excess of \$5,000 be made or redeemed during the 21 days before a general election; WAC 390-17-300, requires separate accounting of

contributions received by state office candidates for the primary and general elections; and WAC 390-17-315, explains the qualifications needed before a committee can contribute to a candidate.

Reasons Supporting Proposal: WAC 390-16-238, consistent with language and intent of Initiative 134; WAC 390-16-245, consistent with language and intent of disclosure law and restrictions contained therein; WAC 390-17-300, necessary to implement the contribution limit in RCW 42.17.640(1); and WAC 390-17-315, to implement Initiative 134.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, AG, Olympia, 586-1913; Implementation and Enforcement: Melissa Warheit, Director, 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 390-16-238, candidates and treasurers need clear guidance regarding activities prohibited by chapter 42.17 RCW; WAC 390-16-245, clarifies that pledges and their redemption are to be treated under the law like any other contribution received by candidates, state officials and political committees; WAC 390-17-300, allows state office candidates to receive general election contributions before the date of the primary election so long as they are not spent if to do so would mean that the contributor of the general election funds would exceed his primary election limit; and WAC 390-17-315, a political committee must be qualified to contribute to a Washington state candidate by having received contributions of \$10 or more from at least 10 individuals registered to vote in Washington.

Proposal Changes the Following Existing Rules: WAC 390-16-238 and 390-16-245, no; WAC 390-17-300, gives clearer direction to candidates and treasurers; and WAC 390-17-315, specifies that political committees will supply certain contributor information upon request, rather than automatically with next disclosure report.

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, on March 22, 1994, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by March 10, 1994.

Date of Intended Adoption: March 22, 1994.

February 16, 1994

Melissa Warheit  
Executive Director

## NEW SECTION

**WAC 390-16-238 Personal use of contributions—Standard.** Any expenditure of a candidate's campaign funds that is not directly related to the candidate's election campaign is a prohibited personal use of campaign funds under RCW 42.17.125.

## NEW SECTION

**WAC 390-16-245 Pledges.** (1) A pledge shall not be made or redeemed within twenty-one days of an election specified in RCW 42.17.105(8) if the amount of the pledge or redemption exceeds the limits provided in RCW 42.17.105(8).

(2) If a pledge is made in an election campaign subject to the contribution limits provided in RCW 42.17.640:

(a) a pledge made with respect to the primary election shall not be made or redeemed after the date of the primary; and

(b) a pledge made with respect to the general election shall not be made or redeemed after the final day of the applicable election cycle.

(3) During the time limit specified in RCW 42.17.710, a state official or a person employed by or acting on behalf of a state official shall not solicit or accept a pledge or the redemption of a pledge for any purpose specified in RCW 42.17.710.

## AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

**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~~)) shall 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) Contributions for the primary election shall be accounted for separately from those for the general election, such that campaign records reflect one aggregate contribution total for each contributor giving in the primary election as well as one aggregate contribution total for each contributor giving in the general election.

(5) General election contributions shall not be spent for the primary election if to do so would cause the contributor of the general election contribution to exceed that contributor's contribution limit for the primary election.

(6) If a candidate loses in the primary election, or otherwise is not a candidate in the general election, all ((funds held in the campaign accounts, whether contributions attributed for the primary or general election,)) contributions attributed to the primary election remaining after repayment of outstanding campaign obligations shall be considered surplus funds, disposal of which is governed by RCW 42.17.095. If a candidate loses in the primary election, or otherwise is not a candidate in the general election, all contributions attributed to the general election shall be returned to the contributors of the funds in an amount equal to the contributor's general election aggregate total. If a portion of a contributor's general election contribution was

spent on the primary election consistent with subsection (5) of this section, the amount returned to the contributor may be reduced by the amount of the contribution spent on the primary election.

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

**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~~) shall, within 180 days prior to making the contribution, have received 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.~~) Upon written request of the commission or other person seeking this information, the political committee shall provide within 14 days a list of these ten individuals, identified by name, address, amount of contribution and date contribution was received.

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 94-05-097A**  
**PROPOSED RULES**  
**SEATTLE COMMUNITY COLLEGES**  
[Filed February 16, 1994, 11:10 a.m.]

Original Notice.

Title of Rule: Chapter 132F-108 WAC, Rules of procedure for contested case hearings/administrative disputes, for adoption; chapter 132F-08 WAC, Procedures for contested case hearings, for repeal; and chapter 132F-104 WAC, Seattle Community College District board of trustees—Rules and regulations, for amendment of current chapter.

Purpose: The purpose for adoption of this new chapter for rules of procedure for contested case hearings/administrative disputes and for the repeal of the current chapter relating to procedure for contested case hearings is for District VI to be in conformity with the Administrative Procedure Act, chapter 34.05 RCW; and the purpose for amending District VI's current chapter relating to the board of trustee's rules and regulations is to update and change: Location of meeting, review of agenda items, submission routes, and board distribution list.

Statutory Authority for Adoption: RCW 28B.50.140.  
Statute Being Implemented: RCW 28B.50.140.

Summary: The proposed rules for adoption and repeal of contested case hearings/administrative disputes conform with the Administrative Procedure Act, chapter 34.05 RCW. They are proposed for adoption of new rules and repeal of the current rules so that contested case hearings and administrative disputes at District VI are in harmony and conformity with chapter 34.05 RCW, the Administrative Procedure Act; and the proposed rules for amendment of the rules and regulations of the board of trustees of District VI is to

update the location of board meetings, review of agenda items, submission routes, and board distribution list, so that these rules and regulations afford more opportunities for public input and comment at these meetings.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James E. Christiansen, Business and Finance, (206) 587-4160.

Name of Proponent: Seattle Community College District VI, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules relating to contested case hearings bring District VI into conformity with the Administrative Procedure Act, chapter 34.05 RCW, the rules relating to District VI's board of trustee rules and regulations simply update current board guidelines and format.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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

Hearing Location: Seattle Community College District, Siegal Center, 1500 Harvard Avenue, Seattle, WA 98122, on March 23, 1994, at 8-4:30 p.m.

Submit Written Comments to: Dede Gonzales, Seattle Community College District, Siegal Center, 1500 Harvard Avenue, Seattle, WA 98122, by March 22, 1994.

Date of Intended Adoption: March 23, 1994.

February 15, 1994  
James E. Christiansen  
Vice-Chancellor  
Business and Finance

AMENDATORY SECTION (Amending Order 48, filed 10/7/85)

**WAC 132F-104-030 Location of meeting.** Board meetings will be rotated among the three campuses, ((for a total of three meetings at each campus and two meetings at the district office, one during the summer on a month designated by the board and one during December.)) the institute, campus centers, and the Siegal Center. Addresses of these sites are as follows:

North Seattle Community College  
9600 College Way North  
Seattle, WA 98103

Seattle Central Community College  
1701 Broadway  
Seattle, WA 98122

South Seattle Community College  
6000 16th Avenue S.W.  
Seattle, WA 98106

Seattle Vocational Institute  
315 - 22nd Avenue South  
Seattle, WA 98144

Duwamish Industrial Education Center  
6770 E. Marginal Way South  
Seattle, WA 98108

Wood Construction Center  
2310 South Lane  
Seattle, WA 98144

Maritime Training Center  
4455 Shilshole Avenue N.W.  
Seattle, WA 98107

((Summer and December meetings:))  
 Seattle Community College District  
Siegal Center  
 ((300 Elliott Avenue))  
1500 Harvard  
 Seattle, WA ((98119)) 98122

**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:** 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 41, filed 6/15/83)

**WAC 132F-104-811 Review of agenda items.** All items submitted for the board agenda will be reviewed by the appropriate campus/district officers and the district chancellor. A standard cover sheet containing background information and the district chancellor's recommendation, as appropriate, shall be attached and the item shall be assigned to the agenda for the board meeting. As practicable, all materials prepared for consideration by the board of trustees shall be reviewed by the chancellor's cabinet and the ((district council)) prior to submission to the board.

**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 48, filed 10/7/85)

**WAC 132F-104-813 Submission routes.** To allow the board to have the benefit of background information and research, and to permit access for all SCCD constituencies to the board, the following submission routes to the board are available:

- |  |   |
|--|---|
| INITIATED BY:  | SUBMITTED BY:   |
| (1) An individual student, group of students, or student government organization | Student body government or other elected student representative to students' advisory representative to the board, or through the ((dean of students)) <u>vice president of student services</u> to the campus president/ <u>vice chancellor.</u> |

- |   |  |
|---|--|
| (2) An individual faculty member, group Of faculty members, or the faculty organization (SCCFT).  | Faculty representative organization (SCCFT) to the faculty advisory representative to the board, or to the campus president/ <u>vice chancellor</u> via the ((dean of instruction)) <u>vice president of instruction</u> or the district chancellor. |
| (3) An individual support staff employee, group of support staff employees, or the non-supervisory classified employees' organization (WFSE). | For supervisory classified, per individual via the campus president/ <u>vice chancellor</u> or district president/chancellor. For WFSE members, to executive committee and WFSE advisory representative to the board.                                |
| (4) An individual administrative employee, a group of administrative employees, or administrative organization.                               | Either the campus president/ <u>vice chancellor</u> or the district president/chancellor via immediate supervisor.   |
| (5) Individual citizens, groups, organizations, associations, agencies, or others who are not regular members of the district community.      | <u>Campus president/vice chancellor</u> if the matter concerns only one campus or the district chancellor if the matter concerns the entire district.  |

**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:** 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 48, filed 10/7/85)

**WAC 132F-104-815 Board distribution list.** The distribution list for the board of trustees will include the following:

	NO.	COPIES	TOTAL
Regular board members	1	each	5
Advisory representatives to the board (SCCFT, WFSE), ((3 ASB presidents))	1	"	2 ((5))
Campus presidents'/ <u>Vice Chancellor's offices NSCC(12), SCCC(11), SCCC(16)</u>	((3))	(("))	((9)) <u>39</u>
<u>Campus Advisory Representatives to the Board (3 ASB presidents)</u>	<u>1</u>	<u>each</u>	
<u>Campus vice presidents, SCCFT</u>	<u>1</u>	<u>each</u>	
<u>Campus Libraries</u>	<u>1</u>	<u>each</u>	
<u>Campus Newspapers</u>			
<u>Editor, Northern Lights</u>	<u>1</u>	<u>each</u>	
<u>Editor, City Collegian</u>	<u>1</u>	<u>each</u>	
<u>Editor, Sentinel</u>	<u>1</u>	<u>each</u>	
((Chancellor's office))	((3))		((3))
<u>District Chancellor's Office Siegal Center Including Seattle Vocational Institute</u>			<u>10</u>
Assistant attorney general	((1))		<u>1</u>
((District officers and staff))	((1))	(("))	((9))
((President, SCCFT))	((1))		((1))
((Campus vice presidents, SCCFT))	((1))	(("))	((3))
((Campus libraries))	((1))	(("))	((3))
((Editor, Polaris))	((1))	(("))	((1))

((Editor, City Collegian))	((1))	((1))
((Editor, Sentinel))	((1))	((1))
<u>Media</u>		
Education editor, Seattle Times	1	1
Education editor, Seattle Post-Intelligencer	1	1
<u>and other Media as Requested</u>		

Individuals or groups who wish to read these materials may do so in the campus presidents' offices or in the board office anytime during regular working hours.

**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:** 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 48, filed 10/7/85)

**WAC 132F-104-819 Notification to board office.**

Individuals or groups are requested to notify the board office ((eight)) twelve working days prior to the regular board meeting of the title and/or nature of any items which they wish to discuss under old or new business at the meeting.

**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.

**REPEALER**

The following chapters of the Washington Administrative Code is repealed.

**PROCEDURE FOR CONTESTED CASE HEARINGS**  
Chapter 132F-08 WAC

WAC 132F-08-001	Formal hearing. [REPEAL]
WAC 132F-08-005	Definitions. [REPEAL]
WAC 132F-08-010	Appearance and practice before agency. [REPEAL]
WAC 132F-08-080	Notice and opportunity for hearing in contested cases. [REPEAL]
WAC 132F-08-090	Service of process—By whom served. [REPEAL]
WAC 132F-08-100	Upon whom served. [REPEAL]
WAC 132F-08-110	Service upon parties. [REPEAL]
WAC 132F-08-120	Method of service. [REPEAL]
WAC 132F-08-130	When service complete. [REPEAL]
WAC 132F-08-140	Filing with agency. [REPEAL]
WAC 132F-08-230	Depositions and interrogatories in contested cases—Right to take. [REPEAL]
WAC 132F-08-240	Scope. [REPEAL]
WAC 132F-08-250	Officer before whom taken. [REPEAL]
WAC 132F-08-260	Authorization. [REPEAL]

WAC 132F-08-270	Protection of parties and deponents. [REPEAL]
WAC 132F-08-280	Oral examination and cross-examination. [REPEAL]
WAC 132F-08-290	Recordation. [REPEAL]
WAC 132F-08-300	Signing attestation and return. [REPEAL]
WAC 132F-08-310	Use and effect. [REPEAL]
WAC 132F-08-320	Fees of officers and deponents. [REPEAL]
WAC 132F-08-330	Depositions upon interrogatories—Submission of interrogatories. [REPEAL]
WAC 132F-08-340	Interrogation. [REPEAL]
WAC 132F-08-350	Attestation and return. [REPEAL]
WAC 132F-08-360	Provisions of deposition rule. [REPEAL]
WAC 132F-08-400	Hearing officers. [REPEAL]
WAC 132F-08-410	Hearing procedures. [REPEAL]
WAC 132F-08-420	Duties of hearing officers. [REPEAL]
WAC 132F-08-430	Stipulations and admissions of record. [REPEAL]
WAC 132F-08-440	Definition of issues before hearing. [REPEAL]
WAC 132F-08-450	Continuances. [REPEAL]
WAC 132F-08-460	Rules of evidence—Admissibility criteria. [REPEAL]
WAC 132F-08-470	Tentative admission—Exclusion—Discontinuance—Objections. [REPEAL]
WAC 132F-08-480	Form and content of decisions in contested cases. [REPEAL]

[This chapter is simultaneously been replaced by new chapter 132F-108 WAC.]

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

**NEW CHAPTER**

The following is a New Chapter of the Washington Administrative Code

**CHAPTER 132F-108 WAC**  
**RULES OF PROCEDURE FOR CONTESTED CASE HEARINGS/ADMINISTRATIVE DISPUTES**

WAC

132F-108-010	Adoption of rules of procedure. [NEW SECTION]
132F-108-020	Appointment of presiding officers. [NEW SECTION]
132F-108-030	Method of recording. [NEW SECTION]
132F-108-040	Application for adjudicative proceeding. [NEW SECTION]
132F-108-050	Brief adjudicative proceeding. [NEW SECTION]
132F-108-060	Discovery. [NEW SECTION]

- 132F-108-070 Adjudicative proceedings open. [NEW SECTION]  
 132F-108-080 Procedure for closing parts of the hearings. [NEW SECTION]  
 132F-108-090 Recording devices. [NEW SECTION]  
 132F-108-100 Petitions for stay of effectiveness. [NEW SECTION]  
 132F-108-110 Reconsideration. [NEW SECTION]  
 132F-108-120 Absence of President [NEW SECTION]  
 132F-108-130 Appearance and practice before agency. [NEW SECTION]  
 132F-108-140 Definition of issues before hearing. [NEW SECTION]

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

#### NEW SECTION

##### **WAC 132F-108-010 Adoption of rules of procedure.**

The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at this institution. Those rules may be found at Chapter 10-08 Washington Administrative Code. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the Model Rules of procedure and procedural rules adopted by this institution, the Model Rules prevail.

#### NEW SECTION

##### **WAC 132F-108-020 Appointment of presiding officers.**

The District president/chancellor or president of one of the District's institutions or designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, or a member in good standing of the Washington State Bar Association, or a panel of individuals, the District president/chancellor or his or her designee, or any combination of the above. When more than one individual is designated to be the presiding officer, one person shall be designated by the District president/chancellor's or designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

#### NEW SECTION

**WAC 132F-108-030 Method of recording.** Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

#### NEW SECTION

**WAC 132F-108-040 Application for adjudicative proceeding.** An application for an adjudicative proceeding shall be in writing. Application forms are available at the following address:

Seattle Community College District VI  
 1500 Harvard Avenue  
 Seattle, Washington 98122

Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

#### NEW SECTION

##### **WAC 132F-108-050 Brief adjudicative procedures.**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. These brief adjudicative procedures shall be used in all matters related to:

- (1) Parking violations.
- (2) Student conduct proceedings.
- (3) Outstanding debts owed by students or employees.
- (4) Use of College facilities.
- (5) Residency Determinations.
- (6) Use of library—fines.
- (7) Challenges to contents of education records.
- (8) Loss of eligibility for participation in institution sponsored athletic events.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

#### NEW SECTION

**WAC 132F-108-060 Discovery.** Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

#### NEW SECTION

##### **WAC 132F-108-070 Adjudicative proceedings open.**

Adjudicative proceedings shall be open to the public, except for student disciplinary matters, in compliance with 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act, unless the student chooses to have the hearing open to the public; and faculty and administrative exempt disciplinary proceedings, unless the person subject of the proceedings chooses to have the hearing open to the public.

#### NEW SECTION

##### **WAC 132F-108-080 Procedure for closing parts of the hearings.**

A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within 10 days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within 20 days of receiving the request.

#### NEW SECTION

**WAC 132F-108-090 Recording devices.** No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132F-108-070, except for the

method of official recording selected by the presiding officer.

**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 132F-108-100 Petitions for stay of effectiveness.** Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers, who entered the final order.

NEW SECTION

**WAC 132F-108-110 Reconsideration.** (1) The affected individual may file a petition for reconsideration of a final order. Such petition must be filed upon the office of the president within ten days of the service of a final order and must state the specific grounds upon which relief is requested.

(2) No petition for reconsideration may stay the effectiveness of an order.

(3) The petition shall be disposed of by the presiding officer who issued the final order.

NEW SECTION

**WAC 132F-108-120 Absence of president.** The District president/ chancellor or president of one of the District's institutions may designate another employee of the college to act in his/her place on a temporary basis during his/her absence. An employee appointed under this provision shall only have the authority to act upon matters which require a decision by the president within a limited period of time and the president, due to this absence, would be unable to decide such matter.

NEW SECTION (Former WAC 132F-08-010)

**WAC 132F-108-130 Appearance and practice before agency.** No person may appear in a representative capacity before the agency other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) Persons otherwise qualified as possessing the requisite skill to appear and expertly represent others who have applied to the agency and have been duly authorized by the agency to appear in a representative capacity before the agency.

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership or corporation.

NEW SECTION (Former WAC 132F-08-440)

**WAC 132F-108-140 Definition of issues before hearing.** In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the agency may proceed promptly to conduct the hearings on relevant and material matter only.

**WSR 94-05-100  
PROPOSED RULES  
MULTIMODAL TRANSPORTATION  
PROGRAMS AND PROJECTS  
SELECTION COMMITTEE**

[Filed February 16, 1994, 11:49 a.m.]

Original Notice.

Title of Rule: Multimodal Transportation Programs and Projects Selection Committee.

Purpose: To provide rules for the distribution of funds from four transportation accounts administered by the multimodal committee. The four accounts are the Central Puget Sound public transportation systems account; the public transportation systems account; the high capacity transportation account; and the surface transportation program, statewide competitive program account.

Statutory Authority for Adoption: Chapter 47.66 RCW.  
Statute Being Implemented: Chapter 47.66 RCW.

Summary: The rules define the operating procedures for the multimodal committee and identify the application process and criteria for the four fund accounts.

Reasons Supporting Proposal: The rules are necessary to enable the multimodal committee to administer the four transportation fund accounts.

Name of Agency Personnel Responsible for Drafting: Gordon Kirkemo, Transportation Building, Room 1A18, (206) 705-7914; Implementation and Enforcement: James Slakey, Transportation Building, Room 1A18, (206) 705-7920.

Name of Proponent: Multimodal Transportation Programs and Projects Selection Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules describe the operations of the Multimodal Transportation Programs and Projects Selection Committee, the application processes, and the criteria for four separate transportation accounts. The accounts are the Central Puget Sound public transportation systems account; the public transportation systems account; the high capacity transportation account; and the surface transportation program, statewide competitive program account.

Proposal does not change existing rules.

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

Hearing Location: SeaTac Airport Hilton, Peninsula Room, 17620 Pacific Highway South, Seattle, WA 98188, on April 15, 1994, at 9:00 a.m.

Submit Written Comments to: Multimodal Transportation Programs and Projects Selection Clerk of the Committee, Washington State Department of Transportation, P.O. Box 47370, Olympia, WA 98504-7370, by April 14, 1994.

Date of Intended Adoption: May 1, 1994.  
February 16, 1994  
Martha Choe  
Chair

**Chapter 240-20 WAC  
Multimodal Transportation Programs and Projects  
Selection Committee**

NEW SECTION

**WAC 240-20-001 Legislative intent.** There is significant state interest in assuring that viable multimodal transportation programs are available throughout the state. The legislature recognizes the need to create a mechanism to fund multimodal transportation programs and projects. The legislature further recognizes the complexities associated with current funding mechanisms and seeks to create a process that would allow for all transportation programs and projects to compete for limited resources.

NEW SECTION

**WAC 240-20-010 Purpose of multimodal transportation programs and projects selection committee.** The multimodal transportation programs and projects selection committee is a twenty-one member committee, organized under the provisions of chapter 393, Laws of 1993 for the purpose of selecting programs and projects for the state central Puget sound transportation account; the state public transportation systems account; the state high capacity transportation account; and the federal Intermodal Surface Transportation and Efficiency Act of 1991, state-wide competitive program.

**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 240-20-015 Definitions.** For purposes of this chapter, the following definitions shall apply:

- (1) Committee - the multimodal transportation programs and projects selection committee.
- (2) Department - the Washington state department of transportation.
- (3) Public record - includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of fiscal form or characteristics.
- (4) Exceptions - include any circumstance, condition, issue, or situation wherein a program or project may be unable to be completed on schedule and/or within its budget.

NEW SECTION

**WAC 240-20-020 Organization of committee.** (1) The committee shall elect a chair and a chair pro tem from its membership. The chair pro tem shall serve as chair when the chair is absent. The terms of these two positions shall be two years.

(2) The committee shall develop a set of by-laws to guide its operation.

NEW SECTION

**WAC 240-20-025 Time and place of meetings.** (1) Regular public meetings of the committee shall be held quarterly on the third Friday of the first month of the quarter, or the second Friday if the third Friday is a holiday. Each regular meeting will be held in a meeting room in the vicinity of the SeaTac International Airport and begin at the hour of 9:00 a.m. or at such other time and place as designated by the committee. Written notice of the time and location of regular meetings shall be provided to individuals on the general mailing list and members of the committee at least one week prior to each meeting.

(2) A special meeting of the committee may be called by the chair or by a majority of the members of the committee, by delivering personally, by facsimile or by mail, written notice to all other members of the committee at least seventy-two hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting. All provisions of chapter 42.30 RCW shall apply to all meetings of the committee.

NEW SECTION

**WAC 240-20-030 Address of committee.** Persons wishing to obtain information, be placed on the general mailing list, or to make submissions or requests of any kind shall address their correspondence to:

MTPPS Clerk of the Committee  
Washington State Department of Transportation  
P.O. Box 47370  
Olympia, WA 98504-7370  
(206) 705-7920  
FAX (206) 705-6820

NEW SECTION

**WAC 240-20-035 Staff support to the committee.** The department shall be responsible for providing staff support to the committee. The chair shall appoint a clerk of the committee from the department who shall be responsible to the chair for arranging meeting locations and notices, maintaining records, and preparing minutes. The department responsibilities shall include, but not be limited to:

- (1) Assisting the committee in determining short-term and long-term funding needs;
- (2) Assisting the committee in developing a selection process that adheres to criteria set in statute and other criteria set by the committee;
- (3) Administering grants and ensuring that contracts are executed in a timely manner;
- (4) Distribution of funds and monitoring the status of accounts;
- (5) Staff recommendations on policy and programs as appropriate; and
- (6) Submission of an annual report to the legislative transportation committee that summarizes the activities of the committee, no later than January 1 of each year.

NEW SECTION

**WAC 240-20-040 Public access.** The committee shall comply with the provisions of RCW 42.17.250 through 42.17.340 dealing with public records.

NEW SECTION

**WAC 240-20-042 Public records officer.** The committee's public records shall be in the charge of the clerk of the committee, who shall be designated the public records officer for the committee. The person so designated shall be officed in the department of transportation office in Olympia, Washington. The public records officer shall be responsible for implementation of the committee's rules and regulations regarding public access to information and records.

NEW SECTION

**WAC 240-20-044 Public records available.** (1) Notes and/or a tape recording shall be made of each meeting and minutes of each committee meeting shall be approved by motion and maintained by the department.

(2) At least every two years, the clerk of the committee shall solicit names and addresses from the public for the purpose of developing a general mailing list. This solicitation shall include the publication of a legal notice in at least five newspapers of general circulation in Washington state to assure geographic distribution throughout the state.

(3) All public records of the committee, as defined in WAC 240-20-015(3) are deemed available for public inspection and copying pursuant to these rules.

NEW SECTION

**WAC 240-20-046 Requests for public records.** Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.

(c) If the matter requested is referenced within the current index maintained by the committee, a reference to the requested record as it is described in such index.

(d) If the requested matter is not identifiable by reference to the committee's current index, a statement that identifies the specific record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection or copying at the department's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the committee is also a party (or when such a request is made by or on behalf of an attorney for such party) the request shall be referred to the assistant attorney general assigned by the department for appropriate response.

(4) Responses to public records requests shall be made within five business days of receipt of the request. The committee must respond by either (1) providing the record, (2) acknowledging that the committee has received the request and providing a reasonable estimate of the time the agency will require to respond to the request, or (3) denying the public record request, subject to the provisions of RCW 42.17.320.

NEW SECTION

**WAC 240-20-048 Availability for public inspection and copying of public records.** (1) Public records shall be available for inspection and copying during the normal business hours of the department. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

(2) No fee shall be charged for inspection of public records.

(3) The committee shall impose a reasonable charge for providing copies of public records and for the use by any person of department equipment to copy records; such charges shall not exceed the amount necessary to reimburse the department for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

NEW SECTION

**WAC 240-20-050 Protection of public records.** In order to implement the provisions of RCW 42.17 requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by department personnel and under the supervision of said personnel, upon the request of members of the public under the procedures set down in WAC 240-20-046, and with the approval of the clerk of the committee.

(2) No document shall be physically removed by a member of the public from the area designated by the department for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the committee shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the committee shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

NEW SECTION

**WAC 240-20-052 Denial of request for public records.** Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief

explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the chair of the committee to review the denial in accordance with WAC 240-20-054.

#### NEW SECTION

**WAC 240-20-054 Review of denials of public records requests.** Any person who objects to the denial of a request for a public record may request the attorney general to review the matter subject to RCW 42.17.325.

#### NEW SECTION

**WAC 240-20-056 Records index.** (1) The committee has available to all persons at the department's offices in Olympia a current index which provides identifying information as to the following records issued, adopted, or promulgated by the committee:

(a) Minutes of committee meetings, state legislation, and proposed rules and regulations pertaining to committee standards.

(b) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the committee;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, interim and final planning decisions, and application guidelines;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the public records officer and located in the department's office in Olympia, Washington.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The public records officer shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the committee.

#### NEW SECTION

**WAC 240-20-058 Availability of index.** The current index promulgated by the committee shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

#### NEW SECTION

**WAC 240-20-060 Application guidelines.** The committee shall prepare application guidelines for all fund accounts. At a minimum, such guidelines shall include all application forms needed and instructions on how to apply, sufficient information as to the scoring process to enable applicants to fairly compete, and a complete time schedule identifying key milestones from the opening of the application period to final project selection. Such guidelines shall be available upon request to the public records officer at

least thirty days prior to the date applications are due to the committee.

#### NEW SECTION

**WAC 240-20-065 Notification of funding availability.** The committee shall ensure that notification of the availability of funds from the accounts identified in WAC 240-20-010 will be done no less than thirty calendar days prior to the date by which applications must be received. Minimum notification shall mean publishing a notice in at least five newspapers with general circulation and maximum geographic distribution within Washington state. Such notice shall include the name of the account or accounts, a short description of the account identifying its purpose, and an address and telephone number by which means an interested party can obtain further information and all application materials.

#### NEW SECTION

**WAC 240-20-070 Program and project selection process.** The program and project selection process shall consist of the following steps for each account.

(1) The committee shall create a technical review team. Membership on such team shall be at the discretion of the committee, but shall represent diversified interests and geographical distribution. Such team shall be responsible for screening applications for completeness. Those applications failing to meet the requirements set forth in the application guidelines identified in WAC 240-20-060 shall be recommended for rejection. The team shall then score each application deemed complete and prepare a preliminary ranked list of applications to present to the committee. All applicants shall be notified in writing as to their preliminary score and ranking.

(2) The committee shall review the applications and the recommended ranking of programs and projects received from the technical review team. The committee shall make the final selection of programs and projects.

#### NEW SECTION

**WAC 240-20-075 Supplemental applications.** After program and project selection, circumstances may develop wherein unobligated funds may accumulate in one or more of the accounts. Such accumulation may occur as a result of a program or project costing less than budgeted, a program or project being unable to go forward or to complete its objectives, or more funds being available in the account than projected. Should such accumulations occur, the committee may institute a supplemental application period to program those funds. Should the committee elect to do so, the application and project selection process will be subject to the conditions identified in this chapter. Furthermore, the application guidelines identified by WAC 240-20-060 and currently in use shall be used for the supplemental process.

#### NEW SECTION

**WAC 240-20-080 Over-programming of funds.** The committee shall select projects based on its estimate of revenues and expenditures. The committee may utilize the principle of over-programming when selecting projects, the

degree of such over-programming to be at the discretion of the committee for each account and application period.

NEW SECTION

**WAC 240-20-090 Reporting.** The clerk of the committee shall be responsible for the preparation of all reports to and on behalf of the committee. Such reports shall minimally include the following:

(1) Exception reports. The clerk of the committee shall report to the chair any exceptions that occur concerning projects and programs by account. Such report shall be submitted at such time as the exception becomes known.

(2) Quarterly reports. The clerk of the committee shall provide to the committee a report of the progress of programs and projects for each account. Such report shall be submitted prior to each regularly scheduled committee meeting at a time that permits it to be part of the information packets that include the meeting agenda and past meeting minutes. The format of such report shall be determined by the committee and communicated to the clerk of the committee.

(3) Annual report. The clerk of the committee shall prepare for the committee an annual report. Such report shall be presented to the committee at the regular scheduled meeting in the last quarter of the year for approval, and then presented to the legislative transportation committees by no later than January 1 of each year.

NEW SECTION

**WAC 240-20-110 Central Puget Sound public transportation account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies with offices in King, Kitsap, Pierce, and Snohomish counties.

(2) Projects eligible for funding from the central Puget Sound public transportation account shall be limited to public transportation projects for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020; and
- (e) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the central Puget Sound public transportation account shall be limited to those located in King, Kitsap, Pierce, and Snohomish counties.

**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 240-20-120 Central Puget Sound public transportation account—Criteria.** (1) Projects selected for funding from the central Puget Sound public transportation account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

NEW SECTION

**WAC 240-20-130 Central Puget Sound public transportation account—Timing.**

NEW SECTION

**WAC 240-20-210 Public transportation systems account—Eligibility.** (1) Participation in the public transportation systems account shall be limited to those public transportation systems that contribute funds to the account.

(2) Projects eligible for funding from the public transportation systems account shall be limited to public transportation projects for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020;
- (e) Other public transportation system-related roadway projects on state highways, county roads, or city streets; and
- (f) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the public transportation systems account shall be limited to areas in Washington state outside of the central Puget Sound region identified in WAC 240-20-110(3).

NEW SECTION

**WAC 240-20-220 Public transportation systems account—Criteria.** (1) Projects selected for funding from the public transportation systems account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
  - (b) Local transit development plans; and
  - (c) Local comprehensive land use plans.
- (2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional signifi-

cance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

#### NEW SECTION

**WAC 240-20-230 Public transportation systems account—Timing.**

#### NEW SECTION

**WAC 240-20-310 High capacity transportation account—Eligibility.** (1) Participation in the high capacity transportation account shall be limited to transit agencies and regional transportation authorities.

(2) Projects eligible for funding from the account shall be limited to planning for high capacity transportation systems.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state, and subject to the conditions identified in RCW 81.104.030 and RCW 81.104.040.

#### NEW SECTION

**WAC 240-20-320 High capacity transportation account—Criteria.** (1) Projects selected for funding from the high capacity transportation account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

(3) Authorizations for state funding for high capacity transportation planning projects shall be subject to the additional following criteria:

(a) Conformance with the designated regional transportation planning organization's regional transportation plan;

(b) Local matching funds;

(c) Demonstration of projected improvement in regional mobility;

(d) Conformance with planning requirements prescribed in RCW 81.104.100, and if five hundred thousand dollars or more in state funding is requested, conformance with the requirements of RCW 81.104.110; and

(e) Establishment, through interlocal agreements, of a joint regional policy committee as defined in RCW 81.104.030 or RCW 81.104.040.

#### NEW SECTION

**WAC 240-20-330 High capacity transportation account—Timing.**

#### NEW SECTION

**WAC 240-20-410 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right-of-way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

#### NEW SECTION

**WAC 240-20-420 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Criteria.** (1) Projects selected for funding from the statewide competitive program account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) above, the committee may choose to identify additional criteria for program and project selection for the statewide competitive program. Such criteria shall be subject to public hearings as required by federal law, and shall be identified in the application guidelines as required by WAC 240-20-060.

#### NEW SECTION

**WAC 240-20-430 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Timing.**

**WSR 94-05-102**  
**WITHDRAWAL OF PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
(By the Code Reviser's Office)  
[Filed February 16, 1994, 11:55 a.m.]

WAC 51-04-030, proposed by the Building Code Council in WSR 93-16-110, appearing in issue 93-16 of the State Register, which was distributed on August 18, 1993, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

PROPOSED

**WSR 94-05-001**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 2, 1994, 12:22 p.m.]

Date of Adoption: February 2, 1994.

Purpose: To implement section 301, chapter 25, Laws of 1993 sp. sess.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-166.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 94-01-157 on December 21, 1993.

Effective Date of Rule: Thirty-one days after filing.  
 February 2, 1994

Russell W. Brubaker  
 Assistant Director

AMENDATORY SECTION (Amending WSR 92-05-064, filed 2/18/92, effective 3/20/92)

**WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc. (1) Introduction.** This section explains the taxation of ((the business activity of providing lodging and related services)) persons operating establishments such as hotels, motels, and bed and breakfast facilities, which provide lodging and related services to transients for a charge. In addition to retail sales tax and B&O tax, this section explains the special hotel/motel tax, the convention and trade center tax, and the taxation of emergency housing furnished to the homeless.

((2) Definitions. The following definitions apply to this section:

(a) A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, bed and breakfast facility, recreational vehicle park, and bunkhouse, as used in this section, includes all establishments which are held out to the public as such where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing meals. It will be presumed that the establishments defined above are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

(i) The above terms do not include establishments in the business of renting real estate, such as apartments, nor do these terms include) (a) In addition to persons operating hotels or motels, this section applies to persons operating the following establishments:

(i) Trailer camps and recreational vehicle parks which charge for the rental of space to transients for locating or parking house trailers, campers, recreational vehicles, mobile homes, tents, etc.

(ii) Educational institutions which sell overnight lodging to persons other than students. See WAC 458-20-167.

(iii) Private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms or schools solely for the accommodation of employees of such firms or students which are not held out to the public as a place where sleeping accommodations may be

obtained. As will be discussed more fully below, in some circumstances these businesses may not be making retail sales of lodging.

(iv) Guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc. In some cases these businesses may not be making retail sales, as discussed below.

(b) This section does not apply to persons operating the following establishments:

(i) Hospitals, sanitariums, nursing homes, rest homes, and similar institutions. ~~((The terms generally do not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms or schools solely for the accommodation of employees of such firms or students which are not held out to the public as a place where sleeping accommodations may be obtained. However, educational institutions who sell overnight lodging to persons other than students may be subject to the provisions of this section and should also refer to WAC 458-20-167.~~

~~((ii) The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.~~

(b) A "boarding house", as used in this section, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. When meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

(c) A "trailer camp" or "recreational vehicle park" as used in this section is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, recreational vehicles, mobile homes, tents, etc. which provide sleeping or living accommodations for the occupants. Additional charges for utility services are a part of the charge made for the rental.

(d)) Persons operating these establishments should refer to WAC 458-20-168.

(ii) Establishments such as apartments or condominiums where the rental is for longer than one month. See WAC 458-20-118 for the distinction between a rental of real estate and the license to use real estate.

(2) **Transient defined.** The term "transient" as used in this section means((±)) any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property ~~((and who does not continuously occupy the premises for a period of one month. Any such occupant who remains in continuous occupancy for more than one month, shall be deemed a transient as to the first month of occupancy, unless such occupant has contracted in advance to remain one month. A person who has contracted in advance and does remain in continuous occupancy for one month, will be deemed a nontransient from the start of the occupancy))~~ for less than one month, or less than thirty continuous days if the rental period does not begin on the first day of the month. An occupant remaining in continuous occupancy for thirty days or more is considered a nontransient upon the thirtieth day. An occupant who contracts in advance and does remain in continuous occupan-

cy for the initial thirty days will be considered a nontransient from the start of the occupancy.

(3) **Business and occupation tax (B&O).** ~~((The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:))~~ Where lodging is sold to a nontransient, the transaction is a rental of real estate and exempt from B&O tax. (See RCW 82.04.390.) Sales of lodging and related services to transients are subject to B&O tax, including transactions which may have been identified or characterized as membership fees or dues. (See WAC 458-20-114.) The B&O tax applies as follows:

(a) **Retailing.** Amounts derived from the following charges ~~((made))~~ to transients ~~((for the furnishing of lodging; charges for such services as the))~~ are retail sales and subject to the retailing B&O tax: Rental of rooms for lodging, rental of radio and television sets ~~((and the)), coin operated laundries, rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., ~~((and including))~~ automobile parking or storage~~((; also amounts derived from))~~, and the sale or rental of tangible personal property at retail ~~((are taxable under this classification))~~.~~ See "retail sales tax" below for a more detailed explanation of the charges included in the retailing classification.

(b) **Service and other business activities.** ~~((Included in this classification are commissions received))~~ Commissions, amounts derived from accommodations not available to the public, and certain unsegregated charges~~((, and amounts received from certain coin operated laundries))~~ are taxable under this classification.

(i) Hotels, motels, and similar businesses may receive commissions from various sources~~((These commissions))~~ which are generally taxable under the service and other business activities classification. The following are examples of such commissions:

(A) Commissions received from acting as a laundry agent for guests when someone other than the hotel provides the laundry service (see WAC 458-20-165).

(B) Commissions received from telephone companies for long distance telephone calls where the hotel or motel is merely acting as an agent (WAC 458-20-159) and commissions received from coin-operated telephones (WAC 458-20-245). Refer to the retail sales tax subsection below for a further discussion of telephone charges.

(C) Commissions or license fees for permitting a satellite antenna to be installed on the premises or as a commission for permitting a broadcaster or cable operator to make sales to the guest of the hotel or motel.

(D) Commissions from the rental of videos for use by guests of the hotel or motel when the hotel or motel operator is clearly making such sales as an agent for a seller.

(E) Commissions received from the operation of amusement devices. (WAC 458-20-187.)

(ii) Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained.

(iii) Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging,

instruction and the use of recreational facilities must report the gross income from such charges under the service and other business activities classification.

(iv) ~~((This classification also applies to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See WAC 458-20-165 for information regarding the tax liability of laundry services generally.))~~

(v) Deposits retained by the business as a penalty charged to a customer for failure to timely cancel a reservation is taxable under the service and other business activities classification.

~~((e) Charges for lodging and related services described above are subject to tax even though they may be identified or characterized as membership fees or dues. (See WAC 458-20-114.))~~

(d) ~~Where lodging is furnished to a nontransient, the transaction is a rental of real estate which is exempt of B&O tax (RCW 82.04.390.))~~

(4) **Retail sales tax.** ~~((All sales and rentals of tangible personal property by the persons defined in this section are subject to the retail sales tax.))~~

(a) ~~The charge made for the furnishing of lodging and other services to transients is subject to the retail sales tax. Included is the charge made by a trailer camp for the furnishing of space and other facilities. Charges for automobile parking and storage are also subject to the retail sales tax. A business providing transient lodging must complete the "transient rental income" information section of the combined excise tax return. The four digit location code must be listed along with the income received from transient lodging subject to retail sales tax for each facility located within a participating city or county.~~

~~The retail sales tax does not apply to charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, or trailer camp for the exclusive use of the tenants.~~

(b) ~~The retail sales tax applies to all retail sales which includes, but is not limited to, the following sales:~~

(i) ~~Food and beverages (including room service) and in the case of meals sold under a "two meals for the price of one" promotion, the taxable selling price is the actual amount received as payment for the meals;~~

(ii) ~~Laundry services if provided by the hotel/motel in the hotel's name;~~

~~(iii) Banquet room services;~~

~~(iv) Equipment rentals;~~

~~(v) Mandatory gratuities;~~

~~(vi) Employee meals (WAC 458-20-119);~~

~~(vii) Telephone charges (except those specified in this rule and WAC 458-20-245);~~

~~(viii) Movie rentals;~~

~~(ix) Hotel owned vending machines dispensing beverages or other tangible personal property (WAC 458-20-187); and~~

~~(x) Dancing cover charges.~~

~~(e) A charge for providing extended television reception to guests of a hotel or motel is additional consideration from the sale of lodging and subject to retail sales tax.~~

~~(d) Telephone charges to a guest for local telephone calls are taxable under the retailing B&O and retail sales tax~~

classifications. These charges are considered part of the lodging services provided to the guest. See service and other activities business and occupation tax above for transactions involving coin-operated telephones located in hotels/motels and commissions paid by telephone companies to hotels/motels for long distance calls.

(e) If the hotel/motel is acting as an agent for a telephone service provider who provides long distance telephone service to the guest, the actual telephone charges are not taxable income to the hotel/motel. These amounts are advances and reimbursements (see WAC 458-20-111 and 458-20-159). Any commission received by the hotel/motel from the telephone service provider is taxable under the service and other business activities classification. Any additional handling or other charge which the hotel/motel may add to the actual long distance telephone charge is taxable under the retailing and retail sales tax classifications.

(f) If the hotel/motel leases telephone lines and then provides telephone services for a charge to its guests, these charges are taxable under the retailing and retail sales tax classifications. In this case the hotel/motel is in the telephone business. (See WAC 458-20-245.) The hotel/motel may give a resale certificate to the provider of the leased lines and is not subject to the payment of retail sales tax to the provider of the leased lines.

(g) An occupant does not become entitled to a refund of retail sales tax paid for lodging as a transient by reason of having remained one month and having thereby qualified as a nontransient.

(h) Except for guest ranches and summer camps, when a lump sum is charged for lodging to nontransients and for meals furnished, the retail sales tax must be collected upon the fair selling price of such meals. Unless accounts are kept showing the fair selling price, the tax will be computed upon double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses.

(i) All purchases of tangible personal property by a lodging provider, except property purchased for resale are subject to the retail sales tax. This includes as subject to retail sales tax all purchases of tangible personal property for use in providing lodging and related services, such as beds and other furnishings. The charge for lodging and related services is for services rendered and not for the resale of any tangible property. Included are items such as soap, towels, linens, laundry, laundry supply services and furnishings. See WAC 458-20-244 for sales to persons operating guest ranches and summer camps of food supplies for use in the preparation of meals served to guests when such persons make an unsegregated charge for meals, lodging, and services and report such charges under the classification service and other activities as explained above.

(j)) Persons providing lodging and other services generally must collect retail sales tax on their charges for lodging and other services as discussed below. They must pay retail sales or use tax on all of the items they purchase for use in providing their services.

(a) **Lodging.** All charges for lodging and related services to transients are retail sales. Included are charges for vehicle parking and storage and for space and other

facilities, including charges for utility services, in a trailer camp.

(i) An occupant who does not contract in advance to stay at least thirty days does not become entitled to a refund of retail sales tax where the rental period extended beyond thirty days. For example, a tenant rents the same motel room on a weekly basis. The tenant is considered a transient for the first twenty-nine days of occupancy and must pay retail sales tax on the rental charges. The rental charges become exempt of retail sales tax beginning on the thirtieth day. The tenant is not entitled to a refund of retail sales taxes paid on the rental charges for the first twenty-nine days.

(ii) A business providing transient lodging must complete the "transient rental income" information section of the combined excise tax return. The four digit location code must be listed along with the income received from transient lodging subject to retail sales tax for each facility located within a participating city or county.

(b) **Meals and entertainment.** All charges for food, beverages, and entertainment are retail sales.

(i) Charges for related services such as room service, banquet room services, and service charges and gratuities which are agreed to in advance by customers or added to their bills by the service provider are also retail sales.

(ii) In the case of meals sold under a "two meals for the price of one" promotion, the taxable selling price is the actual amount received as payment for the meals.

(iii) Meals sold to employees are also subject to retail sales tax. See WAC 458-20-119 for retail sales tax applicability on meals furnished to employees.

(iv) Sale of food and other items sold through vending machines are retail sales. See WAC 458-20-187 for reporting income from vending machine sales and WAC 458-20-244 for the distinction between taxable and nontaxable sales of food products.

(v) Except for guest ranches and summer camps, when a lump sum is charged for lodging to nontransients and for meals furnished, the retail sales tax must be collected upon the fair selling price of such meals. Unless accounts are kept showing the fair selling price, the tax will be computed upon double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses.

(vi) Cover charges for dancing and entertainment are retail sales.

(vii) Charges for providing extended television reception to guests are retail sales.

(c) **Laundry services.** Charges for laundry services provided by a hotel/motel in the hotel's name are retail sales. RCW 82.04.050, which defines retail sales, was amended by chapter 25, Laws of 1993 sp.s. to include charges for the use of coin-operated laundry facilities located in hotels, motels, rooming houses, and trailer camps for the exclusive use of the tenants. This change became effective July 1, 1993. Prior to that date income from charges to tenants for coin-operated laundry facilities was subject to service B&O tax.

(d) **Telephone charges.** Telephone charges to guests, except those subject to service B&O tax as discussed above

and in WAC 458-20-245, are retail sales. "Message service" charges are also retail sales.

If the hotel/motel is acting as an agent for a telephone service provider who provides long distance telephone service to the guest, the actual telephone charges are not taxable income to the hotel/motel. These amounts are advances and reimbursements (see WAC 458-20-111 and 458-20-159). Any additional handling or other charge which the hotel/motel may add to the actual long distance telephone charge is a retail sale.

(e) Telephone lines. If the hotel/motel leases telephone lines and then provides telephone services for a charge to its guests, these charges are taxable as retail sales. In this case the hotel/motel is in the telephone business. (See WAC 458-20-245.) The hotel/motel may give a resale certificate to the provider of the leased lines and is not subject to the payment of retail sales tax to the provider of the leased lines.

(f) Rentals. Rentals of tangible personal property such as movies and sports equipment are retail sales.

(g) Purchases of tangible personal property for use in providing lodging and related services. All purchases of tangible personal property for use in providing lodging and related services are retail sales. The charge for lodging and related services is for services rendered and not for the resale of any tangible property.

(i) Included are such items as beds and other furnishings, restaurant equipment, soap, towels, linens, and laundry supply services. Purchases, such as small toiletry items, are included even though they may be provided for guests to take home if not used.

(ii) The retail sales tax does not apply to sales of food products to persons operating guest ranches and summer camps for use in preparing meals served to guests. Sales of prepared meals or other items which require a food handler's permit to persons operating guest ranches and summer camps are subject to retail sales tax. See WAC 458-20-244 for sales of food products.

(h) Sales to the ~~((Unites))~~ United States government. Sales made directly to the United States government are not subject to retail sales tax. ~~((However, it may be difficult for hotels and motels to determine if the sale is actually to the federal government or is only a sale to an employee of the federal government.))~~ Sales to employees of the federal government are fully taxable notwithstanding that the employee ultimately will be reimbursed for the cost of lodging. The department of revenue has identified ~~((four))~~ the following methods of billing or payment which are presumed to be sales directly to the federal government ~~((They are))~~:

(i) The lodging is paid by government voucher or government check payable directly to the hotel/motel.

(ii) Charges made through the use of a VISA I.M.P.A.C. card (International merchant purchase authorization card). The VISA I.M.P.A.C. cards include the embossed legend "U.S. Government Tax Exempt." The account number on each card begins with the prefix "4716."

~~((iii))~~ (iii) For periods prior to November 30, 1993, charges made through Diner's Club Corporate Charge Card (the card contains the statement "for official use only"). There ~~((are))~~ were two Diner's Club Corporate Charge Cards ~~((now))~~ available to federal employees. Only one ~~((is))~~ was sales tax exempt. The card providing the exemption ~~((is))~~

was embossed with the name of the employee followed by the statement "for official use only." This card ~~((is))~~ was used by federal agencies to pay for group lodging. The Diner's Club card program for federal employees ended November 29, 1993.

~~((iii))~~ The lodging is paid by government voucher or government check payable directly to the hotel/motel.)

(iv) Beginning November 30, 1993, charges made through the use of certain American Express charge cards issued for the use of federal government travelers. Only those cards directly charging a government travel account (central bill account) qualify for the exemption. These cards begin with an account number prefix of "3783-9."

(v) A cash purchase made on behalf of the federal government by a federal employee who gives the seller a federal standard form SF 1165. A cash purchase by a federal employee made on behalf of the federal government qualifies for a sales tax exemption provided that the federal employee presents a federal standard form SF 1165 to document the fact that the purchase is made on behalf of the federal agency out of petty cash funds. The vendor (hotel/motel) is required to sign form SF 1165 to signify receipt of cash for the purchase. The vendor must retain a photocopy of SF 1165, describing the item purchased, to document the sales tax exemption.

(5) Special hotel/motel tax. Beginning in October 1987, some locations in the state have been authorized to charge a special hotel/motel tax. (See chapters 67.28 and 36.100 RCW.) If a business is in one of these locations, an additional tax is charged and reported under the special hotel/motel portion of the tax return. The four digit location code, the amount received for the lodging, and the tax rate must be completed for each location in which the lodging is provided. The tax applies without regard to the number of lodging units except that the tax of chapter 36.100 RCW applies only if there are forty or more lodging units. The tax only applies to the charge for the rooms to be used for lodging by transients. Additional charges for telephone services, laundry, or other incidental charges are not subject to the special hotel/motel tax. Neither is the charge for use of meeting rooms, banquet rooms, or other special use rooms subject to this tax. However, the tax does apply to charges for use of camping and recreational vehicle sites.

(6) Convention and trade center tax. Businesses selling lodging to transients, having sixty or more units located in King County, must charge their customers the convention and trade center tax and report the tax under the "convention and trade center" portion of the tax return. See RCW 67.40.090.

(a) A business having more than sixty units which are rented to transients and nontransients will be subject to the convention and trade center tax only if the business has at least sixty rooms which are available or being used for transient lodging. For example, a business with one hundred forty total rooms of which ninety-five are rented to nontransients is not subject to the convention and trade center tax.

(b) The tax only applies to the charge for the rooms to be used for lodging by transients. Additional charges for telephone services, laundry, or other incidental charges are not subject to the convention and trade center tax. Neither is the charge for use of meeting rooms, banquet rooms, or

other special use rooms subject to the convention and trade center tax.

(c) The four digit location code, amount received for the lodging, and the tax rate must be completed for each location in which the lodging is provided. However, the tax does apply to charges for camping or recreational vehicle sites. Each camp site is considered a single unit.

(7) **Furnishing emergency lodging to homeless.** ~~((Effective July 1, 1988, there is an exemption from the retail sales tax, convention and trade center tax, and the special hotel/motel tax on))~~ The charge made for the furnishing of emergency lodging to homeless persons purchased via a shelter voucher program administered by cities, towns, and counties or private organizations that provide emergency food and shelter services is exempt from the retail sales tax, the convention and trade center tax, and the special hotel/motel tax. This exemption became effective July 1, 1988. This form of payment does not influence the required minimum of transient rooms available for use as transient lodging under the "convention and trade center tax" or under the "special hotel/motel tax."

#### WSR 94-05-004

#### PERMANENT RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed February 2, 1994, 2:26 p.m.]

Date of Adoption: January 31, 1994.

Purpose: To make minor changes to chapter 468-16 WAC to improve its effectiveness since its implementation.

Citation of Existing Rules Affected by this Order: Amending chapter 468-16 WAC, Prequalification of contractors.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

Pursuant to notice filed as WSR 94-01-021 on December 3, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 468-16-120 (4)(b), delete entry and substitute the following - (b) The firm seeking the work class is deemed qualified in another work class under chapter 468-16 WAC.

WAC 468-16-130 -	
As reads -	Class 44 Not used.
Is changed to read -	Class 44 Asbestos Abatement Asbestos Abatement (L&I Certified Workers).

WAC 468-16-210(2) - change "Handbook" to "Manual."

Effective Date of Rule: Thirty-one days after filing.  
January 31, 1994  
S. A. Moon  
Deputy Secretary

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-090 Standard questionnaire.** The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: Precontract

administration office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, facsimile number, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated or subsidiary companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is an out-of-state corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five completed projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. Those firms seeking qualification for electrical work (classes 9 and 16) must provide photocopies of current Washington state electrical licenses. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently submitted or amended prequalification questionnaire. Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, subcontractor, assignee, or agent of the applicant

contractor although they are placed on the applicant contractor's payroll.

(8) A list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(9) A financial statement.

(a) For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

(b) Financial statements must be for the current twelve month period and must reflect a ratio of total current assets to total current liabilities of 1.0 or greater.

(10) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (9) of this section and WAC 468-16-140 (2)(b) must be fulfilled.

(11) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(12) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of lack of receipt of data corroborating project completion and errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested) of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the

notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(13) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus one calendar quarter as established by the date of the year-end financial statement. Prequalification will be renewed annually thereafter or at other times as designated by the department.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received by the department no less than fifteen calendar days prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(i) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(14) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification shall not be made available for public inspection and copying pursuant to RCW 42.17.310 (1)(m). The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(15) Qualified contractors will be provided with notices which list projects currently being advertised.

AMENDATORY SECTION (Amending Order 128, filed 1/28/91, effective 2/28/91)

**WAC 468-16-110 Joint ventures.** (1) Joint ventures are prequalified under two categories as follows:

(a) Individual project joint venture - An association of two or more firms formed for the specific purpose of submitting a bid on a specific project.

(i) All firms must be individually prequalified.

(ii) The firms must file an "individual project statement of joint venture" and a joint venture agreement in the formats prescribed.

(iii) Individual project joint ventures must maintain a standard or higher performance. Should the individual project joint venture receive a less than standard rating, the provisions of WAC 468-16-100 shall apply.

(b) Continuing joint venture - An association of two or more firms formed for the purpose of submitting bids for projects to be advertised over a period of time.

(i) All firms must be individually prequalified.

(ii) The firms must file a "statement of continuing joint venture."

(iii) Continuing joint ventures must maintain a standard or higher performance rating in order to remain qualified.

(iv) A rating of less than standard will cause the joint venture to be placed in conditional qualification status.

(2) A standard questionnaire and financial statement for each member, if not on file, and a standard questionnaire and financial statement designating the assets and liabilities of the venture shall be submitted for the joint venture with a copy of the joint venture agreement. The agreement shall specify the name under which the joint venture will operate and the names of those individuals authorized to sign proposals, contracts, and other documents on behalf of the joint venture. It shall contain provisions which will unequivocally bind the parties, jointly and severally, to any contract entered into thereunder.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-120 Work class ratings.** (1) Qualification shall be granted a contractor in one or more classes of work in which the firm has shown the capability to satisfactorily perform with its own forces under its own immediate supervision.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work as provided for in the current issue of the *Standard Specifications*.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment. Higher performance ratings result in higher work class ratings.

(4) When it has been determined that adequate competition cannot be afforded as a result of either the lack of prequalified bidders, or the lack of applicants for qualification with sufficient experience in the work class required, the department may take in consideration the firm's experience

in performing other related work in order to create competition providing that:

(a) The work class does not require a specialty license.

(b) The firm seeking the work class is deemed qualified in another work class under chapter 468-16 WAC.

(c) The firm seeking such work meets all other requirements prescribed under this chapter including the availability of the necessary equipment for the project being let.

(5) Data provided by project owners, other than the department, to inquiries made concerning new applicants seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance data provided by agencies or organizations having previously employed the applicant. Such other data as the department may have on file may also be used. Work submitted by the new contractor and verified by the department will be given an initial work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class during the past three years. If a specific portion of a work class is performed by the contractor, the prequalification for that class will be limited to that portion of the work.

~~((5))~~ (6) Work reported as less than satisfactory will not be accepted for qualification purposes, but may be included with performance reports in determining the status of the contractor's prequalification.

~~((6))~~ (7) Work class ratings previously granted will not be reduced providing the contractor has maintained a standard performance record on department work and the contractor continues to submit the required questionnaire annually. Should a significant reduction of resources occur, the contractor's work class ratings may be modified or reduced to an amount within the contractor's current capacity.

~~((7))~~ (8) A contractor's work class ratings will be reviewed annually effective on the date the renewal questionnaire has been received. Work class ratings for those contractors renewing prequalification will be reviewed for increases, decreases, and additional work classes not previously granted. In determining the annual status of the contractor's work class ratings, prime work completed for the department and the performance rating given for that work shall be weighted more heavily than work completed for other agencies.

~~((8))~~ (9) Work class ratings shall be computed by multiplying the highest value of the work class completed satisfactorily during the preceding prequalification year by a factor of 2.5 provided that the currently established work class rating is not higher. In that event, the currently established work class shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the prequalification year.

~~((9))~~ (10) Work class ratings for inactive contractors renewing prequalification will be computed annually in the same manner as for new applicants for a period not to exceed three years. Work class ratings granted within three successive renewal periods shall remain the same as for an inactive contractor if the contractor continues to submit the required questionnaire annually and the questionnaire does

not reveal a significant reduction in organizational resources. When a significant reduction of resources occurs, the inactive contractor's work class ratings may be modified to an amount within the contractor's current capacity.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-130 Prequalification work classes.** A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its proven ability to perform the work class sought.

- Class 1 **Clearing, grubbing, grading & draining**  
Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, and the placement of drainage structures.
- Class 2 **Production and placing of crushed materials**  
Production and placing crushed surfacing materials and gravel.
- Class 3 **Bituminous surface treatment**  
Placing of crushed materials with asphaltic application.
- Class 4 **Asphalt concrete paving**  
Production and placing Asphalt Concrete Plant Mix Pavement.
- Class 5 **Cement concrete paving**  
Production and placing cement concrete pavement.
- Class 6 **Bridges and structures**  
Construction of bridges, walls and other major structures of timber, steel, and concrete.
- Class 7 **Buildings**  
Construction of buildings and related structures within the right of way and major reconstruction and remodeling of such buildings.
- Class 8 **Painting**  
Painting bridges, buildings, and related structures.
- Class 9 **Traffic signals**  
Installation of traffic signal and control systems.
- Class 10 **Structural tile cleaning**  
Cleaning tunnels, large buildings and structures and storage tanks.
- Class 11 **Guardrail**  
Construction of a rail secured to uprights and erected as a barrier between, or beside lanes of a highway.
- Class 12 **Pavement marking (excluding painting)**  
Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.
- Class 13 **Demolition**  
Removal of timber, steel, and concrete structures and obstructions.

- Class 14 **Drilling and blasting**  
Controlled blasting of rock and obstructions by means of explosives.
- Class 15 **Sewers and water mains**  
Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.
- Class 16 **Illumination & general electrical**  
Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.
- Class 17 **Cement concrete curb and gutter**  
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 18 **Asphalt concrete curb and gutter**  
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 19 **Riprap and rock walls**  
Mortar, rubble, and masonry walls; rock retaining walls, and placing of large broken stone on earth surfaces for protection against the action of water.
- Class 20 **Concrete structures except bridges**  
Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.
- Class 21 **Tunnels and shaft excavation**  
Tunnel excavation, rock tunneling, and soft bore tunneling.
- Class 22 **Piledriving**  
Driving concrete, steel, and timber piles.
- Class 23 **Concrete surface treatment**  
Exposed aggregate, fractured-fin and rope textured finishes; waterproofing concrete surfaces (clear or pigmented sealer).
- Class 24 **Fencing**  
Wire and metal fencing, glare screens.
- Class 25 **Bridge deck repair**  
Bridge expansion joint repair and modification, bridge deck resurfacing and repair.
- Class 26 **Deck seal**  
Waterproof membrane.
- Class 27 **Signing**  
Sign structures and signs.
- Class 28 **Electronics**  
Surveillance and control systems design and installation, electronics training and maintenance.
- Class 29 **Slurry diaphragm and cut-off walls**  
Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
- Class 30 **Surveying**  
Highway construction surveying.
- Class 31 **Water distribution and irrigation**  
Irrigation systems and heavy duty water distribution.

- Class 32 **Landscaping**  
Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
- Class 33 **Engineering**  
Work other than surveying, including engineering calculations, drawing and other related work for highway construction.
- Class 34 **Erosion control**  
Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
- Class 35 **Precast median barrier**  
A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
- Class 36 **Permanent tie back anchor**  
Installation of permanent rock and soil anchors, soldier piles and timber lagging. Soldier pile tie back anchor wall construction.
- Class 37 **Impact attenuators**  
Installation of approved protective systems filled with sand, water, foam, or other substances which prevent errant vehicles from impacting roadside hazards.
- Class 38 **Paint striping**  
Painted bars, letters, symbols, and striping.
- Class 39 **Wire mesh slope protection**  
The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway.
- Class 40 **Gabion and gabion construction**  
Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
- Class 41 **Not used**
- Class 42 **Electronics—fiber optic based communications systems**  
Design and installation of fiber optic based communication systems.
- Class 43 **Mechanical**  
Plumbing work and the installation of heating or air conditioning units.
- Class 44 **~~(Not used)~~ Asbestos abatement**  
Asbestos abatement (L & I certified workers).
- Class 45 **Not used**
- Class 46 **Concrete restoration**  
Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
- Class 47 **Concrete sawing, coring, and grooving**  
Concrete sawing, concrete planing and grooving, bump grinding, joint repair, concrete coring.
- Class 48 **Dredging**  
Excavating underwater materials.
- Class 49 **Marine work**  
Underwater surveillance, testing, repair, subaquatic construction, anchors, and cable replacement, floating concrete pontoon repairs and modifications, disassembly and assembly of floating concrete pontoons.
- Class 50 **Not used**
- Class 51 **Well drilling**  
Drilling wells, installing pipe casing and pumping stations.
- Class 52 **Sewage disposal**  
Hauling and disposing liquid and solid wastes.
- Class 53 **Traffic control**  
Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.
- Class 54 **Railroad construction**  
Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
- Class 55 **Steel fabrication**  
Welding of steel members, heat straightening steel.
- Class 56 **Street cleaning**  
Street sweeping with self-propelled sweeping equipment.
- Class 57 **Materials transporting**  
Truck hauling.
- Class 58 **Sand blasting and steam cleaning**  
Steam cleaning, sand blasting, shot blasting, and water blasting.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-150 Prime contractor performance reports.** (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only for projects valued at one hundred thousand dollars or more. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

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(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are established for performance reports:

- (a) Superior.
- (b) Above standard.
- (c) Standard.
- (d) Below standard.
- (e) Inadequate.

(4) The report shall contain a numerical section which quantifies the adjectival ratings into a total performance rating which is multiplied by .01 to obtain a performance score falling within one of the following ranges:

Superior	1.31	-	1.50
Above Standard	1.01	-	1.30
Standard	1.00		
Below Standard	.70	-	.99
Inadequate	.50	-	.69

(5) The performance score (PS) is computed by multiplying the performance rating (PR) obtained from the prime contractor's performance report by a factor (F) of .01 e.g., 129 (PR) x .01 (F) = 1.29 (PS).

(6) The annual performance score is the average of the scores, by work class, obtained from all performance reports submitted for department projects completed during the one-year period next preceding the date of expiration of the contractor's qualification.

(7) The performance report shall be used in fixing a contractor's prequalification status.

(8) The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.

(9) The performance report will be prepared and discussion held with the contractor by the project engineer. The report will include a numerical rating substantiated by a narrative report which describes the contractor's typical performance. The narrative will reference such documents as will substantiate the given numerical rating.

(10) The report will be endorsed by the district operations engineer or designated assistant who will provide a copy to the contractor.

(11) The contractor may appeal the rating to the district administrator in writing within twenty calendar days of the date the report is received by the contractor. If the report is not delivered to the contractor in person, it shall be forwarded by certified mail with a return receipt requested. The appeal must set forth the specific basis upon which it has been made.

(12) The district administrator will review all contractor performance reports after they have been endorsed and may modify the numerical or narrative rating if such is deemed appropriate. The contractor will be advised of any changes made. The district administrator will be required to make comments thereon only when the contractor's overall

performance rating has been rated inadequate, below standard, or superior.

(13) Performance reports, when completed at district level, will be submitted to the secretary, Attn: Manager, precontract administration office, not later than forty-five calendar days following final completion of the project.

(14) The district administrator shall review the appeal and provide a written response to the contractor by certified mail (return receipt requested) within twenty calendar days of its receipt. A copy of the appeal and the response thereto will be forwarded to the secretary, Attn: Precontract administration office.

(15) The contractor may further appeal to the secretary in writing setting forth the specific basis for the appeal. The contractor's appeal shall be made within ten calendar days of the date of receipt of the district administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within ~~((thirty))~~ sixty calendar days of its receipt. This determination shall be the final administrative act of the department.

(16) All prime contractor performance reports shall be reviewed by the office of the secretary for completeness, objectivity, and substantiation of numerical ratings. The secretary may modify the report as deemed appropriate as a result of the review. The rated contractor and district administrator shall be given a copy of the modified report. The contractor may appeal the modified report in the manner and within the time allotted in subsection (15) of this section to which the secretary shall respond as cited therein.

(17) A prime contractor performance report shall be considered a preliminary paper until all reviews and appeals have been accomplished and it shall have been stamped and initialed as having been "filed in the office of the secretary."

(18) DOT Form 421-010 is authorized.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-160 Interim reports.** (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year and submitted to the manager, precontract administration office. They will be completed annually on the anniversary of the start date of the contract. An interim report will also be completed when a contractor's total, overall work has become less than standard and the firm has been advised in writing of such performance. An interim report may never cover a period of more than one year. The report will be used by the secretary as a basis for determining whether a contractor will be placed in conditional status.

(2) In the case of a conditionally qualified firm, an interim report shall be submitted at sixty calendar day intervals for the project being undertaken by that firm subsequent to its being placed in conditional status. When a contractor's overall performance has not ~~((improved sufficiently to be removed from conditional status))~~ been brought up to standard after two consecutive interim reports have been prepared, no further interim reports shall be made except at the written request of the contractor. The ~~((initial))~~ date of the ((requested)) report will be the date of the contractor's request.

(3) The project engineer shall submit an interim report when it becomes evident that he or she will no longer be involved in the project, providing that project has been in progress for twenty-five percent of the working days assigned the project or ninety working days whichever is less.

(4) Interim performance reports will supplement and will be made a part of the final performance report.

(5) The procedures specified in WAC 468-16-150 (8) through (17) are also applicable to the processing of the interim performance report.

(6) DOT Form 421-010 is authorized.

(2) A Prime Contractor Performance Report Manual provides detailed instructions for preparation of the prime contractor performance report.

**AMENDATORY SECTION** (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-180 Suspension of qualification.** (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

(2) The secretary may, upon determination from reports, other documents, or through investigation that cause exists to suspend the qualification of a contractor, impose suspension upon a contractor.

(3) The secretary may suspend qualification for:

(a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.

(b) Inadequate performance on one or more projects.

(c) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.

(d) Uncompleted work which might prevent the prompt completion of other work.

(e) Continual failure to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.

(f) Debarment or suspension from participation in federal or state projects.

(g) Pending completion of debarment proceedings in federal or state projects.

(4) The maximum period of suspension for acts or deficiencies enumerated above are as follows:

(a) For subsection (3)(a) of this section - Three months.

(b) For subsection (3)(b), (c), (d), and (e) of this section - Six months.

(c) For subsection (3)(f) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)(g) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Elimination of causes for which the suspension was imposed.

**AMENDATORY SECTION** (Amending Order 128, filed 1/28/91, effective 2/28/91)

**WAC 468-16-210 Prime contractor performance report.** (1) The evaluation of contractor performance shall be made on a form substantially in the format as illustrated herein.

## PRIME CONTRACTOR PERFORMANCE REPORT INSTRUCTIONS

The Prime Contractor Performance Report, DOT Form 421-010, consists of two parts — page 1 and page 2. Page 1 consists of Sections I, II, and III. Page 2 consists of Sections IV and V. Please note that both pages are four-part forms. After completing all sections, forward the appropriate copies as indicated on the distribution list.

### Section I CONTRACTOR DATA

This section denotes the type report being submitted and provides data relating to the contracting firm, its status and supervisors. Interim reports must be submitted annually on the anniversary of the project start date for all projects exceeding a duration of one year.

### Section II PROJECT DATA

This section provides basic project data to assist those reviewing or otherwise using the report to place this evaluation in proper perspective with regard to project size, costs, complexity, and completion time. Under Work Class Performed by Contractor, list that work using the general headings in the description of project documents (e.g., preparation, grading, structure, asphalt concrete paving, etc.)

### Section III NUMERICAL RATING

This section contains the four weighted rating areas of (A) Administration/Management and Supervision, (Q) Quality of Work, (P) Progress of Work, and (E) Equipment. Each area contains statements which are weighted as to their importance within the rating area. The rater must consider the contractor's merits in relation to each statement by checking the adjectival rating space that best describes the contractor's typical performance for each statement and by assigning an appropriate numerical score in the Rating column, e.g., Superior and decision making — Inadeq. 2-3.7; Below Sta. 3.8-4.4; Standard 4.5; Above Sta. 4.6-5.6; Superior 5.7-6.4.\* The rater must enter the chosen score for each statement under the heading Rating, total each area and enter the grand total of all scores. The rater must be as objective as possible. There is only one value for the rating of standard. Standard may be equated with satisfactory. Standard is defined as the performance sufficient to meet the demand, need, or requirement. Those statements warranting an inadequate, below standard, or superior rating require justification in the narrative section of the report. If more space is needed, use additional blank sheets.

\*Shaded areas indicate the range of inadequate and superior ratings. Unshaded areas indicate below standard and above standard ranges, which are separated by a line representing a standard rating.

### Section IV NARRATIVE RATING

This section is divided into three parts.

- A General Elements — Make any general statements pertinent to reporting the contractor's work activity, e.g., innovativeness in performing the work and any other noteworthy contractor activities.
- B Below Standard Elements — List any actions or activities which substantiate a numerical rating for each statement falling within the range of inadequate or below standard. Each comment must be correlated to identify the rating area and statement number. Each comment must be related to substantiating data reported during the life of the project in the Inspector's Daily Report, Project Engineer's Diary, correspondence, or other pertinent records. This data must be available as a part of the administrative record in the event of hearings or litigation.
- C Superior Elements — Make supportive comments for superior ratings. Substantiation by recorded data should be available in the form of reports, letters, and other documents if not included in diaries and journals.

Comments made in response to B and C above should make reference to documented activities that describe the typical performance of the contractor.

### Section V REVIEW AND AUTHENTICATION

This section provides for the recording of the review and authentication of the report by the rater, endorser, and reviewer. Its purpose is to verify that the contractor has been given a copy of the report and that the contractor is aware of his right to appeal. It also serves the purpose of verifying that the report has been reviewed for the purposes of assuring objectivity in its preparation and for the elimination of the influences of personalities. The report will be reviewed by the District Administrator. The District Administrator will enter narrative comments thereon only when the contractor's performance has been rated below standard, inadequate, or superior. The completed report is to be forwarded to the Secretary (Attn: Manager, Precontract Administration) to arrive not later than 45 calendar days after project completion.

DOT 421-010X (Instructions)  
Revised 3/93



# Prime Contractor Performance Report

Section I Contractor Data				Section II Project Data			
Report type <input type="checkbox"/> Interim <input type="checkbox"/> Final <input type="checkbox"/> Special	Contractor no. (HQ use only)	District	Contract no.	County	SR		
			FA no.				
Company Name			Project title				
Address		Phone no.	Authorized working days	Working days charged	Work starting date	Completion date	
Superintendent		Foreman	Contract award amount		Contract completion amount		
Work class performed by contractor:							
Description of work:							

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Section III Numerical Rating						
A ADMINISTRATION / MANAGEMENT / SUPERVISION	*Inadequate	*Below Standard	Standard	Above Standard	* Superior	Rating
1 Supervision and decision making	2	3.8	4.5	5.6	6.4	
2 Coordination and communication with subcontractors and suppliers	2	2.2	3.2	4.2	4.8	
3 Submission of documents and reports	1	1.8	2.7	3.5	4.0	
4 Adequacy and timeliness of progress schedules	1	1.8	2.7	3.5	4.0	
5 Public safety and traffic control	2	2.2	3.2	4.4	4.8	
6 Compliance with laws, ordinances and regulations	1	1.2	1.9	2.5	3.0	
7 Maintenance of employee safety standards	1	1.2	1.9	2.5	3.0	
8 Coordination and cooperation with department personnel on project matters	1	1.2	1.9	2.5	3.0	
9 Compliance with EEO, affirmative action requirements and MBE/DBE/WBE requirements	1	1.2	1.9	2.5	3.0	
10 Public relations with the general public, other agencies and adjacent contractors	1	1.4	2.1	2.8	3.0	
<b>Total</b>	<b>13</b>	<b>18</b>	<b>25</b>	<b>34</b>	<b>39</b>	
<b>Q QUALITY OF WORK</b>						
1 Adherence to plans and specifications	10	14.0	20	26	30	
2 Standards of workmanship	8	11.5	16	21	24	
3 Completion of final (punch list) work	2	2.5	4	5	6	
<b>Total</b>	<b>20</b>	<b>28</b>	<b>40</b>	<b>52</b>	<b>60</b>	
<b>P PROGRESS OF WORK</b>						
1 Completion of project within allotted time	9	12.5	18.0	23.5	27.0	
2 Scheduling and execution of schedule	3	4.6	6.6	8.6	9.9	
3 Delivery of materials and supplies	1	1.3	1.8	2.3	2.7	
4 Operation and use of equipment	1	1.3	1.8	2.3	2.7	
5 Use of personnel	1	1.3	1.8	2.3	2.7	
<b>Total</b>	<b>15</b>	<b>21</b>	<b>30</b>	<b>39</b>	<b>45</b>	
<b>E EQUIPMENT</b>						
1 Condition	1	1.5	2.0	2.5	3.0	
2 Maintenance	1	1.5	2.0	2.5	3.0	
<b>Total</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	
<b>Grand Total (A+Q+P+E)</b>	<b>50</b>	<b>70</b>	<b>100</b>	<b>130</b>	<b>150</b>	
RANGE (50-69) (70-99.9) (100) (100.1-130) (130.1-150)						

\* Explain any inadequate, below standard, and superior ratings in narrative section.

PERFORMANCE SCORE HQ use only

Contract No. \_\_\_\_\_

**SECTION IV NARRATIVE RATING**

**A GENERAL ELEMENTS** Enter comments which generally describe the contractor's overall performance and provide background data on the project.

**B BELOW STANDARD ELEMENTS** Enter comments here to substantiate below standard ratings. (See instructions)

**C SUPERIOR ELEMENTS** Enter comments here to substantiate superior ratings. (See instructions)

**SECTION V AUTHENTICATION AND REVIEW**

I certify that I have objectively prepared this report basing it upon data contained in available project records and discussed the report with the contractor.

\_\_\_\_\_  
PROJECT ENGINEER

\_\_\_\_\_  
DATE

I have reviewed this report for objectivity and accuracy. I have given a copy of this report to the rated contractor and I have advised the contractor that any appeal must be made within 20 calendar days.

\_\_\_\_\_  
DATE COPY GIVEN/MAILED TO CONTRACTOR

\_\_\_\_\_  
OPERATIONS ENGINEER OR DESIGNEE

\_\_\_\_\_  
DATE

I have reviewed this Contractor Performance Report and make the following comments and changes as cited herein or on attached sheets. \_\_\_\_\_

\_\_\_\_\_  
DISTRICT ADMINISTRATOR

\_\_\_\_\_  
DATE

**WSR 94-05-006  
PERMANENT RULES**

**BOARD OF  
PILOTAGE COMMISSIONERS**

[Filed February 3, 1994, 11:13 a.m., effective March 6, 1994]

Date of Adoption: January 27, 1994.

Purpose: To adopt a permanent rule which establishes the Grays Harbor pilotage district annual pilotage tariff for 1994 through April 30, 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 296-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Pursuant to notice filed as WSR 94-01-153 on December 21, 1993.

Changes Other than Editing from Proposed to Adopted Version: The adopted version represents an increase of 18.87% above the proposed version. The adopted version also represents a decrease of 11.13% from the tariff level which is currently in effect under an emergency rule. This emergency rule is rescinded by separate order when the adopted version takes effect. The adopted version reflects the reduced levels of shipping expected in the Grays Harbor pilotage district and the corresponding reduced need for pilotage services which were not reflected in the proposed rule. The adopted version also provides a specific duration for the adopted tariff.

Effective Date of Rule: March 6, 1994.

February 2, 1994  
Armand L. Tiberio  
Chair

AMENDATORY SECTION (Amending WSR 93-13-055, filed 6/16/93, effective 7/17/93)

**WAC 296-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district.**

**CLASSIFICATION OF PILOTAGE SERVICE RATE**

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$((47.07)) 55.95 per meter (or \$((14.32)) 17.02 per foot) and the tonnage charge shall be \$((0.150+)) 0.1784 per net registered ton. The minimum net registered tonnage charge is \$((525.17)) 624.27. The charge for an extra vessel (in case of tow) is \$((300.11)) 356.74.

Boarding fee:

Per each boarding/deboarding from a boat . . . . . \$((226.42))  
269.15

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage . . . . . \$((376.46))  
447.50

Delays per hour . . . . . \$((89.77))  
106.71  
Cancellation charge (pilot only) . . . \$((+50.05))  
178.36  
Cancellation charge (pilot boat only) \$((+450.15))  
535.09

Travel allowance:

Boarding or deboarding a vessel off Grays Harbor entrance . . . . . \$((69.67))  
82.82

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$((525.18)) 624.28 for each day or fraction thereof, and the travel expense incurred . . . . . \$((525.18))  
624.28

Bridge transit:

Charge for each bridge transited . . . \$((+164.80))  
195.90

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

Adopted 1-27-94  
Filed 2-03-94  
Effective K0001 Hours 3-06-94 through 2400 Hours 4-30-95

**WSR 94-05-008  
PERMANENT RULES  
DEPARTMENT OF AGRICULTURE**  
[Order 5032—Filed February 3, 1994, 2:57 p.m.]

Date of Adoption: January 28, 1994.

Purpose: To increase minimum age for mandatory change of ownership testing of dairy female cattle from the current 20 months of age to 30 months of age if brucellosis vaccinated in Washington and Canada.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Pursuant to notice filed as WSR 94-01-177 on December 22, 1993.

Effective Date of Rule: Thirty-one days after filing.  
February 1, 1994  
James M. Jesernig  
Director

AMENDATORY SECTION (Amending WSR 92-21-023, filed 10/13/92, effective 11/13/92)

**WAC 16-86-015 Washington cattle sale requirements.** (1) Effective January 1, 1984, within thirty days prior to any change of ownership and in a manner prescribed

PERMANENT

by the state veterinarian, all dairy breed cattle shall be tested negative for brucellosis. The following classes of cattle are exempt from this test requirement:

- (a) Calves under four months of age.
- (b) Cattle sold or consigned to a restricted feedlot.
- (c) Cattle sold or consigned to a federally inspected slaughter plant.
- (d) Steers and spayed heifers.
- (e) Official calfhood vaccinates under twenty months of age and not parturient or post parturient.

(f) Official Washington or Canadian calfhood vaccinates under thirty months of age as evidence by less than full development of the lower permanent second incisors. This exemption applies only to Washington resident cattle which bear an eartag showing a Washington vaccination (91 V series) or a Canadian vaccination certificate. Subdivision (e) of this subsection applies to all other female dairy breed cattle unless exempted by (a), (b), (c) or (d) of this subsection. Cattle exempted under this subsection may be tested if requested by a prospective buyer or to meet import requirements of another state or foreign country.

(2) All female cattle shall be officially vaccinated against brucellosis and bear a legible vaccination tattoo prior to being sold or introduced into any herd in the state of Washington. This rule does not apply to the following:

(a) Calves under four months of age. Female calves under four months acquired by any herd and natural female additions must become official calfhood vaccinates, as provided for in this chapter, to be sold for any purpose other than those set forth in (c), (d), (e), or (f) of this subsection.

(b) Registered female beef cattle born before January 1, 1983.

(c) Cattle sold or consigned to a restricted feedlot.

(d) Cattle sold or consigned to a federally inspected slaughter plant.

(e) Cattle sold or consigned to a public livestock market for immediate slaughter only.

(f) Spayed heifers.

(3) Any dairy breed female cattle over eight months of age which are not exempted in subsection (2) of this section and which are found not to be vaccinated against brucellosis upon consignment to a public livestock market, shall be identified by branding with an "S" brand on the left hip prior to sale and released from the market. After "S" branding, the nonvaccinated cattle may be released by the director on a VS1-27 Form or other official permit to any of the following destinations:

(a) A restricted feedlot.

(b) A federally inspected slaughter plant.

(c) Another public livestock market for immediate slaughter only.

(d) Upon specific approval by the state veterinarian, nonvaccinated cattle "S" branded at a public livestock market may be returned to the farm of origin where they must remain until released by the state veterinarian for consignment to one of the destinations listed under (a), (b), or (c) of this subsection.

(4) Any dairy breed female cattle consigned to a public livestock market for probable slaughter, but whose status is later changed by the buyer, shall be identified by "S" branding and released by the department only as set forth in subsection (3) of this section, if found not to be vaccinated

for brucellosis. Any buyer who fails to deliver "S" branded cattle to the destination declared by the buyer or his agent shall be guilty of a violation of this chapter. Whenever necessary, the department shall make the final determination of the vaccination status of any eligible cattle.

(5) All Washington cattle shall be individually identified and permanently recorded as to herd of origin prior to being sold or consigned for slaughter. Such identity shall be transferred to the blood sample taken for MCI test purposes. These records shall be made available to the department upon request. Except the following classes of cattle shall be exempt from this requirement:

(a) Cattle under twenty-four months of age. (Not parturient or post parturient.)

(b) Steers and spayed heifers.

#### WSR 94-05-009

##### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Order 5031—Filed February 3, 1994, 2:59 p.m.]

Date of Adoption: January 28, 1994.

Purpose: Repeal whole WAC which requires decharacterization of horsemeat used for purposes other than human consumption.

Statutory Authority for Adoption: RCW 16.36.096 and [16.36.]040.

Pursuant to notice filed as WSR 94-01-176 on December 22, 1993.

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

February 1, 1994

James M. Jesernig

Director

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-38-001 Promulgation.

WAC 16-38-010 Proper decharacterization defined.

WAC 16-38-020 Penalty.

#### WSR 94-05-010

##### PERMANENT RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed February 3, 1994, 3:58 p.m.]

Date of Adoption: January 25, 1994.

Purpose: Adopt a rule, amend some rules and repeal some rules to reflect changes made in Initiative 134.

Citation of Existing Rules Affected by this Order: New WAC 390-17-071; repealing WAC 390-24-030 and 390-24-031; and amending WAC 390-12-010, 390-14-040, 390-24-160, 390-37-070, 390-37-105, and 390-37-142.

Statutory Authority for Adoption: RCW 42.17.390.

Pursuant to notice filed as WSR 93-24-002 on November 18, 1993.

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

February 3, 1994  
David R. Clark  
Assistant Director

### NEW SECTION

**WAC 390-17-071 Collective bargaining association—**  
**Definition.** "Collective bargaining association" and "collective bargaining organization" as those terms are used in RCW 42.17.660 means any organization which negotiates, on behalf of labor or management, with respect to wages, hours or conditions of employment.

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

**WAC 390-12-010 Public disclosure commission—**  
**Regular meetings.** Pursuant to RCW 42.30.075, regular meetings of the public disclosure commission shall be held on the fourth Tuesday of each calendar month at 9:00 a.m. except November and December when they shall be held on the third Tuesday. The meetings shall be held in the Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington, unless circumstances require relocating to another site. If relocating is required, the meeting shall be held at a place designated by the ((~~chairman~~)) chair of the commission.

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

**WAC 390-14-040 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the ((~~chairman~~)) chair of the commission. The ((~~chairman~~)) chair shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the commission as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the original denial.

AMENDATORY SECTION (Amending Order 86-02, filed 3/26/86)

**WAC 390-24-160 Definition—Professional staff member.** (1) A professional staff member of the office of the governor and of the legislature includes all individuals retained on a full or part-time basis whose primary responsibilities require the exercise of judgment and discretion in policy related matters, including, but not limited to, such individuals who are involved in the development of legislation. A professional staff member does not include individuals retained primarily for clerical, ministerial, or internal accounting and bookkeeping purposes.

(2) To insure that the provisions of Referendum 36 and this rule are properly and fairly administered and to provide

guidance to affected individuals, the commission, through its ((~~chairman~~)) chair and executive director, shall confer annually in December with the governor, the secretary of the senate and the clerk of the house regarding the specific professional staff members believed to fall within the criteria set forth in subsection (1) of this section. The executive director shall submit a report of those conferences to the commission at its December meeting for approval, disapproval or modification, or other determination. Each determination shall be based on an annual review of the positions and personnel to be retained by the affected governmental bodies during the ensuing year and shall constitute the commission's administrative interpretation of the term "professional staff member" in RCW 42.17.240 (2) and (3) and its application to such positions and personnel.

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

**WAC 390-37-070 Enforcement procedures—**  
**Complaints dismissible by executive director.** The executive director, with the concurrence of the ((~~chairman~~)) chair, at any time prior to ((~~the~~)) consideration by the commission, may dismiss a complaint which on its face, or as shown by investigation, does not show reason to believe that a material violation of chapter 42.17 RCW has occurred.

**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 WSR 91-16-072, filed 8/2/91)

**WAC 390-37-105 Prehearing conference—Rule.** (1) In any proceeding, the ((~~chairman~~)) chair upon his/her own motion or upon request by one of the parties or their qualified representative, may direct the parties to appear at a specified time and place for a conference to consider:

- (a) Simplification of issues;
- (b) The necessity of amendments to the hearing notice;
- (c) The possibility of obtaining stipulations, admissions of facts and of documents;
- (d) Limitation on the number of witnesses; and
- (e) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Prehearing conferences may be presided over by the ((~~chairman~~)) chair or his/her designee.

(3) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(4) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference. If no objection to the order is filed with the presiding officer within seven days after the date the order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(5) When the ((~~chairman~~)) chair or his/her designee presides over a prehearing conference, he or she is acting as a quasi-judicial body which relates to a quasi-judicial matter between named parties. Therefore, a prehearing conference

is not subject to chapter 42.30 RCW, Open Public Meetings Act.

February 2, 1994  
David R. Clark  
Assistant Director

AMENDATORY SECTION (Amending WSR 93-15-004, filed 7/7/93)

**WAC 390-37-142 Brief enforcement hearing—Procedure.** (1) A brief enforcement hearing may be presided over by the ~~((chairman))~~ chair, or a member of the commission designated by the ~~((chairman))~~ chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the alleged violator notice, which shall include:

(a) Alleged violation~~((;+;+;+;))~~;

(b) The maximum amount of the penalty which can be imposed at the hearing and the amount of any proposed fine~~((;+;+;+;))~~; and

(c) Person's right to respond, within ten days, either in writing or in person to explain his/her view of the matter.

(3) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than \$500, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an enforcement hearing by the full commission.

(4) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed, and their right to request review by the commission at the next scheduled commission meeting.

(5) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 390-24-030      Forms for reports of public office fund.

WAC 390-24-031      Public office fund—Establishment and use.

#### WSR 94-05-011 PERMANENT RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed February 3, 1994, 4:00 p.m.]

Date of Adoption: January 25, 1994.

Purpose: Amend campaign disclosure forms to reflect changes required by Initiative 134.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-011, 390-16-012, 390-16-031, 390-16-032, 390-16-033, 390-16-041, and 390-16-050.

Statutory Authority for Adoption: RCW 42.17.390.

Pursuant to notice filed as WSR 94-01-040 on December 6, 1993.

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

AMENDATORY SECTION (Amending WSR 93-15-004, filed 7/7/93, effective 8/7/93)

**WAC 390-16-011 Forms—Registration statement for political committees.** The official form for providing ~~((the))~~ the statement ~~((of))~~ of organization by political committees~~((;+;+;+;))~~ for designating ~~((a))~~ a campaign treasurer and depository and for reporting information required to qualify for abbreviated campaign finance reporting is designated "C-1pc," revised ~~((4/93))~~ 11/93. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

PERMANENT



REGISTRATION: POLITICAL COMMITTEES

Committee Name (Show entire official name.)		Acronym	<b>C1 P C</b> (4/93) P M O A S T R K R E C E I V E D PDC OFFICE USE
Mailing Address			
City	County	Zip + 4	

NEW REGISTRATION OR UPDATE OF PRIOR REGISTRATION? <input type="checkbox"/> NEW: Complete all items in the registration <input type="checkbox"/> AMENDED: Supply the information below which has changed	COMMITTEE STATUS <input type="checkbox"/> Continuing committee <input type="checkbox"/> 19 _____ election only; election date _____
---	---

1. What is the purpose or description of the committee?

Bona Fide Political Party Committee (official state or county central committee or legislative district committee). If you are not supporting the entire party ticket, attach a list or specify here the names of the candidates you support. \_\_\_\_\_

Ballot Committee (Initiative, Bond, Levy, Recall, etc.). Name or description of ballot measure: \_\_\_\_\_ Ballot Number \_\_\_\_\_ FOR  AGAINST

Political Action Committee, Political Club or Organization (including party clubs). If PAC is associated with a business, association, labor union, or similar entity, specify name: \_\_\_\_\_

Other. Explain on attached sheet.

2. Related or affiliated committees. List name, address and relationship.

3. HOW MUCH DO YOU PLAN TO SPEND DURING THIS ENTIRE ELECTION CAMPAIGN, INCLUDING THE PRIMARY AND GENERAL ELECTIONS? BASED ON THAT ESTIMATE, CHOOSE ONE OF THE REPORTING OPTIONS BELOW. (If the committee is a continuing organization, estimate spending on a calendar year basis.)

If no box is checked you are obligated to use Full Reporting. See reporting instruction booklets for information about reports required and changing reporting options.

ABBREVIATED REPORTING  
We will use the Abbreviated Reporting System. We will raise and spend no more than \$2,000 and will accept no more than \$200 in the aggregate from any one contributor.

FULL REPORTING  
We will use the Full Reporting System. We understand this means we must file the frequent, detailed reports required by law.

4. Treasurer's Name and Address (List deputy treasurers on attached sheet.)

Daytime Telephone Number ( )

5. Committee's Principal Officers. List name, address and title.

6. Campaign Bank or Depository.

Branch \_\_\_\_\_ City \_\_\_\_\_

7. Campaign records are to be open for public inspection the last eight days before the election. (Two hours daily between 8 AM - 8 PM, Monday - Friday.) Show location and hours below:

Street Address (Do not use a Post Office Box Number) \_\_\_\_\_ Hours \_\_\_\_\_

3. Fair Campaign Practices: All committee officers are encouraged to subscribe to the Code of Fair Campaign Practices printed in campaign instruction booklets.

9. Signature and Certification. I certify that this statement is true, complete and correct to best of my knowledge.

Committee treasurer's signature \_\_\_\_\_ Date \_\_\_\_\_



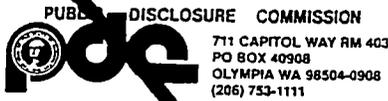
Need campaign finance forms and instructions for the reporting system selected? Please check one of the following boxes:

I already have forms and instructions.

I will get forms and instructions from my county elections office.

I want the Public Disclosure Commission to mail me the proper forms and instructions.

PERMANENT



PDC FORM <b>C1</b> P C <small>(4/93)</small>	<b>POLITICAL COMMITTEE          REGISTRATION          STATEMENT</b>
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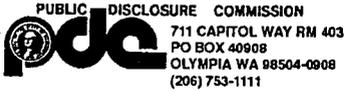
### INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Persons, committees, organizations and groups that receive contributions and make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.
- WHEN TO FILE** Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. (Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.) File an amended C-1pc form within 10 days of significant changes to the registration information provided. Continuing political committees using Abbreviated Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the original to PDC at the above address. Send a copy to the County Auditor (County Elections Department) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides.
- REPORTING OPTIONS**
  - Abbreviated Reporting: May be used by committees that raise and spend no more than \$2,000 on their campaign activities. No more than \$200 may be accepted from any contributor. A 10th-of-the-month post primary, general or special election C-4 ABB report is required. Continuing committees re-register annually and file a year-end C-4.ABB by January 10 for any year in which they do not participate in an election.
  - Full Reporting: Required of all committees that do not qualify for Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required until the committee is disbanded and the campaign account is closed.
- OTHER REPORTS**
  - C-3 (Cash Receipts Report): Used with Full Reporting only.
  - C-4 (Contribution and Expenditure Report): Used with Full Reporting only.
  - C-4 ABB (Receipts and Expenditures Summary): Filed by candidates and committees using Abbreviated Reporting.
  - Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of a candidate or another political committee.
- FAIR CAMPAIGN PRACTICES CODE** This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All committee members and supporters are encouraged to follow the Code's principles.

For assistance, call or write PDC!

PERMANENT



REGISTRATION: POLITICAL COMMITTEES

Postmark: C1 PC (11/93) and vertical stamp: P M O A S R T K R E C E I V E D PDC OFFICE USE

Committee Name (Show entire official name.) Acronym Mailing Address City County Zip + 4

NEW REGISTRATION OR UPDATE OF PRIOR REGISTRATION? COMMITTEE STATUS

1. What is the purpose or description of the committee? Bona Fide Political Party Committee, Ballot Committee, Political Action Committee, etc.

2. Related or affiliated committees. List name, address and relationship.

3. HOW MUCH DO YOU PLAN TO SPEND DURING THIS ENTIRE ELECTION CAMPAIGN... ABBREVIATED REPORTING vs FULL REPORTING

4. Campaign Manager's or Media Contact's Name and Address Daytime Telephone Number

5. Treasurer's Name and Address (List deputy treasurers on attached sheet.) Daytime Telephone Number

6. Committee's Principal Officers and/or Decision-Makers. List name, title, and address.

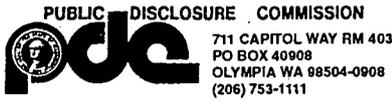
7. Campaign Bank or Depository. Branch City

8. Campaign records are to be open for public inspection the last eight days before the election. Street Address Hours

9. Eligibility to Give to State Office Candidates... 10. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.

Need campaign finance forms and instructions for the reporting system selected? Please check one of the following boxes:

PERMANENT



PERMANENT

Please consult PDC instruction manuals when completing this report.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

**WHO MUST FILE** Persons, committees, organizations and groups that receive contributions and make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

**WHEN TO FILE** Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)** File an amended C-1pc form within 10 days of significant changes to the registration information provided. Continuing political committees using Abbreviated Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

**WHERE TO FILE** Send the **original to PDC** at the above address. Send a **copy to the County Auditor** (County Elections Department) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides.

City ballot issue committees and other political committees giving to city candidates, check with City Clerk regarding any local filing requirement.

**Contact County Elections Department or PDC for Instruction Manuals and Reporting Forms**



AMENDATORY SECTION (Amending WSR 93-15-004, filed 7/7/93, effective 8/7/93)

**WAC 390-16-012 Forms—Registration statement for candidates.** The official form for providing the statement of organization by candidates and candidate's committees, for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting or abbreviated campaign finance reporting is designated "C-1," revised ((4/93)) 11/93. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504. Any attachments shall be on 8-1/2" x 11" white paper.



PUBLIC DISCLOSURE COMMISSION  
711 CAPITOL WAY RM 403  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(206) 753-1111

**REGISTRATION:  
CANDIDATES/CANDIDATE COMMITTEE**

<b>C1</b>	P M A R K	PDC OFFICE USE
	R E C E I V E D	
(4/93)		

Candidate's Name (Do not abbreviate. Include candidate's full name)

---

Candidate's Committee Name (Do not abbreviate.)

---

Mailing Address

---

City \_\_\_\_\_ County \_\_\_\_\_ Zip + 4 \_\_\_\_\_

1. What office are you running for? \_\_\_\_\_ Office \_\_\_\_\_ District, County or City \_\_\_\_\_ Position No. \_\_\_\_\_

2. Political party (if partisan office) \_\_\_\_\_ 3. Date of general or special election \_\_\_\_\_

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below.

If no box is checked you are obligated to use Option III, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

- Option I MINI REPORTING**  
I will limit contributions or expenditures during this campaign to my filing fee of \$ \_\_\_\_\_ plus no more than \$500, including charges for the voters pamphlet. I will accept no more than \$200 in the aggregate from any contributor except myself.
- Option II ABBREVIATED REPORTING**  
I will use the Abbreviated Reporting System. I will raise and spend no more than \$2,000 and will accept no more than \$200 in the aggregate from any contributor except myself.
- Option III FULL REPORTING**  
I will use the Full Reporting System. I understand frequent, detailed reports are required.

5. Treasurer's Name and Address (Candidate may be treasurer.) (List deputy treasurers on attached sheet.) \_\_\_\_\_ Daytime Telephone Number \_\_\_\_\_ ( ) \_\_\_\_\_

6. Committee's Principal Officers. List name, address and title.

---



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7. Campaign Bank or Depository \_\_\_\_\_ Brand \_\_\_\_\_ City \_\_\_\_\_

8. Related or Affiliated Political Committees. List name, address and relationship.

---

9. Campaign records are to be open for public inspection the last eight days before election. (Two hours daily between 8 AM - 5 PM, Monday - Friday.) Show location and hours below:

Street Address (Do not use a Post Office Box Number) \_\_\_\_\_ Hours \_\_\_\_\_

10. Fair Campaign Practices: All candidates and committee officers are encouraged to subscribe to the Code of Fair Campaign Practices printed in the instruction manuals.



11. CERTIFICATION:  
I certify that this report is true, complete and correct to the best of my knowledge.

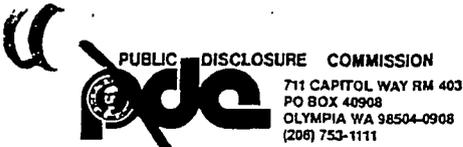
Candidate's signature \_\_\_\_\_ Date \_\_\_\_\_

Please advise us about which forms and instructions you need. Remember, candidates must file a Financial Affairs Statement (F-1) unless a current one is already on file with PDC. Check all boxes which apply.

- I already have financial affairs and campaign disclosure forms and instructions.
- I am using Mini Reporting and, therefore, do not need the other campaign disclosure forms. In addition, I have already filed my Financial Affairs Statement and need no additional F-1 forms.
- I will obtain all forms and instructions from my county elections office.
- I want PDC to mail me:  the F-1 instruction booklet (which includes forms)  the appropriate campaign disclosure forms and instructions.

DISTRIBUTION OF THIS REPORT:  
ORIGINAL — Public Disclosure Commission  
COPY — County Elections Dept. (Auditor)  
COPY — Your own records

PERMANENT



PDC FORM <b>C1</b>	<b>CANDIDATE REGISTRATION STATEMENT</b>
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### INSTRUCTIONS

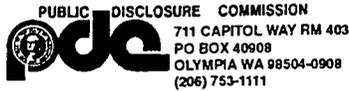
Please consult PDC instruction manuals when completing this report.

Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Candidates who run for state or local office in jurisdictions that had 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
- WHEN TO FILE** Within 2 weeks of becoming a candidate (that is, receiving contributions, making expenditures, announcing candidacy, reserving space or filing for office, whichever occurs first). File an amended registration within 10 days of changes affecting accuracy of previously filed C-1. Report is considered filed as of postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the original to PDC at the above address. Send a copy to **County Auditor** (County Elections Department) of the county in which the candidate resides.
- REPORTING OPTIONS**
  - Option I (MINI): May be used by candidates who raise and spend no more than \$500 on their campaigns (including personal funds), in addition to the filing fee amount. Limited to receiving \$200 or less from any contributor other than the candidate (who may give the entire \$500).
  - Option II (ABBREVIATED): May be used by candidates who raise and spend no more than \$2,000 on their campaigns (including personal funds). Filing fee costs count toward this limit. No more than \$200 may be accepted from any contributor other than the candidate.
  - Option III (FULL): Required of candidates who do not qualify for Mini or Abbreviated Reporting. Frequent, detailed reports of contributions and expenditures are required as long as the campaign account remains open.
- OTHER REPORTS**
  - F-1 (Financial Affairs Statement): Filed by candidates within 2 weeks of becoming a candidate, unless a previous F-1 filing has been made in the same calendar year.
  - C-3 (Cash Receipts Report): Used with Full Reporting only.
  - C-4 (Contribution and Expenditure Report): Used with Full Reporting only.
  - C-4 ABB (Receipts and Expenditures Summary): Filed by candidates using Abbreviated Reporting.
- FAIR CAMPAIGN PRACTICES CODE** This is a voluntary code adopted by PDC to stress the importance of ethical campaign practices. All candidates and campaign workers are encouraged to follow the Code's principles.

For assistance, call or write PDC!

PERMANENT



REGISTRATION: CANDIDATES/CANDIDATE COMMITTEE

C1

(11/93)

PDC OFFICE USE

POST RECEIVED

Candidate's Name (Do not abbreviate. Include candidate's full name)

Candidate's Committee Name (Do not abbreviate.)

Mailing Address

City

County

Zip + 4

1. What office are you running for?

Legislative District, County or City

Position No.

Do you now hold this office?

Yes \_\_\_ No \_\_\_

2. Political party (if partisan office)

3. Date of general or special election

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below.

If no box is checked you are obligated to use Option III, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

Option I MINI REPORTING In addition to my filing fee of \$ \_\_\_\_\_, I will raise and spend no more than \$500, including charges for the voters pamphlet. I will accept no more than \$200 in the aggregate from any contributor except myself.

Option II ABBREVIATED REPORTING I will raise and spend no more than \$2,000, including my filing fee and charges for the voters pamphlet. I will accept no more than \$200 in the aggregate from any contributor except myself.

Option III FULL REPORTING I will use the Full Reporting System. I understand frequent, detailed reports are required.

5. Campaign Telephone Number: ( )

Campaign Fax Number: ( )

6. Treasurer's Name and Address (Candidate may be treasurer.) (List deputy treasurers on attached sheet.)

Daytime Telephone Number

( )

7. Committee's Principal Officers. List name, address and title.

8. Campaign Bank or Depository

Branch

City

9. Related or Affiliated Political Committees. List name, address and relationship.

10. Campaign records are to be open for public inspection the last eight days before election. (Two hours daily between 8 AM - 8 PM, Monday - Friday.) Show location and hours below.

Street Address (Do not use a Post Office Box Number)

Hours

11. CERTIFICATION:

I certify that this report is true, complete and correct to the best of my knowledge.

Candidate's Signature

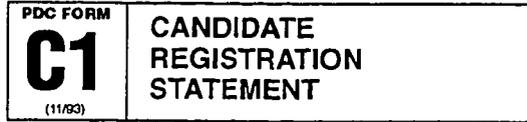
Date

Please advise us about which forms and instructions you need. Remember, candidates must file a Financial Affairs Statement (F-1) unless a current one is already on file with PDC. Check all boxes which apply.

- I already have financial affairs and campaign disclosure forms and instructions.
I am using Mini Reporting and, therefore, do not need the other campaign disclosure forms. In addition, I have already filed my Financial Affairs Statement and need no additional F-1 forms.
I will obtain all forms and instructions from my county elections office.
I want PDC to mail me: the F-1 instruction booklet (which includes forms) the appropriate campaign disclosure forms and instructions.

DISTRIBUTION OF THIS REPORT: ORIGINAL - Public Disclosure Commission COPY - County Elections Dept. (Auditor) COPY - Your own records (Note: City candidates contact City Clerk to see if local filing is required.)

PERMANENT



Please consult PDC instruction manuals when completing this report.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Candidates who run for state office or local office in jurisdictions that had 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
- WHEN TO FILE** Within 2 weeks of becoming a candidate (that is, receiving contributions, making expenditures, announcing candidacy, reserving space or filing for office, whichever occurs first). File an amended registration within 10 days of changes affecting accuracy of previously filed C-1. Report is considered filed as of postmark date or date hand-delivered to PDC.
- WHERE TO FILE** Send the **original to PDC** at the above address. Send a **copy to County Auditor** (County Elections Department) of the county in which the candidate resides. Candidates for city offices should contact City Clerk to learn if local filing is required.

**Contact County Elections Department or PDC for Instruction Manuals and Reporting Forms**

PERMANENT



AMENDATORY SECTION (Amending WSR 93-09-002, filed 4/8/93, effective 5/9/93)

**WAC 390-16-031 Forms for statement of contributions deposit.** The official form for statement of contributions deposit is designated "C-3," revised ((3/93)) 11/93. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

PERMANENT





PDC FORM <b>C3</b> <small>(3/93)</small>	<b>CASH RECEIPTS          AND MONETARY          CONTRIBUTIONS</b>
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**INSTRUCTIONS**

Please consult PDC instruction manuals when completing this report.  
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

**GENERAL GUIDELINES**

- 1) All contributions and miscellaneous receipts must be deposited into the campaign bank account. Complete a C-3 for each bank deposit. File the reports as described below.
- 2) Anonymous contributions (those for which you do not have the contributor's name and address) are limited to the larger of \$300 or 1% of the total contributions received to date for this election. Unidentified small contributions raised through qualifying fund raising events do not count toward the anonymous contribution limit.
- 3) A candidate's cash contributions to the campaign are reported on Form C-3. Loans from the candidate are reported on line 1c of the C-3 as well as Schedule L. Unreimbursed out-of-pocket expenditures are reported as in-kind contributions on Schedule B to the C-4. Reimbursed out-of-pocket expenditures are reported on Schedule A to the C-4.
- 4) Contributions of \$25 or less may be combined and the total amount reported on line 3e of the C-3. While the names and addresses of contributors giving \$25 or less need not be reported, treasurers must keep a private list of these small contributors and the amounts given. When the total donated by any of these contributors exceeds \$25, that person's name and address must be included on the relevant C-3 report.
- 5) During the 21 days before the general election, contributions from one source may not exceed \$50,000 to a state-wide candidate or \$5,000 to any other candidate or committee. These limits do not apply to contributions received from major WA State political parties.

**WHO MUST FILE**

Treasurer of each candidate and political committee using Full Reporting. No C-3s are filed with Mini and Abbreviated Reporting. C-3 reports may be signed by designated deputy treasurers.

**FILING DATES**

During the four months or more before the general or a special election (prior to July 1 for general elections), file C-3s each time a C-4 report is filed.

Within four months or less before the general or special election (beginning July 1 for general elections), file the C-3 on the same day the bank deposit is made. (Contributions are to be deposited within five business days of receipt.)

**WHERE TO FILE**

Send original C-3 reports, along with Schedule L's, if necessary, to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

**CONTRIBUTIONS OVER \$500**

During the 7 days before the primary and the 21 days before the general election, candidates and committees must file special reports of each contribution received that exceeds \$500. The report discloses the amount of the contribution, the date received, the name and address of the donor as well as the name and address of the recipient.

If possible, a written report (C-3 form, telegram, mailgram, or nightletter) of these large contributions should be delivered to PDC within 48 hours (or the first working day after receipt). Otherwise, call PDC with the information required within the 48-hour or first working day timeframe and mail written confirmation of this telephone report within two days of receiving the contribution.

Any political committee, lobbyist or lobbyist employer who makes a contribution over \$500 during the 7 days before the primary or 21 days before the general election must notify PDC and the recipient of the contribution within 24 hours or the first working day after the contribution was made.

**For assistance, call or write PDC!**

PERMANENT



**CASH RECEIPTS  
MONETARY CONTRIBUTIONS**

Candidate or Committee Name (Do not abbreviate. Use full name.)

Mailing Address

City

Zip + 4

Office Sought (candidates)

**C3**  
(11/93)

PDC OFFICE USE

P  
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**1. MONETARY CONTRIBUTIONS DEPOSITED IN ACCOUNT**

Date Received	Please type or print clearly in ink.	Amount	Total
.....	a. Anonymous .....		
.....	b. Candidate's personal funds deposited in the bank (include candidate loans in 1c) .....		
.....	c. Loans, notes, security agreements. Attach Schedule L .....		
.....	d. Miscellaneous receipts (Interest, refunds, auctions, other). Attach explanation .....		
.....	e. Small contributions \$25.00 or less not itemized and number of persons giving _____ (persons)		

**2. CONTRIBUTIONS OVER \$25.00**

Date Received	Contributor's Name, Address, City, State, Zip	Contributions of \$100 or more: * Employer's Name, City and State	P R I	G E N	Amount	Aggregate Total*
		Occupation -----				
		Occupation -----				
		Occupation -----				
		Occupation -----				
		Occupation -----				
	<input type="checkbox"/> Check here if additional pages are attached	Sub-total Amount from attached pages				<b>*See Reverse For Details</b>

**3. TOTAL FUNDS RECEIVED AND DEPOSITED OR CREDITED TO ACCOUNT**

Sum of parts 1 and 2 above. Enter this amount in line 1, Schedule A to C4.

4. Date of Deposit

I certify that this report is true and complete to the best of my knowledge

Treasurer's Signature

Date

Treasurer's Daytime Telephone No.: ( )

PERMANENT



PDC FORM <b>C3</b> (11/83)	<b>CASH RECEIPTS          AND MONETARY          CONTRIBUTIONS</b>
----------------------------------	---

Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.  
 Consult PDC instruction manuals when completing this report.

**CONTRIBUTIONS OF \$100 OR MORE** When an individual gives the campaign a total of \$100 or more in the aggregate, that person's employer must be identified by name, city, state and the person's occupation must also be disclosed. Once an individual gives at least \$100, occupation and employer information will appear on every report showing additional contributions from the individual.

For all candidates – when an individual gives \$100 or more since the beginning of the campaign, show occupation and employer information.

For Single Election Political Committees (e.g., ballot issue committees) – when an individual gives \$100 or more since the beginning of the campaign, show occupation and employer.

For Continuing Political Committees (e.g., party committees & PACs) – when an individual gives \$100 or more since the beginning of the calendar year, show occupation and employer.

**PRIMARY/GENERAL ELECTION** Candidates for legislative or state executive office must specify in Part 2 of the C-3 form whether a contribution is designated for the primary or the general election. If a contribution is for the primary election, put a "X" in the PRI box; if it counts toward the contributor's general election limit, put an "X" in the GEN box. If one check is used to make both a primary and a general election contribution, use two separate contributor blocks - one each for the primary and general donations. See instruction manual for example.

Local and judicial office candidates, political committees and continuing political committees - primary and general election designations not required; disregard these boxes.

**AGGREGATE TOTAL** The total put in the Aggregate Total column for each contributor will depend on who is filing the report. See below.

Legislative or State Executive Candidates: Show the total given for each election. If the contributor is giving a primary election contribution, the Aggregate Total figure is the total of that person's primary election contributions. If the GEN box is checked, the Aggregate Total is the contributor's general election total. (Only your campaign records and PDC's computer records will keep track of the grand total for both elections.)

Local and Judicial Candidates: Show the total given since the beginning of the campaign.

Political Committees Organized for One Election Only: Show the total given since the beginning of the campaign.

Continuing Political Committees: Show the total given since the beginning of the calendar year.



PERMANENT

RECEIPTS CONTINUATION SHEET (Attachment to C-3 Form)

Page \_\_\_\_\_

Candidate or Committee Name (Do not abbreviate. Use full name.)

Deposit Date

2. CONTRIBUTIONS OVER \$25.00

Date Received	Contributor's Name, Address, City, State, Zip	Contributions of \$100 or more: Employer's Name, City and State	P R I V A T E		Amount	Aggregate Total
		Occupation				
		Occupation				
		Occupation				
		Occupation				
		Occupation				
		Occupation				
		Occupation				
		Occupation				

Page Total \_\_\_\_\_

PERMANENT

AMENDATORY SECTION (Amending WSR 92-19-011, filed 9/3/92, effective 10/4/92)

**WAC 390-16-032 Forms—Auction report.** The official form for reporting items donated and sold at auctions, as required by RCW 42.17.090 (1)(b), is designated "Attachment Au," revised (~~8/92~~) 11/93. This attachment shall accompany each C-3 which reports the receipt of funds from an auction. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504.

PERMANENT

# AUCTION REPORT

ATTACHMENT  
TO C3

# Au

Use this form as an attachment to C3 to report items donated and sold at auctions.  
Please see the reverse for an example of a report.

Candidate or committee name

Date auction was held

Item No. description	Name and address	Fair market value	Sale price	Amount over fair market value	Total given by this person during campaign
Contributor					
Buyer					
Contributor					
Buyer					
Contributor					
Buyer					
Contributor					
Buyer					
Contributor					
Buyer					
Contributor					
Buyer					
Contributor					
Buyer					

Cash receipts, this page  
(Total, sale price column)



Total from attached pages



Total cash receipts  
(Put this amount in part 1d of C3 report)



See instructions on reverse

I certify that the information herein is true, correct and complete to the best of my knowledge.

Treasurer's signature

Date

PERMANENT

**Instructions**

Use this form as an attachment to your C3 (Cash Receipts and Bank Deposits).

Item No. description: As each item to be auctioned is received, assign it a number and a brief description.

Contributor: The person or organization which donates an article to be auctioned. If your committee purchases items for auction, state "purchased by committee" under contributor's name.

Buyer: The person who buys the item being auctioned.

Fair market value: The retail value of the article. If the retail value cannot be estimated or found, state "unknown."

Sale price: The amount the buyer paid for the item.

Amount over fair market value: The amount the sale price exceeds fair market value. If sale price is less than fair market value, leave blank.

Total given by this person during campaign:

Contributor—Fair market value of the item (substitute sale price, if lower) plus all previous contributions made to the candidate or committee.

Buyer—Amount over fair market value plus all previous contributions made to candidate or committee.

Cash payments: A payment of more than \$50.00 may not be accepted unless a receipt, signed by the buyer and the candidate, treasurer or deputy treasurer is prepared and made part of the committee's financial records.

**AUCTION REPORT**

Use this form as an attachment to C3 to report items donated and sold at auctions.

Candidate or committee name				Date auction was held	
JONES FOR SHERIFF COMMITTEE				9/14/XX	
Item No. description	Name and address	Fair market value	Sale price	Amount over fair market value	Total given by this person during campaign
NO. 1 USE BEACH CABIN	Contributor JOHN DOE 200 "A" STREET, SEATTLE 98101	\$100			\$100
	Buyer MARY SMITH 400 "B" STREET, TACOMA 98402		\$125	\$25	\$25
NO. 2 DINNER FOR 4	Contributor SAM BROWN 123 MILITARY ROAD, ANYTOWN 99101	\$80			\$60
	Buyer TOM MIX RT. 2, BOX 1, SADDLE MT. 98900		\$60		
NO. 3 BOAT CRUISE	Contributor CAPT. MOBY DICK 401 WATERFRONT, FOULSBO 98701	\$75			\$75
	Buyer MERRI RYDER 204 E. LAND, MYBURG 99100		\$90	\$15	\$15
	Contributor				
	Buyer				
<b>Cash receipts, this page</b> (Total, sale price column)			\$275.00		
<b>Total from attached pages</b>			0		
<b>Total cash receipts</b> (Put this amount in part 1d of C3 report)			\$275.00		

**AUCTION REPORT**

Use this form as an attachment to C3 to report items donated and sold at auctions.  
Please see the reverse for an example of a report.

ATTACHMENT  
TO C3  
(11/93)

**Au**

Candidate or Committee Name	Date auction was held
-----------------------------	-----------------------

Item No. Description	Name and Address	P	R	I	G	E	N	Fair market value	Sale price	Amount over fair market value	Aggregate Total*
	Contributor										
	Buyer										
	Contributor										
	Buyer										
	Contributor										
	Buyer										
	Contributor										
	Buyer										
	Contributor										
	Buyer										
	Contributor										
	Buyer										
	Contributor										
	Buyer										

Cash receipts, this page (Total, sale price column)	→	
Total from attached pages	→	
Total cash receipts (Put this amount in part 1d of C3 report)	→	

\*If an individual—whether a contributor or buyer—has given \$100 or more to the campaign, show his or her occupation and employer's name, city & state on attached sheet.

See instructions on reverse

I certify that the information herein is true, correct and complete to the best of my knowledge.	
Treasurer's signature	Date

PDC C3Au (11/93) \* \* 1

PERMANENT

PERMANENT

**INSTRUCTIONS**

**Item No./Description:** As each item to be auctioned is received, assign it a number and a brief description.

**Contributor:** The person or organization that donates an item or service to be auctioned. If the campaign purchases items for auction, state "purchased by committee" under contributor's name. If auction is held by state office candidate, designate which election (PRI or GEN) contribution is for. Contribution amount is fair market value of item or service and is subject to any applicable contribution limit. Adjust fair market value amount if sold for less than initial fair market value. See No. 2 below.

**Buyer:** The person who buys the item or service being auctioned. If auction is held by state office candidate, designate which election (PRI or GEN) buyer is giving to when purchase price exceeds fair market value amount.

**Fair Market Value:** The retail value of the article. Adjust if amount paid is less than fair market value. See No. 2 below.

**Sale Price:** The amount the buyer paid for the item or service.

**Amount Over Fair Market Value:** The amount the sale price exceeds fair market value. If sale price is less than or equal to the fair market value, leave blank. The amount paid in excess of fair market value is a contribution from the buyer and is subject to any applicable contribution limit.

**Aggregate Total:**

**Contributor:** Fair market value of the donation plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

**Buyer:** Amount over fair market value plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

**Cash Payments:** No cash payment of more than \$50 may be accepted unless a receipt, signed by the buyer and the candidate, treasurer or deputy treasurer, is prepared and made part of the campaign's financial records.

**AUCTION REPORT**

Use this form as an attachment to C3 to report items donated and sold at auctions.

Candidate or committee name Sam Smith for State Senate					Date auction was held Sept. 14, 199X		
Item No. description	Name and address	P R I	G E N	Fair market value	Sale price	Amount over fair market value	Aggregate Total
No. 1 Use Beach Cabin	Contributor John Doe 200 "A" Street, Seattle, WA 98101	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$100			\$100
	Buyer Mary Smith 400 "B" Street, Tacoma, WA 98402	<input type="checkbox"/>	<input checked="" type="checkbox"/>		\$125	\$25	\$25
No. 2 Dinner For 4	Contributor Sam Brown 123 Military Road, Anytown, WA 98101	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$80			\$60
	Buyer Tom Mix Rt. 2, Box 1, Saddle Mt., WA 98900	<input type="checkbox"/>	<input type="checkbox"/>		\$60		
No. 3 Boat Cruise	Contributor Capt. Moby Dick 401 Waterfront, Poulsbo, WA 98701	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$75			\$75
	Buyer Merri Ryder 204 E. Land, Myberg, WA 99100	<input type="checkbox"/>	<input checked="" type="checkbox"/>		\$90	\$15	\$15
Cash receipts, this page (Total, sale price column)				→	\$275		
Total from attached pages				→	0		
Total cash receipts (Put this amount in part 1d of C3 report)				→	\$275		

AMENDATORY SECTION (Amending WSR 90-16-083, filed 7/31/90, effective 8/31/90)

**WAC 390-16-033 Earmarked contributions—Reporting—Form.** The official form for reporting the details surrounding an earmarked contribution, as required by RCW 42.17.125, is designated "Special Report E," revised ~~((1/90))~~ 11/93. This report shall be filed within two working days of receiving a contribution earmarked for another candidate or committee. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504.

PERMANENT

PERMANENT



# EARMARKED CONTRIBUTION

SPECIAL REPORT

# E

PDC OFFICE USE

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D

1. Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address

City

County

Zip

2. Original source of earmarked contribution

Name

Address

City

State

Zip

3. Contribution Date                      Amount/Value                      Description (Fully describe in kind contributions)

4. Name of candidate or committee to be benefited

Address

City

County

Zip

If candidate, what office is the person seeking? \_\_\_\_\_

5. Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature \_\_\_\_\_

Date \_\_\_\_\_

### INSTRUCTIONS:

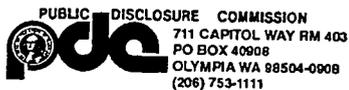
The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates or committees for whom the earmarked contribution is ultimately intended report this contribution when they actually receive it. Such candidates and committees will use form C-3 or Schedule B to the C-3 to show receipt of the contribution. See PDC instruction manual for examples and more information.

Public Disclosure Commission  
711 Capitol Way, Room 403 ♦ PO Box 40908 ♦ Olympia, WA 98504-0908 ♦ (206) 753-1111



**EARMARKED CONTRIBUTION**

**SPECIAL REPORT E**  
(11/93)

PDC OFFICE USE

POST RECEIVED

1. Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address

City

County

Zip

2. Original source of earmarked contribution

Name

Address

City

State

Zip

3. Contribution Date	Amount/Value	Description (Fully describe in-kind contributions)	If contribution is to benefit a state office candidate, designate whether it's for Primary or General Election. Primary _____ General _____

4. Name of candidate or committee to be benefited

Address

City

County

Zip

If candidate, what office is the person seeking? \_\_\_\_\_

5. Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature \_\_\_\_\_ Date \_\_\_\_\_

The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates for legislative and statewide executive office are subject to state contribution limits. Earmarked contributions count toward the applicable limit and are attributed to the original source of the contribution (unless another person controlled the choice of recipient). It's a violation for anyone to accept a contribution in excess of the relevant limit. Verify with the campaign of a legislative or statewide office candidate before accepting a contribution earmarked for the benefit of such a candidate.

**Public Disclosure Commission**  
711 Capitol Way, Room 403 • PO Box 40908 • Olympia, WA 98504-0908 • (206) 753-1111

PDC E (11/93) \*\*1

PERMANENT

AMENDATORY SECTION (Amending WSR 93-09-002, filed 4/8/93, effective 5/9/93)

**WAC 390-16-041 Forms—Summary of total contributions and expenditures.** (1) The official form for reports of contributions and expenditures by ~~((local and judicial))~~ candidates and political committees who use the "full" reporting option is designated "C-4," revised ~~((3/93))~~ 11/93, and includes Schedule A, revised ~~((3/93))~~ 11/93, Schedule B, revised ~~((3/93))~~ 11/93, Schedule C, revised 3/93, and Schedule L, revised ~~((1/90))~~ 11/93.

~~((1))~~~~((2))~~ The official form for reports of contributions and expenditures by candidates for the state legislature or state executive office and who use the "full" reporting option is designated C-4, revised 1/90, and includes Schedule A s/1, revised 10/91, Schedule B s/1, revised 10/91, Schedule C, revised 3/93, and Schedule L, revised 1/90.

~~((3))~~ (2) The official form for reports of contributions and expenditures by candidates and political committees who use the "abbreviated" reporting option is designated "C-4abb," revised ~~((7/92))~~ 11/93.

~~((4))~~ (3) Copies of these forms are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.



SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

Form box containing 'C4 (3/93)' and 'PDC OFFICE USE' with vertical text 'PDC FORM 3-93'.

Form fields for 'Candidate or Committee Name', 'Mailing Address', 'City', 'County', 'Zip - 4', 'Report Period Covered', and 'Is this your final report?'.

RECEIPTS section with numbered lines 1-9 for recording cash and contributions.

EXPENDITURES section with numbered lines 10-17 for recording campaign expenses.

CANDIDATES section with a table for 'Please complete:' including 'Won', 'Lost', 'Unopposed', and 'Name not on ballot'.

CASH SUMMARY section with lines 18-20 for recording cash on hand and liabilities.

CERTIFICATION section with signature and date lines for both the candidate and the treasurer.

PERMANENT



PDC FORM <b>C4</b> (3/93)	<b>CONTRIBUTION AND          EXPENDITURE SUMMARY</b>
---------------------------------	--

### INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Each candidate and political committee using Full Reporting.
- FILING DATES**
- 1) File with C-1 (Registration) if you received contributions or made expenditures before registering.
  - 2) File on the 10th of each month if contributions or expenditures were over \$200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
  - 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
    - ◆ 21 days prior to the election
    - ◆ 7 days prior to the election
    - ◆ 10th of the first month after the election\*
- (\*Not required after primary from candidates who will be in the general election or from continuing political committees.)
- 4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.
- All reports are considered filed as of the postmark date or the date hand-delivered to PDC.
- SCHEDULES AND ATTACHMENTS**
- State executive and legislative candidates will file Schedules A-s/1, B-s/1, C and L, as appropriate, along with the C-4.
- Judicial and local office candidates and all political committees will file Schedules A, B, C and L, as appropriate, along with their C-4 reports.
- All candidates and committees must attach any C-4 reports that were due but not filed.
- WHERE TO SEND REPORTS**
- Send original C-4 reports along with any attachments to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.
- OTHER REPORTS**
- C-3 (Cash receipts Report): Used with Full Reporting only.
- C-4 (Contribution and Expenditure Report): Used with Full Reporting only.
- C-4 ABB (Receipts and Expenditures Summary): Filed by candidates using Abbreviated Reporting.
- Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of another candidate or committee.

**For assistance, call or write PDC!**

PERMANENT



EXPENDITURE CODE DEFINITIONS AND USES

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.



# IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS

SCHEDULE **B**  
to C4  
(393)

Candidate or Committee Name (Do not abbreviate. Use full name.)

### 1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date received	Contributor's name and address	Description of contribution	Fair market value	Total given by this person during campaign or year
<b>TOTAL</b> (Enter also on line 3 and line 12 of C4)				

### 2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.

Date you were notified of pledge	Name and address of person making pledge (including organizations)	Amount	Total given by this person during campaign or year
<b>TOTAL</b> (Include new pledges above and all other outstanding pledges. (Enter also on line 9 of C4))			

### 3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

- a. List each debt, obligation or estimated expenditure that is more than \$250.00.
- b. List each debt, obligation or estimated expenditure that is more than \$50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code*	OR	Description of Obligation
<b>TOTAL</b> (Include in line 19 of C4)					

PERMANENT

## EXPENDITURE CODE DEFINITIONS AND USES

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column specify who was benefited and, if in kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.



SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

C4	(11/93)	PDC OFFICE USE
	POST RECEIVED	

Candidate or Committee Name (Do not abbreviate. Use full name.) \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ Zip + 4 \_\_\_\_\_ Office Sought (Candidates) \_\_\_\_\_

Report Period Covered From: (last C-4) \_\_\_\_\_ To: (end of period) \_\_\_\_\_

Is this your final report? Yes \_\_\_\_\_ No \_\_\_\_\_

RECEIPTS

1. Previous total cash and in kind contributions (From line 8, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) \_\_\_\_\_
2. Cash received (From line 2, Schedule A) \_\_\_\_\_
3. In kind contributions received (From line 1, Schedule B) \_\_\_\_\_
4. Total Cash and in kind contributions received this period (Line 2 plus 3) \_\_\_\_\_
5. Loan principal repayments made (From line 2, Schedule L) \_\_\_\_\_ ( )
6. Corrections (From line 1 or 3, Schedule C) \_\_\_\_\_ Show + or (-) \_\_\_\_\_
7. Net adjustments this period (Combine line 5 & 6) \_\_\_\_\_ Show + or (-) \_\_\_\_\_
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7) \_\_\_\_\_
9. Total pledge payments due (From line 2, Schedule B) \_\_\_\_\_ ( )

EXPENDITURES

10. Previous total cash and in kind expenditures (From line 17, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) \_\_\_\_\_
11. Total cash expenditures (From line 4, Schedule A or line 5, Schedule A-s/l) \_\_\_\_\_
12. In kind expenditures (goods & services) (From line 1, Schedule B) \_\_\_\_\_
13. Total cash and in kind expenditures made this period (Line 11 plus line 12) \_\_\_\_\_
14. Loan principal repayments made (From line 2, Schedule L) \_\_\_\_\_ ( )
15. Corrections (From line 2 or 3, Schedule C) \_\_\_\_\_ Show + or (-) \_\_\_\_\_
16. Net adjustments this period (Combine lines 14 & 15) \_\_\_\_\_ Show + or (-) \_\_\_\_\_
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16) \_\_\_\_\_

CANDIDATES

Please complete:

	Won	Lost	Unopposed	Name not on ballot
Primary election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Treasurer's Daytime Telephone No.:

( )

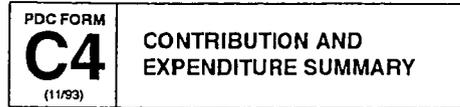
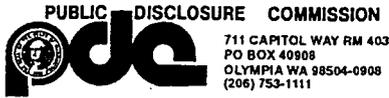
CASH SUMMARY

18. Cash on hand (Line 8 minus line 17) \_\_\_\_\_ [Line 18 should equal your bank account balance(s) plus your petty cash balance.]
19. Liabilities: (Sum of loans and debts owed) \_\_\_\_\_ ( )
20. Balance (Surplus or deficit) (Line 18 minus line 19) \_\_\_\_\_

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true to the best of my knowledge.

Candidate's Signature _____	Date _____	Treasurer's Signature _____	Date _____
-----------------------------	------------	-----------------------------	------------

PERMANENT



Please consult PDC instruction manuals when completing this report.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

**WHO MUST FILE** Each candidate and political committee using Full Reporting.

- FILING DATES**
- 1) File with C-1 (Registration) if you received contributions or made expenditures before registering.
  - 2) File on the 10th of each month if contributions or expenditures were over \$200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
  - 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
    - ◆ 21 days prior to the election
    - ◆ 7 days prior to the election
    - ◆ 10th of the first month after the election\*

(\*Not required after primary from candidates who will be in the general election or from continuing political committees.)

4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as on the postmark date or the date hand-delivered to PDC.

**WHERE TO SEND REPORTS** Send original C-4 reports along with any attachments to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

(Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees check with City Clerk regarding any local filing requirement.)

PERMANENT

**CASH RECEIPTS AND EXPENDITURE**

SCHEDULE  
to C4 **A**  
(11/93)

Candidate or Committee Name (Do not abbreviate. Use full name.)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS

Enter also on line 2 of C4 \_\_\_\_\_

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are:

- 1) If expenditures are in-kind or earmarked contributions to a candidate or committee or independent expenditures that benefit a candidate or committee, identify the candidate or committee in the Description block;
- 2) When reporting payments to vendors for travel expenses, identify the traveller and travel purpose in the Description block; and
- 3) If expenditures are made directly or indirectly to compensate a person or entity for soliciting signatures on a statewide initiative or referendum petition, use code "V" and provide the following information on an attached sheet: name and address of each person/entity compensated, amount paid each during the reporting period, and cumulative total paid all persons to date to gather signatures.

CODE DEFINITIONS ON REVERSE	C - Contributions (monetary, in-kind & transfers) I - Independent Expenditures L - Literature, Brochures, Printing B - Broadcast Advertising (Radio, TV) N - Newspaper and Periodical Advertising O - Other Advertising (yard signs, buttons, etc.) V - Voter Signature Gathering	P - Postage, Mailing Permits S - Surveys and Polls F - Fundraising Event Expenses T - Travel, Accommodations, Meals M - Management/Consulting Services W - Wages, Salaries, Benefits G - General Operation and Overhead
-----------------------------------	---	---

3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of detailed expenses or copies of receipts/invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
N/A	Expenses of \$50 or less	N/A	N/A	

Total from attached pages \_\_\_\_\_

4. TOTAL CASH EXPENDITURES

Enter also on line 11 of C4 \_\_\_\_\_

PERMANENT

## EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B, Item 3)

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
- L LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- B BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- N NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- O OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- V VOTER SIGNATURE GATHERING**. Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- F FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.

**IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS**

SCHEDULE **B**  
to C4 (11/93)

Candidate or Committee Name (Do not abbreviate. Use full name.)

**1. IN KIND CONTRIBUTIONS RECEIVED** (goods, services, discounts, etc.)

Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Aggregate Total	P R I G E N		If \$100 or more, Employer Name, City, State & Occup.
							Occupation
							Occupation
							Occupation
<input type="checkbox"/> Check here if additional pages are attached		<b>TOTAL</b> (Enter also on line 3 and line 12 of C4)		_____			Occupation

**2. PLEDGES RECEIVED BUT NOT YET PAID.** List each pledge of \$100.00 or more.

Date Notified of Pledge	Name and Address of Pledge Maker	Fair Market Value	Aggregate Total	P R I G E N		If \$100 or more, Employer Name, City, State & Occup.
						Occupation
						Occupation
<input type="checkbox"/> Check here if additional pages are attached		<b>TOTAL</b> (include new pledges above and all other outstanding pledges. (Enter also on line 9 of C4)		_____		Occupation

**3. ORDERS PLACED, DEBTS, OBLIGATIONS.** (Give estimate if actual amount not know. Exclude loans. Report loans on Schedule L.)

- a. List each debt, obligation or estimated expenditure that is more than \$250.00.
- b. List each debt, obligation or estimated expenditure that is more than \$50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code*	OR	Description of Obligation
<input type="checkbox"/> Check here if additional pages are attached		<b>TOTAL</b> (Include in line 19 of C4)		_____	

PERMANENT

## EXPENDITURE CODE DEFINITIONS AND USES

(for use on Schedule A and Schedule B, Item 3)

- C MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** your campaign legally makes to other campaigns. Put a "C" in the Code column, in the Description column specify who was benefited and, if in-kind, what was purchased.
- I INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column and fully describe purpose.
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- V VOTER SIGNATURE GATHERING**. Use "V" for expenditures made directly or indirectly to compensate a person or entity for soliciting or procuring signatures on a statewide initiative or referendum petition. Attach itemization of each such payment.
- P POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
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- S SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- T TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Schedule A.
- M MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- W WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- G GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture for the campaign.

**CORRECTIONS**

SCHEDULE **C**  
to C4

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date

**1. CONTRIBUTIONS AND RECEIPTS (Include mathematical corrections.)**

Date of report	Contributor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
----------------	---	-----------------	------------------	---------------------

Total corrections to contributions  
Enter on line 6 of C4. Show + or (-).

**2. EXPENDITURES (Include mathematical corrections.)**

Date of report	Vendor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
----------------	--	-----------------	------------------	---------------------

Total corrections to expenditures  
Enter on line 15 of C4. Show + or (-).

**3. REFUNDS FROM VENDORS.** The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report, Line 1d.

Date of refund	Source/person making refund	Amount of refund
----------------	-----------------------------	------------------

Total refunds  
Enter as (-) on line 6 & line 15 of C4.

PERMANENT

# LOANS

See instructions and examples on reverse

SCHEDULE  
TO C3  
OR C4

**L**  
(1/90)

Candidate or committee name

### 1. LOAN RECEIVED.

Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Repayment schedule	Date due

Also include this amount on line 1c, C3 report →

Name and address of each endorser, co-signer, guarantor or other person liable for the loan:

### 2. LOAN PAYMENTS.

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed

Total Principal Paid (Enter also on lines 5 and 14, C-4 report) →

Total Payments (Enter as an expenditure on Schedule A) →

### 3. LOAN FORGIVEN.

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed

### 4. LOANS STILL OWED. List each loan which has previously been reported and still has a balance due.

Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed

Subtotal

New loans received during this reporting period

Check here if continued on attached sheet.

Total Loans Owed (Include in total on line 19, C-4 report)

PERMANENT

**PUBLIC DISCLOSURE COMMISSION**  
  
 711 CAPITOL WAY RM 403 FJ42  
 PO BOX 40908  
 OLYMPIA WA 98504-0908  
 (206) 753-1111

SCHEDULE TO C3 OR C4	<b>L</b> (1/90)	<b>LOANS</b>
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**INSTRUCTIONS**

Please consult PDC instruction manuals when completing this schedule. Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

**WHO MUST FILE** Each candidate and political committee using full reporting that receives one or more campaign loans.

**FILING DATES** When a loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. Use a separate schedule for each loan received.

When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.

When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

PERMANENT

LOAN RECEIVED  
(Information would appear on separate Schedule L)

LOAN PAYMENTS

LOAN FORGIVEN

LOANS STILL OWED

LOANS		See instructions and examples on reverse		SCHEDULE L TO C3 OR C4	
Candidate or committee name <b>Adrian Adams for State House</b>					
<b>1. LOAN RECEIVED.</b>					
Date received	Lender's name and address	Amount of loan	Annual interest rate	Payment schedule	Date due
2/10/9X	Candidate	\$5,000	12%	\$200/month	Not fixed
APPLICABLE THIS REPORT (Enter on line 18, C-3 report)		\$5,000			
Name and address of each creditor, except for the lender, if other person holds the loan:					
Commercial loan to the candidate from Washington State Bank. Loan co-signed by Sam P. Smith, 145 Boulevard Drive, Podunk, WA and Jane S. Paul, 541 B Street, Podunk, WA. Each guaranteed \$2,500 of the loan.					
<b>2. LOAN PAYMENTS.</b>					
Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed
3/30/9X	Candidate	\$200	\$50	\$250	\$4,800
3/31/9X	Michael Murray	\$100	None	\$100	\$ 400
Total Principal Paid (Enter also on lines 6 and 14, C-4 report)		\$300			
Total Payments (Enter on line 12, Schedule A3)		\$350			
<b>3. LOAN FORGIVEN.</b>					
Date	Lender's name and address	Original amount	Principal forgiven	Amount forgiven	Balance owed
3/15/9X	Kelly Adams	\$250	None	\$150	\$100
<b>4. LOANS STILL OWED.</b> List each loan which has previously been reported and still has a balance due.					
Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed	
2/10/9X	Candidate	\$5,000	\$200	\$4,800	
1/22/9X	Michael Murray	500	500	400	
3/01/9X	Kelly Adams	250	150	100	
3/11/9X	K.N. Lawrence	1,000	0	1,000	
Subtotal					\$6,300
New loans received during this reporting period					0
Total Loans Owed (Reported on line 18, C-4 report)					\$6,300
<input type="checkbox"/> Check box if applicant is attached filer					

**CASH RECEIPTS AND EXPENDITURES**  
**STATE EXECUTIVE AND LEGISLATIVE CANDIDATES**

SCHEDULE to C4 **A-S/L**  
 (10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit since last C4 report was submitted.

Date of Deposit	Amount	Date of Deposit	Amount	Date of Deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4

**CODES FOR CLASSIFYING EXPENDITURES:** If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are: 1) if expenditures are in-kind or earmarked contributions to another candidate or committee or independent expenditures that benefit another candidate or committee, identify that candidate or committee in the Description block; and 2) when reporting payments to vendors for travel expenses, identify the traveller in the Description block.

**CODE DEFINITIONS ON REVERSE**

- \*C\* - Contributions (monetary, in-kind & transfers)
- \*I\* - Independent Expenditures
- \*L\* - Literature, Brochures, Printing
- \*B\* - Broadcast Advertising (Radio, TV)
- \*N\* - Newspaper and Periodical Advertising
- \*O\* - Other Advertising (yard signs, buttons, etc.)
- \*P\* - Postage, Mailing Permits
- \*S\* - Surveys and Polls
- \*F\* - Fundraising Event Expenses
- \*T\* - Travel, Accommodations, Meals
- \*M\* - Management/Consulting Services
- \*W\* - Wages, Salaries, Benefits
- \*G\* - General Operation and Overhead

3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures by category (Own Campaign, Contribution to Others, etc.), and show the categorical subtotals in the appropriate column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount. Put the amount in the appropriate expense category column.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of expenses or copies of receipts/ invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Own Campaign	Contribution to Others	Public Office	Non-Campaign Misc.
N/A	Expenses of \$50 or Less	N/A	N/A				
Totals From Attached Pages							
4 TOTALS BY EXPENSE CATEGORY .....							
				1	2	3	4

5. TOTAL CASH EXPENDITURES (Sum of columns 1, 2, 3 & 4) Enter also on line 11 of C4

POC Form C4, Sch. A-S/L (Rev. 10/91)

CODE DEFINITIONS ON REVERSE

PERMANENT

## EXPENDITURE CODE DEFINITIONS AND USES

- "C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, in-kind, what was purchased, and put the amount in "Contribution to Others."
- "I" INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."
- "L" LITERATURE**. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- "B" BROADCAST ADVERTISING**. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- "N" NEWSPAPER & PERIODICAL ADVERTISING**. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- "O" OTHER ADVERTISING**. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- "P" POSTAGE**. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- "F" FUNDRAISING EVENTS**. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- "S" SURVEYS AND POLLS**. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- "T" TRAVEL, ACCOMMODATIONS, MEALS**. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.
- "M" MANAGEMENT AND CONSULTING SERVICES**. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- "W" WAGES, SALARIES, BENEFITS**. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- "G" GENERAL OPERATION AND OVERHEAD**. Use "G" for general campaign operating expenses and overhead including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)



PUBLIC DISCLOSURE COMMISSION  
711 CAPITOL WAY RM 403  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(206) 753-1111

PDC FORM ABB <b>C4</b> <small>(7/92)</small>	<b>ABBREVIATED RECEIPTS &amp; EXPENDITURES REPORT</b>
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### INSTRUCTIONS

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

**WHO MUST FILE** Each candidate and political committee using Abbreviated Reporting.

**FILING DATES** 1) Special election candidates and political committees supporting or opposing special election candidates or ballot issues file on the 10th of the month following the election.

2) Candidates who lose in the primary and political committees supporting or opposing primary election ballot issues file on October 10.

3) Candidates who are in the general election and political committees making expenditures supporting or opposing general election candidates or ballot measures file on December 10.

4) Continuing political committees not taking part in elections during a year file annual reports on January 10 cover the preceding calendar year.

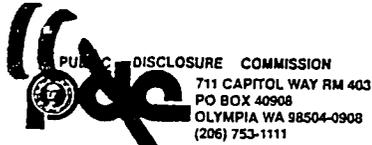
5) A final report is filed whenever a candidate's committee or a political committee ceases operation, disposes of any surplus campaign funds and has a zero account balance. Final reports may be filed at any time and may coincide with one of the due dates listed above.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

**WHERE TO FILE** Send original C-4 ABB report to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

For assistance, call or write PDC!

PERMANENT



# ABBREVIATED REPORT RECEIPTS AND EXPENDITURES

<b>ABB C4</b> (7/92)	P M A R K	R E C E I V E D	POC OFFICE USE
	R E C E I V E D		

Candidate or Committee Name (Do not abbreviate. Include full name) \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_ Zip + 4 \_\_\_\_\_

1. PERIOD COVERED BY REPORT: From: \_\_\_\_\_ To: \_\_\_\_\_ Final Report: Yes \_\_\_\_\_ No \_\_\_\_\_

a. Candidates: Start of campaign through the end of the month in which the election occurred.

b. Ballot Measure Committees: Start of campaign through the end of the month in which the election occurred.

c. Continuing Committees filing post-election report: January 1 through end of the month in which election occurred.

d. Continuing Committees filing annual report: Calendar year (January 1 through December 31).

2. RECEIPTS

a. Cash on hand from previous campaign or year (Include money in checking, savings and other accounts) \_\_\_\_\_

b. Cash contributions received this campaign or year (Include monetary contributions, loans, fund raising and cash contributions by a candidate) \_\_\_\_\_

c. Total cash receipts (Add lines 2a + 2b) \_\_\_\_\_

d. Other contributions, including in-kind (Include candidate's and committee workers' out of pocket expenditures, donated goods and services, filing fees paid by others and similar non-cash contributions) \_\_\_\_\_

e. Total contributions (Add lines 2c + 2d) \_\_\_\_\_

3. EXPENSES

a. Cash expenditures \_\_\_\_\_

b. Other expenditures. (Enter the amount shown on line 2d above here. Non-cash contributions are listed as both received and expended. Disregard any materials which may remain on hand.) \_\_\_\_\_

c. Total expenditures (Add lines 3a + 3b) \_\_\_\_\_

4. SURPLUS/DEFICIT

a. Cash on hand at end of reporting period (Subtract: line 3a from 2c) \_\_\_\_\_

b. Debts and obligations owed \_\_\_\_\_

c. Surplus or deficit \_\_\_\_\_

CANDIDATES

	Won	Last	Unopposed	Name not on ballot
Please complete: Primary election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge.

Candidate's signature \_\_\_\_\_ Date \_\_\_\_\_

Treasurer's signature (if a political committee) \_\_\_\_\_ Date \_\_\_\_\_

See Instructions on reverse

PERMANENT

**IN KIND CONTRIBUTIONS, PLEDGES, ORDERS  
DEBTS, OBLIGATIONS**

SCHEDULE to C4 **B-S/L**  
(10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

**1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)**

Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Total given by this person during campaign or year
<b>TOTAL</b> (Enter also on lines 3 and 12 of C4)				

**2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.**

Date Notified of Pledge	Name and Address of Person Making Pledge (including organizations)	Amount	Total given by this person during campaign or year
N/A	Sum of outstanding pledges previously itemized on Schedule B →		N/A
<b>TOTAL</b> (Enter also on line 9 of C4)			

**3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)**

- a. List each debt, obligation or estimated expenditure which is more than \$250.00.
- b. List each debt, obligation or estimated expenditure which is more than \$50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code*	OR	Description of Obligation
<b>TOTAL</b> (Include in line 19 of C4)					

PERMANENT

CC

EXPENDITURE CODE DEFINITIONS AND USES

PERMANENT

- "C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."
- "I" INDEPENDENT EXPENDITURES (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."
- "L" LITERATURE. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- "B" BROADCAST ADVERTISING. Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- "N" NEWSPAPER & PERIODICAL ADVERTISING. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- "O" OTHER ADVERTISING. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- "P" POSTAGE. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- "F" FUNDRAISING EVENTS. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- "S" SURVEYS AND POLLS. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- "T" TRAVEL, ACCOMMODATIONS, MEALS. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.
- "M" MANAGEMENT AND CONSULTING SERVICES. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- "W" WAGES, SALARIES, BENEFITS. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- "G" GENERAL OPERATION AND OVERHEAD. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

**LOANS**

See Instructions and examples on reverse

SCHEDULE TO C3 OR C4	<b>L</b> (11/93)
----------------------------	---------------------

Candidate or committee name \_\_\_\_\_

**1. LOAN RECEIVED.** (Loans are considered contributions and are subject to any applicable limit.)

Date loaned	Lender's name and address	P R I N G E N	Amount of loan	Annual interest rate	Repayment schedule	Date due

Also include this amount on line 1c, C3 report ➤

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Name and Address of Each Loan Endorser, Co-signer	P R I N G E N	Amount Liabie For	Aggregate Total	If Total Contributed is \$100 or More, Show Endorser's Occupation and Name, City, & State of Employer

Check here if continued on attached sheet.

**2. LOAN PAYMENTS.** (Candidates may be repaid amount loaned or \$3,000 per election, which ever is less. See instruction manual for details.)

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed

Total Principal Paid (Enter also on lines 5 and 14, C-4 report) ➤

Total Payments (Enter as an expenditure on Schedule A) ➤

**3. LOAN FORGIVEN.**

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed

**4. LOAN STILL OWED.** (List each loan which has previously been reported and still has a balance due.)

Date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed

Subtotal \_\_\_\_\_

New loans received during this reporting period \_\_\_\_\_

Check here if continued on attached sheet.

Total Loans Owed (Include in total on line 19, C-4 report) \_\_\_\_\_

PERMANENT



SCHEDULE TO C3 OR C4	<b>L</b> (11/93)	<b>LOANS</b>
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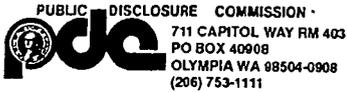
Please consult PDC instruction manuals when completing this schedule.  
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Each candidate and political committee using full reporting that receives one or more campaign loans..
- FILING DATES** When a loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. **Use a separate schedule for each loan received.**
- When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.
- When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

PERMANENT

- LOAN RECEIVED (Information would appear on separate Schedule L) →
- LOAN PAYMENTS →
- LOAN FORGIVEN →
- LOANS STILL OWED →

LOANS		See instructions and examples on reverse		SCHEDULE TO C3 OR C4		<b>L</b> (11/93)	
Candidate or committee name Adrian Adams for State Representative							
<b>1. LOAN RECEIVED.</b> (Loans are considered contributions and are subject to any applicable limit.)							
Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Payment schedule	Date due		
2/12/9X	Tyler Adams (candidate's wife)	\$500	12%	\$100/month	Not fixed		
2/12/9X	Tyler Adams	500	Same	Same	Same		
Also include this amount on line 14, C-3 report →		\$1,000					
Name and Address of Each Loan Employer, Co-signer Conrad Smith 8419 West View Court Anyplace, WA 99000							
		Amount Usable For	Aggregate Total	If Total Contributed is \$100 or More, Show Employer's Occupation and Name, City, & State of Employer			
		\$500	\$500	ABC Company, Madison, WI Sales Manager			
<input type="checkbox"/> Check here if continued on attached sheet							
<b>2. LOAN PAYMENTS.</b> (Candidates may be repaid amount loaned or \$3,000 per election, whichever ever is less. See instruction manual for details.)							
Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed		
3/30/9X	Tyler Adams	\$100	\$10	\$110	\$900		
3/31/9X	Michael Murray	100	None	100	400		
Total Principal Paid (Enter also on line 8 and 14, C-4 report) →		\$200					
				Total Payments (Enter as an expenditure on Schedule A) →	\$210		
<b>3. LOAN FORGIVEN.</b>							
Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed		
3/15/9X	Kelly Adams	\$250	None	\$150	\$100		
<b>4. LOAN STILL OWED.</b> (List each loan which has previously been reported and still has a balance due.)							
Date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed			
2/12/9X	Tyler Adams	\$1,000	\$100	\$ 900			
1/22/9X	Michael Murray	500	100	400			
3/01/9X	Kelly Adams	250	150	100			
3/11/9X	K. M. Lawrence	1,000	0	1,000			
				Subtotal	\$2,400		
				New loans received during this reporting period	0		
				Total Loans Owed (Include in total on line 18, C-4 report)	\$2,400		
<input type="checkbox"/> Check here if continued on attached sheet.							



# ABBREVIATED REPORT RECEIPTS AND EXPENDITURES

**ABB  
C4**  
(11/93)

P  
M  
A  
R  
K  
  
R  
E  
C  
E  
I  
V  
E  
D

POC OFFICE USE

Candidate or Committee Name (Do not abbreviate. Include full name)

Mailing Address

City

Zip + 4

Office Sought (Candidates)

1. PERIOD COVERED BY REPORT: From: \_\_\_\_\_ To: \_\_\_\_\_ Final Report: Yes \_\_\_\_\_ No \_\_\_\_\_

- a. Candidates: Start of campaign through the end of the month in which the election occurred.
- b. Ballot Measure Committees: Start of campaign through the end of the month in which the election occurred.
- c. Continuing Committees filing post-election report: January 1 through end of the month in which election occurred.
- d. Continuing Committees filing annual report: Calendar year (January 1 through December 31).

## 2. RECEIPTS

- a. Cash on hand from previous campaign or year (Include money in checking, savings and other accounts) .....
- b. Cash contributions received this campaign or year (Include monetary contributions, loans, fund raising and cash contributions by a candidate) .....
- c. Total cash receipts (Add lines 2a + 2b) .....
- d. Other contributions, including in-kind (Include candidate's and committee workers' out of pocket expenditures, donated goods and services, filing fees paid by others and similar non-cash contributions) .....
- e. Total contributions (Add lines 2c + 2d) .....

## 3. EXPENSES

- a. Cash expenditures .....
- b. Other expenditures. (Enter the amount shown on line 2d above here. Non-cash contributions are listed as both received and expended. Disregard any materials which may remain on hand.) .....
- c. Total expenditures (Add lines 3a + 3b) .....

## 4. SURPLUS/DEFICIT

- a. Cash on hand at end of reporting period (Subtract: line 3a from 2c) .....
- b. Debts and obligations owed .....
- c. Surplus or deficit .....

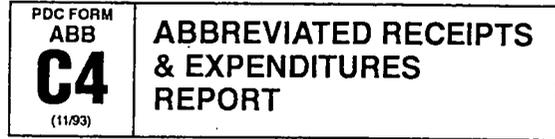
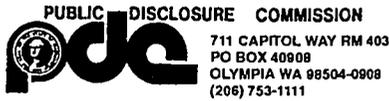
### CANDIDATES

	Won	Lost	Unopposed	Name not on ballot
<i>Please complete:</i> Primary election	<input type="checkbox"/>	<input type="checkbox"/>		
General election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge.

Candidate's Signature	Date	Treasurer's Signature (if a political committee)	Date
-----------------------	------	--	------

PERMANENT



PERMANENT

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

- WHO MUST FILE** Each candidate and political committee using Abbreviated Reporting.
- FILING DATES**
- 1) Special election candidates and political committees supporting or opposing special election candidates or ballot issues file on the 10th of the month following the election.
  - 2) Candidates who lose in the primary and political committees supporting or opposing primary election ballot issues file on October 10.
  - 3) Candidates who are in the general election and political committees making expenditures supporting or opposing general election candidates or ballot measures file on December 10.
  - 4) Continuing political committees not taking part in elections during a year file annual reports on January 10 cover the preceding calendar year.
  - 5) A final report is filed whenever a candidate's committee or a political committee ceases operation, disposes of any surplus campaign funds and has a zero account balance. Final reports may be filed at any time and may coincide with one of the due dates listed above.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

- WHERE TO FILE**
- Send original C-4 ABB report to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.
- (Candidates for city offices, city ballot issue committees and other political committees who give to city candidates or ballot issue committees check with city clerk regarding any local filing requirement.)



AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

**WAC 390-16-050 Forms for contributions and expenditures of political committees not domiciled in Washington state.** The official form for the report of contributions and expenditures of political committees not domiciled in Washington state or otherwise not required to report is designated "C-5," revised (~~1/90~~) 11/93. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8 1/2" x 11" white paper.

PERMANENT



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403 FJ42  
PO BOX 40908  
OLYMPIA WA 98504-0908  
(206) 753-1111

FORM <b>C5</b> 1/90	PDC OFFICE USE
P O S T  R E C E I V E D	

**OUT OF STATE OR FEDERAL COMMITTEE CONTRIBUTION TO WASHINGTON CANDIDATES OR COMMITTEES**

1. Name and address of committee making contribution	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 19____ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
--	---

3. Explain briefly the purpose or affiliation of the committee. (e.g., A PAC of employees of XYZ Trade Assn., or the candidates committee of US Senator John Doe, or a PAC of members of the United Worker's Union.)

4. Officers or responsible leaders of committee	
Name and address	Title

5. Candidate contributions: List each Washington candidate for state or local office to whom you have made a contribution of more than \$50.00

Candidate's name	Office sought	Political party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot number	For or against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state or local candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount

Check here  if continued on attached sheet

8. Total contributions and expenditures (Add parts 5, 6, 7) .....

**CAUTION: Failure to report transactions within ten days will cause the funds to forfeit to Washington State.**

POC form C-5 (Rev. 1/90) -1500- Continue on reverse



PERMANENT

9. Contributions received from Washington residents: List all contributions of more than \$25.00 in aggregate to this out of state, federal or other committee during the current calendar year from Washington residents or corporations with a place of business in Washington.

Name and address	Date	Amount
[Redacted]		

Check here  if continued on attached sheet

10. CERTIFICATION: I certify the information contained in this report is true and correct to the best of my knowledge.

Signature of committee official \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

**BE SURE TO NOTIFY EACH CANDIDATE AND COMMITTEE THAT YOU HAVE FILED THIS REPORT**

**INSTRUCTIONS**

(Statutory reference: RCW 42.17.090 (1)(K))

**WHO MUST REPORT**

A political committee not domiciled in the State of Washington, a federal committee or other committee not required to register under Washington law, which has made contributions to a state or local candidate or political committee in Washington state.

**WHEN TO REPORT**

A C-5 report is due within ten days of a Washington state candidate or political committee receiving a contribution of more than \$50 from an out-of-state or federal PAC. After filing an initial C-5 report, subsequent reports during the same calendar year may be filed by letter updating or amending the information previously reported. These follow-up reports are also due within ten days of contributions's receipt.

**SEND REPORT TO**

Public Disclosure Commission  
711 Capitol Way, Room 403,  
PO Box 40908  
Olympia, WA 98511-0908

**VIOLATIONS AND PENALTIES**

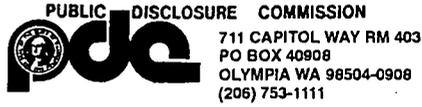
It is a violation of law for any person to make, or for any candidate or political committee to accept from any one person, contributions in the aggregate exceeding \$50,000 for any campaign for state-wide office or \$5,000 for any other campaign within 21 days of a general election.

Failure to report contributions and file the information required by this report within 10 days after the Washington candidate or committee receives the funds will cause the funds to be forfeited to the state.

**FOR ADDITIONAL INFORMATION**

Contact the Public Disclosure Commission at (206) 753-1111.

1500-C5B-



<b>FORM</b> <b>C5</b> (11/93)	PDC OFFICE USE  P M A R K  R E C E I V E D
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## OUT OF STATE OR FEDERAL COMMITTEE CONTRIBUTION TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making contribution	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 19____ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Explain briefly the purpose or affiliation of the committee. (e.g., A PAC of employees of XYZ Trade Assn., or the election committee of US Senator John Doe, or a PAC of members of the United Worker's Union.)

4. Officers or responsible leaders of committee	Title
Name and address	

5. Candidate contributions: List each Washington candidate for state or local office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot number	For or against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state or local candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here  if continued on attached sheet

8. Total contributions and expenditures (Add parts 5, 6, 7) .....

**CAUTION: Failure to report transactions within ten days will cause the funds to forfeit to Washington State.**

PERMANENT

9. Contributions received from Washington residents:

List all contributions of more than \$25.00 in aggregate to this out of state, federal or other committee during the current calendar year from Washington residents or corporations with a place of business in Washington.

Name and address

Date

Amount

Check here  if continued on attached sheet

10. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

11. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official

Name - Typed or Printed

Title

Daytime Telephone No.: ( )

(Be sure to notify each contribution recipient that you have filed this report, in order that they are aware they may spend the contribution given to them.)

**INSTRUCTIONS**

(Statutory reference: RCW 42.17.090 (1)(K))

**WHO MUST REPORT**

A political committee not domiciled in the State of Washington, a federal committee or other committee not required to register under Washington law, which has made contributions to a state or local candidate or political committee in Washington state.

**WHEN TO REPORT**

A C-5 report is due within ten days of a Washington state candidate or political committee receiving a contribution of more than \$50 from an out-of-state or federal PAC. After filing an initial C-5 report, subsequent reports during the same calendar year may be filed by letter updating or amending the information previously reported. These follow-up reports are also due within ten days of the contribution's receipt.

**SEND REPORT TO**

Public Disclosure Commission  
711 Capitol Way, Room 403  
PO Box 40908  
Olympia, WA 98504-0908

**VIOLATIONS AND PENALTIES**

- Candidates for legislative office have a contribution limit of \$500 per election. Candidates for statewide executive office have a limit of \$1,000 per election. Each primary and general is a separate election.
- It is a violation of law for any person to make, or for any political committee or any local or judicial candidate to accept from any one person, contributions in the aggregate exceeding \$5,000 within 21 days of a general election
- Failure to report contributions and file the information required by this report within 10 days after the Washington candidate or committee receives the funds will cause the funds to be returned or forfeited to the state.

PERMANENT

**WSR 94-05-014**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Physical Therapy)  
 [Order 403B—Filed February 4, 1994, 1:04 p.m.]

Date of Adoption: November 16, 1993.

Purpose: Establishes continuing competency requirements, interim permit requirements, adopts model procedural rules and further clarifies existing requirements for applicants and licensees.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-040, 246-915-050, 246-915-090, 246-915-120, 246-915-140, and 246-915-160.

Statutory Authority for Adoption: RCW 18.74.023.

Pursuant to notice filed as WSR 93-20-058 on October 1, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-915-085 Continuing competency, subsection (3)(a) remove "including." WAC 246-915-160 Personnel identification, subsection (1) replace "physical therapist aide" with "physical therapy aide."

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

January 17, 1994

Carol Neva

for Patricia Muchmore, PT  
 Vice-Chair

AMENDATORY SECTION (Amending Order 144B, filed 2/20/91, effective 3/23/91)

**WAC 246-915-040** (~~(Reciprocity—Requirements for licensure:)~~) Licensure by endorsement—Applicants from approved schools. (1) Before (~~(reciprocity)~~) licensure by endorsement is extended to any individual licensed to practice physical therapy under the law of another state, territory, or District of Columbia, (~~(the board shall determine the qualifications of the applicant as prescribed by law based in part on the examination and the)~~) the applicant shall have graduated from a board approved school, shall have taken the examination for physical therapy and shall have achieved a passing score approved by the board.

(2) If the decision to extend (~~(reciprocity)~~) licensure by endorsement is based on an examination other than the examination approved in WAC 246-915-030(1), the board shall determine if such examination is equivalent to that required by the laws of this state.

(3) The board shall not recommend to the secretary that a person be licensed as a physical therapist under the (~~(reciprocity)~~) licensure by endorsement provisions of RCW 18.74.060, unless said applicant shall have taken and passed the examination approved by the board, or other examination equivalent to that required by the laws of this state.

(4) If a licensee has not worked in physical therapy in the last (~~(three)~~) two years, the applicant may be granted (~~(reciprocity)~~) licensure by endorsement under the following conditions:

(a) The board may require reexamination of an applicant who has not been actively engaged in lawful practice in another state or territory; or

(b) Waive reexamination in favor of evidence of continuing education satisfactory to the board.

AMENDATORY SECTION (Amending Order 144B, filed 2/20/91, effective 3/23/91)

**WAC 246-915-050 Reinstatement.** (1) (~~(Any physical therapist who fails to renew the license)~~) A license not renewed within thirty days of the date set by the secretary (~~(for renewal)~~) shall automatically lapse. The licensee may, within (~~(three)~~) two years from the date of lapse and upon recommendation of the board, request the license be revived by paying all back fees and a penalty fee determined by the secretary.

(2) If a license has lapsed more than (~~(three)~~) two years, the license may be revived under the following conditions:

(a) The board may require reexamination of an applicant who has not been continuously engaged in lawful practice in another state or territory, or

(b) Waive reexamination in favor of evidence of continuing (~~(education)~~) competency satisfactory to the board.

NEW SECTION

**WAC 246-915-078 Interim permits.** An applicant who has not previously taken the physical therapy examination may be eligible for an interim permit under RCW 18.74.075 upon submission of the following:

(1) Payment of the application fee and interim permit fee;

(2) Evidence of having obtained a physical therapy degree from a board approved school;

(3) Completed physical therapy license application on which the applicant:

(a) Requests to be scheduled for the first examination for which he or she is eligible no later than sixty days before the date of the examination;

(b) Requests to receive an interim permit;

(c) Provides the name, location and telephone number of his or her place of employment;

(d) Provides the name and license number of his or her licensed supervising physical therapist; and

(e) Provides written confirmation from the licensed supervising physical therapist attesting that he or she will:

(i) Ensure that a licensed physical therapist will remain on the premises at all times to provide "graduate supervision" as specified in RCW 18.74.075;

(ii) Report to the board any change in supervision or any change in location where services are to be provided;

(iii) Ensure that the holder of the interim permit wears a badge identifying his or her clinical title and/or role in the facility as a graduate physical therapist; and

(iv) Ensure that the holder of the interim permit ceases practice immediately upon notification of examination failure; or

(v) Ensure that the holder of the interim permit obtains his or her physical therapy license immediately upon notification of having passed the examination.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

**WAC 246-915-090 Change of address or name—Notification of department.** Any physical therapy licensee or holder of an interim permit who moves from the address

named in his or her application or license or who changes his or her name shall within 10 days thereafter notify the department in writing of his or her old and new addresses or of the former and new names.

**AMENDATORY SECTION** (Amending Order 328B, filed 2/1/93, effective 3/4/93)

**WAC 246-915-120 Applicants from unapproved schools.** Applicants who have not graduated from a physical therapy program approved by the board must have a valid, unencumbered license ~~((or be licensed or authorized))~~ to practice physical therapy in the country in which the physical therapy education was obtained must have graduated from a program of physical therapy education with requirements substantially equal to those required of graduates of board approved schools, and must submit an application for review by the board. Supporting documentation will include but not be limited to:

(1) Official transcript from the physical therapy program showing degree date;

(2) Evaluation report of transcripts from a credentialing service ~~((recognized))~~ approved by the board. ~~((If the qualifications are substantially equal to those required of graduates of board approved schools the applicant will be eligible to write the examination being administered in Washington: Provided, If the applicant has taken the examination recognized by the board in another state or territory, or District of Columbia and the scores reported meet Washington requirements, such applicant may be exempted from the examination in Washington at the discretion of the board;))~~

(3) ~~((If English is neither the national language nor the language of training, documentation must also include:~~

~~((a) Verification of having))~~ Verification that English is the national language of the country where the physical therapy program is located and the physical therapy program employs English as the language of training; or achieved a score of not less than five hundred fifty on the test of English as a foreign language (TOEFL); and ~~((b) Verification of having achieved))~~ that the applicant has a score of not less than two hundred thirty on the test of spoken English (TSE); ~~((and))~~

(4) Verification of a valid, unencumbered license or authorization to practice physical therapy from the country in which the physical therapy education was obtained.

**AMENDATORY SECTION** (Amending Order 144B, filed 2/20/91, effective 3/23/91)

**WAC 246-915-140** ~~((Supportive personnel—Supervision:))~~ Delineation of responsibilities—Supportive personnel. A physical therapist is professionally and legally responsible for patient care given by supportive personnel under the physical therapist's supervision. If a physical therapist fails to adequately supervise patient care given by supportive personnel, the board may take disciplinary action against the physical therapist. Supervision of supportive personnel requires that the ~~((supervisor))~~ physical therapist perform the following activities:

(1) Provide initial evaluation of the patient.

(2) Develop a treatment plan and program, including ~~((long and short term))~~ treatment goals.

(3) Assess the competence of supportive personnel to perform assigned tasks.

(4) Select and delegate appropriate portions of the treatment plan and program.

(5) Direct and supervise supportive personnel in delegated functions.

(6) Reevaluate the patient and adjust the treatment plan as acceptable physical therapy practice requires, consistent with the delegated health care task.

~~((7) ((Following an evaluation or reevaluation by the licensed physical therapist, the tasks delegated to and performed by the physical therapist aide are to be determined, taught, supervised, and documented by the licensed physical therapist and shall remain the responsibility of the supervising licensed physical therapist. A separate record shall be maintained by the licensed physical therapist documenting training and proficiency of the aide to perform the delegated tasks. The supervising licensed physical therapist must be on the premises while treatment is performed.)) Document sufficient in-service training and periodic evaluation of performance to assure safe performance of the tasks assigned to supportive personnel.~~

(8) Provide discharge planning.

~~((9) Individuals involved in direct patient care in a physical therapy setting who do not qualify as a physical therapist or physical therapist assistant, shall require direct or immediate supervision.))~~

#### NEW SECTION

**WAC 246-915-340 Adjudicative proceedings.** 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.

**AMENDATORY SECTION** (Amending Order 144B, filed 2/20/91, effective 3/23/91)

**WAC 246-915-160 Personnel identification.** (1) Each person shall wear ~~((a badge identifying))~~ identification showing his or her clinical title, and/or role in the facility as a physical therapist, a physical therapist assistant, a physical ~~((therapist))~~ therapy aide, or a graduate physical therapist as appropriate. Supportive personnel shall not use any term or designation which indicates or implies that he or she is licensed in the state of Washington.

(2) ~~((A))~~ The license or interim permit, or a certified copy of the license or interim permit shall be posted in a safe, conspicuous location at the licensee's work site. The licensee's address may be blocked out before posting the license or interim permit ~~((certified copy of the license)).~~

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 246-915-085 Continuing competency.** Evidence of continuing competency in the form of continuing education and employment related to physical therapy must be submitted every two years. Licensees born in even

numbered years shall submit their continuing competency record form with license renewal every even numbered year beginning in 1996. Licensees born in odd numbered years shall submit their continuing competency record form with license renewal every odd numbered year beginning in 1997. Completion of this requirement each two year period shall be a prerequisite for license renewal.

(1) Education - 40 contact hours:

(a) Continuing education specifically relating to the practice of physical therapy.

(i) Participation in a course with specific goals and objectives relating to the practice of physical therapy;

(ii) Cassette tape, video tape, and/or book review;

(iii) Correspondence coursework completed.

(2) Physical therapy employment - 200 hours specifically relating to physical therapy.

(3) Licensees shall maintain records of all activities relating to continuing education and professional experience for a period of seven years. Acceptable documentation shall mean:

(a) Continuing education. Certificates of completion, ((including)) course sponsors, goals and objectives of the course, dates of attendance and total contact hours, for all continuing education being reported.

(b) Cassette tape, video tape, and/or book review. A two page synopsis of each item reviewed must be written by the licensee.

(c) Correspondence coursework completed. Course description and/or syllabus and copies of the completed and scored examination must be kept on file by the licensee.

(d) Physical therapy employment. Certified copies of employment records or proof acceptable to the board of physical therapy employment for the hours being reported.

(4) The board may audit continuing competency activities and the licensee's failure to maintain his or her own records and substantiate any continuing competency activities upon request by the board may result in the suspension or revocation of a license, or denial of a license renewal. Each licensee who has been selected for audit shall, within 30 days from the date of notification, submit acceptable documentation as evidence of having met the requirements of this section.

(5) Extensions or exceptions may be considered by the board on a case by case basis upon written request.

Reviser's note: The unnecessary deletion marks 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 94-05-024**  
**PERMANENT RULES**  
**WASHINGTON STATE PATROL**  
[Filed February 7, 1994, 8:43 a.m.]

Date of Adoption: February 7, 1994.

Purpose: Chapter 204-30 WAC is being repealed due to laws which are in place which cover the purpose of the rule.

Citation of Existing Rules Affected by this Order: Repealing chapter 204-30 WAC.

Statutory Authority for Adoption: RCW 46.37.005.

Pursuant to notice filed as WSR 93-16-067 on July 30, 1993.

Effective Date of Rule: Thirty-one days after filing.  
February 7, 1994  
Roger W. Bruett  
Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 204-30-010 Authority.
- WAC 204-30-020 Purpose.
- WAC 204-30-030 Scope.
- WAC 204-30-040 Definitions.
- WAC 204-30-050 Decal material, dimensions and characteristics.
- WAC 204-30-060 Decal information requirements.
- WAC 204-30-070 Decal mounting requirements.
- WAC 204-30-080 Tint manufacturer requirements.

**WSR 94-05-036**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
[Filed February 8, 1994, 10:41 a.m.]

Date of Adoption: December 28, 1993.

Purpose: Changes WAC to reflect actual fees charged per official fee schedule.

Citation of Existing Rules Affected by this Order: Amending WAC 246-907-030.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 93-23-082 on November 17, 1993.

Effective Date of Rule: Thirty-one days after filing.  
January 24, 1994  
Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending WSR 93-18-015, filed 8/24/93, effective 9/24/93)

**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

PERMANENT

(c) PHARMACIST		ARNP with prescriptive authorization registration fee	20.00
Exam fee (full exam)	200.00	ARNP with prescriptive authorization renewal fee	20.00
Reexamination fee (jurisprudence portion)	40.00	Sodium pentobarbital for animal euthanization registration fee	30.00
Original license fee	100.00	Sodium pentobarbital for animal euthanization renewal fee	30.00
Renewal fee, active and inactive license	105.00	Other CSA registrations	30.00
Renewal fee, retired license	20.00		
Penalty fee	105.00	(l) LEGEND DRUG SAMPLE - distributor registration fees	
Reciprocity fee	250.00	Original fee	275.00
Certification of license status to other states	20.00	Renewal fee	200.00
Retired license	20.00	Penalty fee	200.00
Temporary permit	50.00	(m) POISON MANUFACTURER/SELLER - license fees	
(d) SHOPKEEPER		Original fee	30.00
Original fee	25.00	Renewal fee	30.00
Renewal fee	25.00	(n) Facility inspection fee	150.00
Penalty fee	12.50	(o) PRECURSOR CONTROL PERMIT	
SHOPKEEPER - with differential hours		Original fee	50.00
Original fee	25.00	Renewal fee	50.00
Renewal fee	25.00	(p) LICENSE REISSUE	
Penalty fee	<del>(10.00)</del> 12.50	Reissue fee	15.00
(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		
Distributors renewal fee (i.e. wholesalers)	90.00		
Manufacturers registration fee	90.00		
Manufacturers renewal fee	90.00		
<del>(Physician assistant registration fee</del>	<del>15.00</del>		
<del>Physician assistant renewal fee</del>	<del>10.00</del>		

**WSR 94-05-039  
PERMANENT RULES  
DEPARTMENT OF ECOLOGY**

[Order 93-10—Filed February 8, 1994, 3:40 p.m.]

Date of Adoption: February 8, 1994.

Purpose: If needed to avoid federal sanctions, the rule increases to \$450 the cost of repairs before a vehicle may be waived from meeting the emission test standards. It allows the Department of Ecology to require compliance with EPA emission recalls and require reinspection of vehicles found to have excessive emissions using on-road testing.

Citation of Existing Rules Affected by this Order: Amending chapter 173-422 WAC.

Statutory Authority for Adoption: Chapter 70.120 RCW.

Pursuant to notice filed as WSR 93-20-047 on September 30, 1993.

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

February 8, 1994

Mary Riveland  
Director

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

**WAC 173-422-020 Definitions.** Unless a different meaning is clearly indicated by context, the following definitions will apply:

(1) "Accuracy" means the degree of correctness by which the true value of a measured sample is determined.

(2) "Calibration gases" mean a blend of hydrocarbon (propane), carbon monoxide (CO), and carbon dioxide using nitrogen as carrier gas. The concentrations are to be traceable to within two percent of NBS standards.

(3) "Certificate of acceptance" means an official form, issued by someone authorized by the department, which certifies that all of the following conditions have been met: The recipient's vehicle initially failed the emission inspection, the recipient has provided original receipts proving that more than one hundred dollars on a 1980 or earlier model year motor vehicle or one hundred fifty dollars on a 1981 or later model motor vehicle were spent after the first inspection and before the final inspection on repairs performed by a "certified emission specialist" solely to reduce emissions, the vehicle on final reinspection again failed to meet such standards, and the repair information section of the test report has been completed and the vehicle has been in use for more than five years or fifty thousand miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

After January 1, 1995, if needed to prevent federal sanctions, owners of vehicles registered in either the Puget Sound or Spokane emission contributing area must prove with original receipts that more than four hundred fifty dollars was spent.

(4) "Certificate of compliance" means an official form, issued by someone authorized by the department, which certifies that the recipient's vehicle on inspection complied with applicable emission inspection standards.

(5) "Certified emission specialist" means an individual who has been issued a certificate of instruction by the department as authorized in RCW 70.120.020 (2)(a) and has maintained the certification by meeting requirements of WAC 173-422-190(2).

(6) "Dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(7) "Department" means the department of ecology.

(8) "Drift" means the change in the reading of the analyzer to a given sample over a period of time with no adjustment to the analyzer having been made between the initial and final measurements.

(9) "Emission contributing area" means a land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor vehicle related air quality standards in a noncompliance area. ~~((The inspection program implemented by this chapter applies only to vehicles registered in emission contributing areas.))~~

(10) "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies, and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

(11) "Fleet" means a group of fifteen or more motor vehicles owned or leased concurrently by one owner assigned a fleet identifier code by the department of licensing.

(12) "Gross vehicle weight rating (GVWR)" means the manufacturer stated gross vehicle weight rating.

(13) "HC and CO emissions" means the concentration of hydrocarbons (measured as n-hexane) and carbon monoxide in the engine exhaust.

(14) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(15) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

(16) "NBS" means National Bureau of Standards.

(17) "Noncompliance area" means a land area within whose boundaries any air quality standard for any air contaminant from the emissions of motor vehicles will probably be exceeded.

(18) "PPM" means parts per million by volume.

(19) "Primary emission control components" means the components of the vehicle installed by the manufacturer for the purpose of reducing emissions or its replacement or modification which is acceptable to the United States Environmental Protection Agency. These components are the fuel inlet restrictor, the catalytic converter or thermal reactor, the air injection system components, the thermostatic air cleaner, the exhaust gas recirculation system components, the evaporative emission system components including the gas cap, the positive crankcase ventilation system components and the electronic control unit components that control the air/fuel mixture and/or ignition timing including all related sensors.

(20) "Repeatability" means the ability of an analyzer to report the same value for successive measurements of the same sample.

(21) "Response" means how quickly there is a change in reading following a change in concentration at the sample probe inlet.

(22) "Sensitivity" means the smallest change in the value of a measured sample that can be detected by the analyzer.

(23) "Zero calibration gases" means air or nitrogen in which total impurities do not exceed 0.01 percent.

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

**WAC 173-422-030 Vehicle emission inspection requirement.** All motor vehicles, not specifically exempted by WAC 173-422-170, which are registered or reregistered within the boundaries of an emission contributing area, as specified in WAC 173-422-050, are subject to the vehicle emission inspection requirements of this chapter. In addition, the department may require an emission inspection of a motor vehicle, except military tactical vehicles, operated for more than sixty days a year on a federal installation located within an emission contributing area, or a vehicle garaged at a location within an emission contributing area, or a vehicle which has previously passed an emission inspection but has been identified using on road testing as likely to no longer comply with the inspection standards. Neither the department of licensing nor its agents may change the registered owner or may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (1) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060, 70.120.080, or 70.120.090 or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (2) exempted from this requirement pursuant to RCW 46.16.015(2). The certificates must have a date of

validation which is within six months of the date of application for the vehicle license, license renewal or registered owner change. Certificates for fleet or owner tested vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

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

**WAC 173-422-050 Emission contributing areas.**

Emission contributing areas within which the motor vehicle emission inspection program applies are designated by the following United States Postal Service ZIP codes as of January 1, ((4992)) 1993, set forth below:

(1) Puget Sound Region

98001	98036	98083
98002	98037	<u>98093</u>
98003	98038	98101 thru 98199,
98004	98039	inclusive except 98110
98005	98040	98201 thru 98208
98006	98041	98258
98007	98042	98270
98008	98043	98271
98009	98046	98275
98011	98047	98290
98012	98052	<u>98291</u>
<u>98015</u>	98053	<u>98327</u>
98020	98054	98332
98021	98055	98335
98023	98056	98338
98025	98057	98344
98026	98058	98352
98027	98059	98354
98028	98062	98371 thru 98374
98031	98063	98387
98032	98064	98388
98033	98071	98390
98034	98072	98401 thru 98499
98035	98073	

(2) Spokane Region

99001	(( <u>99202</u>
99005	<u>99203</u>
99014	<u>99204</u>
99016	<u>99205</u>
99019	<u>99206</u>
99021	<u>99207</u>
99025	<u>99208</u>
99027	<u>99212</u>
99037	<u>99216</u>
99201 thru 99299	<u>99218</u> ))

(3) Vancouver Region

98607
98660 thru 98668
98671 <u>except Skamania County</u>
98682-86

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

**WAC 173-422-070 Gasoline vehicle inspection procedures.** All persons certified by, or under contract to, the department to conduct motor vehicle emission inspections shall use the following procedures. Variations to the procedures specified may be established by the department for all or certain vehicles. Vehicles, not repaired as required by an emission recall for which owner notification was attempted after January 1, 1995, shall not be inspected until compliance with the recall is established.

(1) The vehicle exhaust emissions of carbon monoxide, hydrocarbons, and carbon dioxide shall be measured using either a:

(a) Two-speed (idle and 2500 rpm) test with the transmission in neutral or park; or

(b) A loaded test with the transmission in drive for automatic transmissions or in ((third)) second gear ((unless the engine speed does not equal or exceed 2500 rpm then second gear shall be used for the loaded mode)) for manual transmissions for the loaded mode and in park or neutral for the idle mode. A vehicle with an automatic transmission may be tested in drive for the idle mode if the idle rpm in neutral or park exceeds 1100 rpm. However, the idle rpm as tested cannot exceed 1100 rpm unless allowed to do so by the vehicle manufacturer's specifications.

(2) The engine shall be at normal operating temperature during the emission test with all accessories off.

(3) Any vehicle causing an unsafe condition, such as the continuous leaking of any fluid onto the floor, may be rejected from the inspection site.

(4) Vehicles shall be approximately level during the test.

(5) Vehicles with more than one exhaust pipe shall be tested by sampling one exhaust pipe if the exhaust pipes originate from a common point in the exhaust system or simultaneously sampling each exhaust pipe.

(6) The following steps shall be taken to prevent excessive dilution. The exhaust sample probe must be inserted at least ten inches into the tail pipe. If this is not possible, an extension boot shall be used. The exhaust emission test results shall not be recorded if the sum of the carbon monoxide and the carbon dioxide concentration does not equal or exceed six percent.

(7) If the engine stalls during the test, the exhaust sample probe shall be removed, the engine restarted, and one additional attempt made to complete the test after reinserting the exhaust sample probe.

(8) Two speed test sequence.

(a) Insert the exhaust sample probe.

(b) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the vehicle and the idle mode terminated if:

(i) The vehicle shall pass the idle mode test and this mode terminated if, prior to an elapsed time of thirty seconds, exhaust gas concentrations are less than or equal to 100 3ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the idle mode test and this mode terminated if, at any time between an elapsed time of thirty seconds and ninety seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

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(c) Increase the engine speed to 2500 ± 300 rpm.

(d) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass or fail determination shall be made for the vehicle and the 2500 rpm mode terminated for vehicles that passed the idle mode test as follows:

(i) The vehicle shall pass the 2500 rpm mode test and this mode terminated if, prior to an elapsed time of thirty seconds, exhaust gas concentrations are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the 2500 rpm mode test and this mode terminated if, at any time between an elapsed time of thirty seconds and one hundred eighty seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

(e) A pass or fail determination shall be made for vehicles that failed the idle mode test and the 2500 rpm mode test terminated at the end of an elapsed time of one hundred eighty seconds.

(f) If the vehicle fails the initial idle mode test and passed the high-speed mode test, a second idle test will be conducted.

(9) Loaded test sequence.

(a) Insert the exhaust sample probe.

(b) The test shall start when the dynamometer speed is within the following limits:

Engine Cylinders	Speed (mph)	Brake Horsepower
4 or less	22-25	2.8-4.1
5-6	29-32	6.8-8.4
7 or more	32-35	8.4-10.8

If the dynamometer speed falls outside the limits for more than five seconds in one excursion, or fifteen seconds over all excursions, the test shall be restarted.

(c) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the loaded mode and this mode terminated if at any point between an elapsed time of thirty seconds and ninety seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

(d) The idle mode shall start when the dynamometer speed is zero and the vehicle engine speed is less than 1100 rpm. If engine speed exceeds 1100 rpm the idle mode test shall be restarted.

(e) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the vehicle and the idle mode terminated if:

(i) Prior to an elapsed time of thirty seconds, exhaust gas concentrations are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) At any time between an elapsed time of thirty seconds and ninety seconds, exhaust gas concentrations are less than or equal to the applicable emission standards.

(10) Before failing a 1981-~~(1986)~~ 1987 model year Ford Motor Company vehicle with a gross vehicle weight of 8500 pounds or less, or a 1984-85 model year Honda Prelude, the engine shall be shut off for ten seconds and then restarted and the failing mode repeated.

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

**WAC 173-422-075 Diesel vehicle inspection procedure.** Diesel vehicles shall be tested using the following procedure:

(1) With the transmission in neutral, move the accelerator pedal from normal idle as rapidly as possible to the full power position, and hold in this position (~~for a minimum of three seconds but not more than five seconds unless~~) until the speed governor limits the engine speed or the engine might exceed~~((s))~~ the maximum speed allowed by the vehicle manufacturer~~((, as indicated by the vehicle's tachometer or exhibits unstable operation when held against the speed governor then the accelerator pedal shall be immediately released))~~.

(2) Fully release the accelerator pedal so the engine decelerates to normal idle.

(3) Measure the smoke opacity with an opacity meter which meets the requirements specified in WAC 173-422-095 continuously during the test.

(4) Record the peak opacity reading (~~two seconds after the opacity reading initially reaches 10 percent~~).

(5) Repeat the previous steps up to ten times (~~or until three successive opacity measurements~~) if necessary to obtain a peak opacity reading and two peak readings immediately following it that are equal to or less than the standard established in WAC 173-422-065.

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

**WAC 173-422-095 Exhaust opacity testing equipment.** The exhaust opacity measurement shall be conducted using an opacity meter approved by the department.

The opacity meter shall:

(1) Automatically calibrates itself before each test.

(2) Provide for continuous measurement of exhaust opacity unaffected by rain or wind.

~~((3) Have an accuracy of plus or minus one opacity percent digit.~~

~~(4) Have a reading linearity of one opacity percent digit from 0-100 percent opacity.~~

~~(5) Have a drift of less than plus or minus one percent per use.~~

~~(6) Have a response time of less than 0.140 seconds for a change from 0-95 percent of full scale.~~

~~(7) Have a warm-up time of less than one minute.~~

~~(8) Have an operating temperature range from 32 to 120 degrees Fahrenheit.~~

~~(9) Automatically read the opacity two seconds after the opacity initially reaches 10 percent.)~~

AMENDATORY SECTION (Amending Order 91-46 [93-15], filed 5/3/93 [9/22/93], effective 6/3/93 [10/23/93])

**WAC 173-422-130 Inspection fees.** At an inspection facility operated under contract to the state, the fee for the first emission inspection on each vehicle applicable to a vehicle license year shall be ~~((sixteen))~~ twelve or less dollars. If the vehicle fails, one reinspection will be provided free of charge at any inspection station operated under contract to the state, provided that the reinspection is

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applicable to the same vehicle license year. Any additional reinspection of a failed vehicle applicable to the same vehicle license year will require the payment of ~~((sixteen))~~ twelve or less 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:** 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 91-46, filed 5/3/93, effective 6/3/93)

**WAC 173-422-160 Fleet and diesel owner vehicle testing requirements.** The department may authorize emission inspections by fleet operators including government agencies and the owners of diesel motor vehicles with a gross vehicle weight rating in excess of 8500 pounds or by an automotive service or testing facility engaged by the vehicle owner for such activity. Authorizations to conduct emission tests and issue certificates of compliance under this section are limited to authorized fleet vehicles or diesel vehicles with a gross vehicle weight rating in excess of 8500 pounds.

(1) The exhaust analyzers used for certification testing of gasoline fleet vehicles shall meet the specifications in WAC 173-422-090.

(2) All persons engaged in testing of gasoline fleet or diesel vehicles must comply with all applicable provisions of this chapter except WAC 173-422-100 (2)(b)(iii) and (iv) and (c)(iii) and (iv). The checks specified in WAC 173-422-100 (2)(c) except (c)(iii) and (iv), in addition to being required weekly, shall be performed after each relocation of the analyzer.

(3) All persons conducting tests for the purpose of issuing certificates for fleet or diesel vehicles shall be ecology certified emission specialists.

(4) Legibly completed forms will constitute certificates of compliance for licensing purposes. Any person conducting testing under this section shall forward to the department within ten working days after the end of each month, a copy of each certificate of compliance issued during that month. Copies of each certificate of compliance shall be retained by the person issuing the certificate for at least two years from date of issuance. Alternative arrangements for providing and/or storing this information using automated data storage devices may be approved or required by the department.

Forms must be purchased from the department in advance of issuance through payment of ~~((sixteen))~~ twelve or less dollars to the department for each certificate requested. Refunds or credit may be given for unused certificates returned to the department.

Payment for fleet forms is waived for government fleets.

Test forms provided under this section are official documents. Persons receiving the forms from the department are accountable for each form provided.

Voided forms must be handled the same as certificates of compliance. One copy shall be sent to the department within ten days after the end of the month in which the form was voided and one copy shall be retained by the person accountable for the forms for at least two years after date of voiding. Refunds will not be made for voided forms.

(5) All persons authorized to conduct fleet or government vehicle inspections under this section shall be subject to performance audits and compliance inspections by the department, during normal business hours.

(6) Fleet vehicles may be inspected any time between their scheduled license renewals.

(7) Certificates of acceptance may not be issued under this section.

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

**WAC 173-422-170 Exemptions.** The following motor vehicles are exempt from the inspection requirement:

(1) Vehicles proportionally registered pursuant to chapter 46.85 RCW.

(2) Vehicles whose model year is 1967 or earlier.

(3) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale; this does not exempt motor vehicles that are or have been leased.

(4) Motor vehicles that use propulsion units powered exclusively by electricity.

(5) Motor-driven cycles as defined by RCW 46.04.332.

~~((Until June 1, 1993, motor vehicles powered by diesel engines or two cycle engines.~~

~~((7)))~~ Farm vehicles as defined by RCW 46.04.181.

~~((8)))~~ (7) Vehicles exempted from licensing pursuant to RCW 46.16.010.

~~((9)))~~ (8) Mopeds as defined by RCW 46.04.304.

~~((10)))~~ (9) Vehicles garaged and operated out of the emission contributing area.

~~((11)))~~ (10) Vehicles registered with the state but not for highway use.

~~((12)))~~ (11) Used vehicles ~~((whose licenses have expired or will expire within thirty days when))~~ sold by a Washington licensed motor vehicle dealer.

~~((13)))~~ (12) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas and so recognized by the department of licensing.

~~((14)))~~ (13) Motor vehicles whose manufacturer or engine manufacturer provides information that the vehicle cannot meet emission standards because of its design. In lieu of exempting these vehicles alternative standards and/or inspection procedures may be established.

(14) Motor vehicles whose registered ownership is being transferred between parents, siblings, grandparents, grandchildren, spouse or present co-owners and all transfers to the legal owner or a public agency.

(15) To ensure a biennial inspection of vehicles registered in the emission contributing areas, motor vehicles with model year matching (even to even, odd to odd) the expira-

tion year of the license being purchased. This does not apply to vehicles being inspected because the registered owner is being changed.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-422-140 Inspection forms and certificates.

#### **WSR 94-05-040**

##### **PERMANENT RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Order 5028—Filed February 9, 1994, 9:52 a.m.]

Date of Adoption: February 9, 1994.

Purpose: To raise assessment from milk processors to help cover costs under dairy inspection program. Raise necessitated by legislative fund shift and loss on interest on local ag funds.

Citation of Existing Rules Affected by this Order: Amending WAC 16-103-001 Assessments.

Statutory Authority for Adoption: RCW 15.36.105.

Pursuant to notice filed as WSR 94-01-151 on December 21, 1993.

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

February 9, 1994

James M. Jesernig  
Director

AMENDATORY SECTION (Amending WSR 92-20-056, filed 10/2/92, effective 11/2/92)

**WAC 16-103-001 Assessments.** (1) The assessment on all milk processed in this state shall be ~~((one-half))~~ fifty-three and one-half hundredths of one cent per hundred-weight.

(2) All assessments shall be levied on the operator of the first milk plant receiving the milk for processing. This includes milk plants producing their own milk for processing and milk plants that receive milk from other sources.

(3) All assessments shall be in addition to those collected under chapter 15.44 RCW and/or Title 142 WAC.

#### **WSR 94-05-042**

##### **PERMANENT RULES**

#### **DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed February 9, 1994, 10:02 a.m., effective March 14, 1994]

Date of Adoption: February 9, 1994.

Purpose: To respond to legislation passed last session and to clarify that surety provided by self insurers is for the sole purpose of paying workers' compensation benefits and related assessments.

Citation of Existing Rules Affected by this Order: Amending WAC 296-15-020, 296-15-030, and 296-15-170.

Statutory Authority for Adoption: RCW 51.04.020.

Pursuant to notice filed as WSR 94-03-006 on January 6, 1994.

Effective Date of Rule: March 14, 1994.

February 9, 1994

Mark O. Brown

Director

AMENDATORY SECTION (Amending WSR 90-14-036, filed 6/29/90, effective 7/30/90)

**WAC 296-15-020** (~~(Application)~~) **Certification to self-insure.** (1) The application for certification to self-insure will be made only by those firms who have been in business for a minimum of three years, on a form prescribed by the department which will elicit necessary information as to an employer's qualifications for self-insurance. The application form must be accompanied by independently audited financial statements for the most recent three years of the applicant firm's operation. Provided that, in cases where the majority of employees of a currently certified self-insurer purchase the controlling interest in that business or a portion of that business pursuant to an employees' stock ownership plan (ESOP), the three-year requirement of this subsection shall not apply. In these instances, an ESOP may apply for certification to self-insure on a form prescribed by the department, which must be accompanied by an independently audited financial statement covering a minimum of one year of the new entity's operation. Any such new entity must meet all other qualifications and requirements to obtain and maintain certification, provided that, until such time that independently audited financial statements covering three years of the applicant firm's operation are provided, such entities shall provide surety at a level equal to one hundred twenty-five percent of the amount which would otherwise be required by the department as specified in WAC 296-15-030.

(2) The application shall be supplied by the department to an employer upon the employer's request. It shall be completely and accurately filled out by the employer, and forwarded, with all necessary supporting documents, to the director.

(3) The director shall consider all matters relating to the applicant's qualifications to perform as a self-insurer, and shall advise the employer of the action taken on the application thirty days before the requested certification date. If deemed necessary for obtaining further information, the director may extend the time for acting on the application. Employers who are denied certification due to deficient accident prevention programs may be required to wait six months before being considered for certification again.

(4) An employer granted approval to self-insure will be required to acknowledge, in writing, its responsibility for the payment of benefits on all claims occurring during its period of self-insurance. This obligation will continue whether the employer voluntarily surrenders its certificate to self-insure or the certificate is withdrawn by the department.

#### NEW SECTION

#### **WAC 296-15-02606 Self-insured employee rights.**

(1) The self-insured employer shall provide a copy of the claim file within fifteen days of receipt of a written request from the worker or his/her representative.

(a) If the self-insurer determines the release of the file to an unrepresented worker, in whole or in part, may not be in the worker's interest, a denial request shall be submitted to the self-insurance section of the department pursuant to WAC 296-14-970.

(b) The self-insurer shall provide the first copy of the claim file free of charge. Unless a particular portion of a file is requested, the self-insurer shall supply a copy of the entire file. Upon receipt of a subsequent written request, any additional material added to the claim file after the initial release shall also be made available free of charge.

(c) If a second request for a copy of the claim file or a second request for material previously supplied is received from the worker and/or any representative of the worker, a reasonable fee may be charged.

(2) The self-insurer shall forward to the department, within five working days of receipt, any written protest or appeal by a worker related to his/her industrial insurance claim. The date that the protest or appeal is received by the self-insurer shall be deemed to be the date the protest is received by the department for the purpose of RCW 51.52.050.

(3) Within sixty days from the date a claim is filed, the self-insurer shall request allowance or denial of the claim.

(a) Exceptions to this requirement are allowance and closure of medical only claims which qualify for action pursuant to the provisions of RCW 51.32.055(8).

(b) Upon request of the self-insurer, an interlocutory order pursuant to WAC 296-15-160 may be issued.

(c) If the self-insurer fails to request allowance or denial within sixty days, the department shall promptly intervene and adjudicate the claim. In the department's intervention, the department is not precluded from obtaining the information necessary to properly adjudicate the self-insured claim. During this period, the claim shall remain in a provisional status.

(4) Failure of the self-insurer to comply with subsections (1) through (3) of this section shall subject the self-insurer to a penalty under RCW 51.48.080 which shall accrue for the benefit of the worker. In cases where the worker has submitted a written request for the department to determine whether a violation has occurred under this rule, the department shall issue an order conforming to RCW 51.52.050 within thirty days.

**AMENDATORY SECTION** (Amending WSR 93-11-064, filed 5/14/93, effective 6/14/93)

**WAC 296-15-030 Surety requirement.** Subsections (2) through (7) and (10) through (12) of this section shall apply only to individual self-insurers and joint ventures and shall not apply to counties, cities, school districts, municipal corporations, and individual accounts participating in group self-insurance programs. Subsection (9) of this section shall apply only to counties, cities, municipal corporations, and school districts not participating in group self-insurance programs. Group self-insurance programs are subject to subsection (8) of this section and reserve requirements set forth in WAC 296-15-02601(3) and 296-15-02605. Subsections (1) and (13) of this section apply to all self-insurers.

(1) For the purposes of this section, the following definitions apply:

(a) "Default" means the financial inability to continue the payment of benefits and assessments. A default results in a payment stoppage which is not due to a claims administration decision.

(b) "Developed reserves" means an estimate of the total remaining cost of the claims of an accident year made by use of development factors.

~~((c))~~ (c) "Development factor" means an actuarially determined factor which expresses the changes in either incurred or paid liability from one year to the next.

~~((d))~~ (d) "Incurred liability" means the total cumulative amount paid plus the total amount reserved for future payments on all claims of an accident year.

~~((e))~~ (e) "Loss development" means the historical change in the incurred or paid liability of an accident year due to the additional payment of benefits or the revaluation of claim reserves as a result of changes in the claimant's condition, the reopening of claims, or the opening of claims incurred but not previously reported.

~~((f))~~ (f) "Loss development analysis" means the actuarial projection of ultimate claim liability which a self-insured employer may expect to pay for all claims reported to the department each year as of December 31 based on the historical development of liability.

~~((g))~~ (g) "Paid liability" means the total cumulative amount paid on the claims of an accident year.

~~((h))~~ (h) "Reported reserves" means the estimated dollar amount adequate to cover claim costs through closure.

(2) The surety required of self-insurers is for the sole purpose of providing for the payment of benefits and assessments in the event of a default under Title 51 RCW, as defined in subsection (1)(a) of this section. Surety is not considered to be an asset of the estate of the debtor and will not be released by the department in the event the self-insurer files or has filed a petition for dissolution or relief under bankruptcy laws. Upon approval of an application for certification to self-insure, the director shall review the matter and notify the employer of the amount of surety which must be provided ~~((to secure the payment of compensation and assessments,))~~ pursuant to RCW 51.14.020 as now or hereafter amended. This amount as so established may be satisfied by the employer's supplying of cash, corporate or governmental securities approved by the director, or a bond, written by a company admitted to transact surety business in this state, in favor of the department. A self-insurer with a net worth of not less than five hundred million dollars may also provide surety in the form of an irrevocable standby letter of credit issued by a federally or state chartered commercial bank authorized to conduct business in this state. Cash and securities of a self-insurer shall be deposited with an escrow agent approved by the director and administered pursuant to a written agreement between the department, the self-insurer and the escrow agent. Cash and securities shall be registered in the name of the escrow agent on behalf of the self-insurer. Securities which represent cash deposited in a bank with which the self-insurer has a borrowing relationship shall not be an asset available to that bank in the event of a default on any obligation to that bank by the self-insurer. The originals of all surety documents submitted by self-insurers after acceptance by the director will be kept on file in the department.

(3) The minimum amount of surety required for initial certification as a self-insurer shall be the projected average current cost of a permanent total disability claim including medical, time-loss, pension reserve, and any other miscellaneous claim costs paid prior to award of the pension. This average cost shall be calculated by the department on an annual basis.

The surety required for initial certification as a self-insurer may be greater than the minimum amount described above. In establishing such surety requirements, the department shall estimate the following amounts:

(a) The estimated amount of accident and medical aid fund premium that the self-insurer would have paid to the state fund during the first year of self-insurance, if it had remained in the state fund.

(b) The estimated amount of incurred benefits for the first year of self-insurance, based on past experience with the state fund, adjusted for intervening changes in benefit schedules and exposure.

If either or both of the above amounts exceed the minimum surety requirement described in this section, the department will require the larger of (a) or (b) of this subsection as the surety requirement for initial certification as a self-insurer.

(c) Provided that, the initial surety requirement for a self-insurer may be based on an estimate of the expected average annual incurred losses, made by an independent qualified actuary.

(d) The surety required in accordance with the above procedures may be adjusted by the department if there are other known conditions which may alter the self-insurer's potential claim costs and/or its ability to pay them.

(4) The surety requirement for each self-insurer will be subject to review and increased or decreased at such times as the director deems necessary to maintain the adequacy of these requirements. To facilitate this review a self-insurer's annual report (SIF #7) shall be required in the form prescribed by the director and supplied to all self-insurers.

Surety requirements shall not be increased unless and until one or more of the following conditions are met:

(a) An estimate of the self-insurer's outstanding claim liabilities, made by either the self-insured employer or the department, exceeds the amount of surety in force; or

(b) The projected average current cost of a permanent total pension claim including medical, time-loss, pension reserve, and any other miscellaneous claim costs paid prior to award of the pension, exceeds the surety in force for the employer by twenty-five thousand dollars or more.

(5) In determining the surety requirement after the initial three years of certification, the department will make an analysis of the self-insurer's loss development using both incurred and paid methods. The analysis will result in factors for each period of loss development.

(a) These factors will be used to estimate the developed reserves within each method, as follows:

(i) The reported incurred liability for each accident year will be multiplied by its development factor resulting in the developed incurred liability after any appropriate subtraction of amounts for secured pensions and anticipated recoveries from excess insurance.

(ii) The reported paid liability for each accident year, without these subtractions, will be multiplied by its development factor resulting in the developed paid liability.

(iii) The developed reserve estimates made by the incurred and paid methods will be the result of subtracting the amount of benefits paid to date from the developed liability estimated by the respective methods.

(b) The surety required to secure the self-insurance reserves reported at the end of each calendar year will be determined by the percent of difference between the developed reserves estimated by the incurred method and the developed reserves estimated by the paid method. Whether the paid estimate is higher or lower than the incurred estimate, the paid estimate will be subtracted from the incurred estimate. The resulting difference will be divided by the incurred estimate to determine the percent of difference. The surety requirement will then be established as follows:

(i) In cases where the difference between the estimates is less than twenty-five percent, the surety will be established at the level of the incurred estimate.

(ii) In cases where the difference between the estimates is twenty-five percent or more but less than forty percent, the surety will be established at the average of the two estimates.

(iii) In cases where the difference between the estimates is forty percent or more, the department will make such adjustments to its procedure for estimating developed reserves as necessary. The surety will be established at the resulting estimate.

(iv) The surety required of a self-insurer will not be less than the current minimum surety requirement, with the exception that surety will not be required to increase to the minimum level unless the conditions indicated in subsection (4) of this section are met.

(c) The following special considerations shall apply in adjusting surety requirements for a self-insurer:

(i) Pension claims - Reserve amounts attributable to death or permanent total disability claims independently secured by means of a bond or assignment of account, and which are included in estimates of outstanding claim liabilities as shown on the self-insurer's annual report (SIF #7), shall be deducted from estimates of outstanding claim liabilities made in accordance with other provisions of this section.

(ii) Reinsurance - Anticipated recoveries under reinsurance policies held by a self-insurer must be documented by the self-insurer and reported to the department to qualify for consideration in establishing surety requirements. Such anticipated recoveries shall be applied to either the self-insurer's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7) or the department's estimate of the self-insurer's outstanding liabilities made in accordance with this rule, whichever is greater. If the resulting estimate of claim liabilities net of reinsurance recoveries is less than the surety requirement imposed by this rule without adjustment for reinsurance, the surety requirement shall be reduced accordingly; provided, that surety requirement imposed upon initial certification of a self-insurer or the minimum surety requirement may be retained by the department regardless of other estimates of claim liabilities for the self-insurer.

(iii) Strict application of loss development factors based upon the loss development analysis presumes a consistency of reserving methodology and results for the self-insurer. If the department determines that an employer has changed its reserving methodology in such a way as to invalidate loss development factors based upon past experience, then the department shall make such adjustments to the procedure as it may deem appropriate under the circumstances.

(iv) The department will give due consideration to any estimate of the self-insured employer's outstanding claim liabilities made by an independent qualified actuary. Such independent actuarial estimates are optional and not required by this rule.

(v) The department may allow a cap to the surety required of a self-insurer for each policy period in which there has been aggregate excess workers' compensation insurance. The cap will be equal to the dollar amount resulting by subtraction of the total benefits paid for the period from the policy retention amount.

(A) This cap shall be allowed only if the following criteria have been met prior to the annual determination of the surety requirement:

(I) The excess insurance company shall specify in writing that it will reimburse the department for any claims costs the department may incur if the self-insurer defaults and the department has paid the benefits.

(II) The self-insurer shall provide, in addition to its regular annual report (SIF-7), a report showing the claims costs and reserves by policy period for the time there is aggregate excess insurance.

(III) Any change in the retention amount for a policy period shall be communicated in writing to the department by the excess insurance company.

(B) The department will compare its estimate of the self-insurer's developed reserves for each policy period to the policy retention amount for that period less the benefits paid to date. The cap will be allowed if the developed reserves are greater. A reduction in a self-insurer's surety requirement will not be allowed for an anticipated recovery from specific excess insurance if a cap is allowed for aggregate excess insurance. The self-insurer shall provide surety for the amount of developed reserves exceeding any limit of the excess insurance coverage for a policy period.

(d) Any changes to the existing surety required by the department based on the loss development analysis shall be due by July 1 of each year, or an authorized extension date, and such changes shall provide adequate surety for all self-insured workers' compensation liabilities of the employer, regardless of when those liabilities were incurred.

(6) Surety must be submitted on a department-approved form. This form requires coverage of all past, present, and future liabilities. The only exceptions which would allow coverage from the effective date forward are the self-insurer's initial surety or surety which continues coverage provided by other cancelled surety. If a bond is provided in an amount equal to the self-insurer's current surety requirement, on a department-approved form covering all liabilities, all other surety will be released. The department will have sole authority to determine in which order surety is used in the event of a default.

(7) When an employer surrenders its certificate to self-insure or its certificate is withdrawn by the department, it

must continue to provide for the payment of benefits on claims occurring during its period of self-insurance and to provide surety at the level determined by the department. Surety shall not be reduced from the level last required until three full calendar years after the date of surrender of certificate. The Annual Report of Self-Insured Business (SIF #7) must continue to be filed as long as quarterly reporting is required. A bond existing at the time of surrender of certificate may be cancelled, but it continues to provide surety for claims occurring prior to its cancellation. Any increase in surety required must be in the form of cash or securities deposited into an escrow account if a bond or letter of credit cannot be provided. ~~((All surety will be held until there is no further possibility of benefit payments.))~~ The department will consider release of surety to the self-insurer or its successor when all of the following have occurred:

(a) All claims against the self-insurer are closed; and  
(b) The self-insurer has been released from quarterly reporting of claims costs as required by WAC 296-15-060; and

(c) Ten years have passed from the date of release from reporting requirements. Claims reopened, or new filings for occupational diseases which occurred during the period of self-insurance, after release of surety shall be the obligation of the former self-insurer. Any benefits paid by the department as a result of a default by the former self-insurer after the release of surety shall be recovered by assessment against all self-insurers through the self-insurers' insolvency trust.

(8) A self-insurer's annual report (SIF #7) shall be required of group self-insurance programs on the form supplied by the department.

(9) The surety requirement for counties, cities, school districts, and municipal corporations shall provide for sufficient revenues to satisfy one hundred percent of the estimated claims for the succeeding fiscal period. The minimum security requirement shall be one hundred thousand dollars. In addition, a cumulative reserve of not less than twenty-five percent of the surety requirement must also be established. This cumulative reserve may be in the form of a bond, cash or securities in an escrow account, or any acceptable legal source of funding.

By July 1 of each year, each county, city, school district, or municipal corporation shall certify, on a form supplied by the department, its estimated claims liability and the revenues to meet those obligations. Documentation must be provided showing the estimated claims liabilities, the source(s) of revenues, and detailing accounts identified for the self-insurance obligations. Documentation of the cumulative reserve must specify the type of funding and reflect the account balance. Surety requirements for governmental units shall be subject to a periodic review by the department.

(10) An employer meeting the financial requirements specified in RCW 51.14.020(2) may provide the department with an irrevocable standby letter of credit to satisfy the surety requirement specified for its self-insurance obligations. An employer using a letter of credit must provide the department with a memorandum of understanding, on a form supplied by the department, agreeing to the following conditions:

(a) The letter of credit providing surety for the self-insurer's workers' compensation claims liability will cover all past, present, and future liability of the self-insurer regardless of any date of injury.

(b) Unless the department is notified otherwise, by registered mail at least sixty days prior to its expiration date, the letter of credit will be automatically extended without amendment for an additional one-year period.

(c) The self-insurer may substitute a bond and/or cash or securities deposited into an escrow account, in an amount designated by the department, as replacement for the letter of credit.

(d) If the department is notified that the letter of credit will not be renewed and no acceptable replacement surety is provided within thirty days of receipt of such notice, the department will draw the full value of the letter of credit. All proceeds of the letter of credit will be deposited with the accident fund under a subsidiary ledger account. Accrued interest in excess of the self-insurer's surety requirement will be returned semiannually. If the self-insurer provides acceptable replacement surety at a later date, the proceeds will be returned.

(e) If, in addition to not providing replacement surety for a nonrenewed letter of credit, the self-insurer then defaults on payment of its workers' compensation liabilities, the proceeds of the letter of credit previously deposited with the accident fund and the accrued interest will be used to provide for payment of the self-insurer's workers' compensation liabilities.

(f) If the self-insurer's letter of credit remains in force and the self-insurer defaults on the payment of its workers' compensation liabilities, the department will draw the full value of the letter of credit. The proceeds will be deposited and accounted for as indicated in (d) of this subsection and, with the accrued interest, used to provide for payment of the self-insurer's workers' compensation liabilities.

(g) Legal proceedings initiated by any party with respect to the letter of credit shall be subject to the courts and laws of the state of Washington.

(11) Letters of credit provided by self-insurers as surety are subject to acceptance by the department. Acceptance will include, but not be limited to, approval of the financial condition of the banking institution issuing the letter of credit.

(a) A bank must provide to the department an audited financial statement or call report made to the banking regulatory agencies for the most recent fiscal year. The financial information from such banks must be provided with the first letter of credit issued and annually during the period that any letter of credit is in effect.

(b) A letter of credit will not be accepted if the amount of the credit exceeds the legal limit allowed to the bank.

(c) A letter of credit will not be accepted unless the issuing bank is able to accept presentment of drawings on the credit at an office in this state.

(12) Letters of credit and any amendments to letters of credit must be on forms supplied by the department. The department's interest in a letter of credit will be released if the self-insurer provides a bond or acceptable cash or securities deposited into an escrow account in the amount required by the department.

(13) Failure to provide active surety in the amount required by the department will result in the withdrawal of certification.

AMENDATORY SECTION (Amending Order 88-07, filed 6/1/88)

**WAC 296-15-170 Cessation of business—Change of status.** (1) A self-insurer that proposes to cease doing business entirely, or proposes to cease doing business in Washington, or proposes to dispose of, by sale or otherwise, the controlling interest of the business for which the certificate was issued shall immediately notify the department in writing of such proposed action and shall, upon request, surrender ~~((their))~~ its certificate for cancellation.

(2) A self-insurer that amends its articles, charter or agreement of incorporation, association, copartnership or sole proprietorship so as to change its identity or business structure or in any manner so as to materially alter its status as a self-insured employer as it existed at the time of the issuance of its certificate shall, within thirty days, notify the department, in writing, of such action and provide the department with information regarding any change in the status of such self-insured employer. The department may, at its discretion, ask for copies of any documents deemed necessary regarding such transactions.

(3) When a self-insurer sells, divests, or spins off a part of itself, self-insurance coverage for the separated part ends with the date of separation from the self-insurer. The selling self-insurer remains responsible for the liability for claims against the separated part occurring up to the date of the separation unless the department approves an alternative. If the separating part desires to be a self-insurer, an application for certification must be received by the department thirty days before the date of certification. If certification cannot be granted before the date of separation, industrial insurance coverage must be purchased effective with the date of separation.

(4) An employer which voluntarily surrenders its certificate to self-insure or which has had its certificate withdrawn by the department must continue to provide for the payment of benefits on all claims occurring during its period of self-insurance.

**WSR 94-05-045**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3704—Filed February 9, 1994, 10:35 a.m.]

Date of Adoption: February 9, 1994.

Purpose: New chapter 388-270 WAC, Incorrect payments, clarifies and simplifies existing rules without making substantive changes in existing policy. Repeals chapter 388-44 WAC. The department is currently rewriting, reorganizing, and recodifying the policies relating to financial and medical assistance programs to facilitate on-line (computer) access by eligibility staff in the field offices.

Citation of Existing Rules Affected by this Order:  
Repealing chapter 388-44 WAC, Overpayment—Repayment.

Statutory Authority for Adoption: RCW 74.08.090.  
Pursuant to notice filed as WSR 94-02-052 on December 30, 1993.

Effective Date of Rule: Thirty-one days after filing.  
February 9, 1994  
Dewey Brock, Chief  
Office of Vendor Services

### Chapter 388-270 WAC INCORRECT PAYMENTS

#### NEW SECTION

##### **WAC 388-270-1005 Incorrect payments—General.**

(1) This chapter provides department policies for incorrectly paid financial and medical assistance benefits.

(2) Public assistance overpayments means a debt due the state subject to recovery by the department.

(3) Department policies for incorrectly paid food stamp benefits are located in chapter 388-49 WAC.

#### NEW SECTION

**WAC 388-270-1010 Overpayment amount.** (1) The department shall ensure the amount of overpayment is the amount of assistance received, including medical care, for which the assistance unit was not entitled.

(2) The department shall reduce the total amount of incorrectly received grant assistance by the amount of:

(a) Grant assistance the unit would have been eligible to receive from any other category of grant assistance during the period of ineligibility; and

(b) Child support the department retained for the month of the overpayment in excess of the amount in (a) above; or

(c) Excess support minus the amount of support already distributed to the assistance unit if ineligibility exists; and

(d) Any existing grant underpayments.

(3) The department shall not reduce the amount of the public assistance grant overpayment using a medical assistance or food stamp underpayment.

(4) The department shall not reduce a medical assistance overpayment using a grant or food stamp underpayment.

(5) The department shall not credit an incorrect payment from one assistance unit to another assistance unit.

#### NEW SECTION

**WAC 388-270-1025 Overpayment—Support payments not treated as a grant overpayment.** The caretaker relative shall remit support payments received directly from the absent parent to the office of support enforcement. The department shall not treat support payments as a grant overpayment, but such payments shall be considered as a debt to be established by the office of support enforcement.

#### NEW SECTION

**WAC 388-270-1075 Overpayment—Liability.** (1) The department may recover overpayments from:

(a) Any individual member of an overpaid assistance unit, whether or not the member is currently a recipient.

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member.

(2) The department shall not recover an overpayment from a person:

(a) Acting as a nonresponsible relative payee only and deriving no financial benefit from the payment of assistance. In such instance, the department shall establish the overpayment account receivable in the name of the person who received the financial benefit.

(b) Who is not receiving a grant at the time an unintentional overpayment is discovered and/or computed, provided the overpaid amount is less than thirty-five dollars.

#### NEW SECTION

##### **WAC 388-270-1100 Verification of overpayment.**

(1) The department shall attempt to verify all pertinent information when an apparent overpayment has occurred.

(2) When verification is not complete, the department shall attempt to contact the recipient and request an explanation of the circumstances surrounding the apparent overpayment. If the recipient does not respond or fails to cooperate, the department shall make an independent determination, based on all available information, whether an overpayment exists.

(3) The department shall take appropriate action to secure repayment when an overpayment has been verified following departmental rules on notification of suspension, termination, or reduction of grant.

#### NEW SECTION

**WAC 388-270-1110 Rights and responsibilities.** The department shall inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance.

#### NEW SECTION

**WAC 388-270-1125 Determination of intent.** (1) Recipients of public assistance shall notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department. When the department finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(2) The department shall secure evidence regarding a misstatement or failure to reveal pertinent facts or circumstances, whenever possible, to determine if the act was committed intentionally. In the absence of further evidence, the presumption is not overcome; however, the department may rebut such presumption.

#### NEW SECTION

**WAC 388-270-1150 Notification of overpayment.** (1) The department shall send a letter to the responsible recipient (parent or payee on behalf of a responsible child) when an overpayment is established. The letter shall include:

(a) The amount, dates, and circumstances of the overpayment due the state;

(b) Whether the department considers the overpayment intentional;

(c) A computation of the amount due the state;

(d) The right to a fair hearing;

(e) That the department establishes repayment requirements if the responsible person is not currently subject to benefit reduction; and

(f) That the recipient's property is subject to lien and foreclosure, distraint and seizure, and sale or order to withhold and deliver after the recipient terminates from public assistance. The net proceeds of such action will be applied to satisfy the overpayment debt. Civil collection actions are lawful after ninety days of termination or the overpayment letter, whichever is later.

(2) The department shall serve the overpayment letter by:

- (a) Personal service, or
- (b) Certified mail, return receipt requested, addressee only.

#### NEW SECTION

**WAC 388-270-1200 Invalid overpayment.** When the department determines that it has mistakenly charged an individual with an overpayment, the department shall:

- (1) Nullify the overpayment account receivable;
- (2) Credit any amount paid to any other outstanding debt obligation due DSHS, and refund any amount paid into the invalid overpayment account; and
- (3) Notify the individual in writing:
  - (a) That the individual is not liable;
  - (b) The amount credited to existing debt obligation, if any; and
  - (c) The balance to be repaid to the individual, if any.

#### NEW SECTION

**WAC 388-270-1250 Repayment of grant overpayment from a current recipient.** (1) All individuals of the overpaid assistance unit shall repay an overpayment from:

- (a) Resources and/or income; or
  - (b) Deductions from subsequent grants; and
  - (c) The individual's estate, upon death.
- (2) An individual may be required to repay an overpayment as a result of civil or criminal action initiated by the department or the prosecutor.

(3) The department shall require a recipient to repay all overpayments occurring after January 1, 1982 by mandatory deduction, except where recovery is inequitable under WAC 388-270-1300.

(4) The department shall honor a client's written request to more than the mandatory deduction from subsequent grants. The department shall discontinue or modify the voluntary grant deduction at any time, upon written request from the recipient.

(5) The department shall, by the end of the quarter following the quarter in which the overpayment is first identified, recover overpayments by:

- (a) Lump sum payment; or
- (b) Execute recovery from a current recipient's grant or income and resources by a monthly deduction of ten percent or less of the total monthly grant payment standard. The recipient must have:

(i) Been served with the overpayment letter as defined in WAC 388-270-1150(2);

(ii) Been advised of the options available (mandatory deductions or lump-sum payments); and

(iii) Given an opportunity to respond to these payment options.

#### NEW SECTION

**WAC 388-270-1300 Repayment of grant overpayment occurring prior to April 3, 1982, and resulting from department error.** (1) Overpayments resulting from department error are debts due the state and are subject to mandatory grant deduction except as specified in subsection (4) and (5) of this section, or where recovery is determined to be inequitable.

(2) The department shall not impose liability for an overpayment occurring prior to April 3, 1982, which was caused by departmental error, until the department determines that it would not be inequitable. Recovery shall be deemed inequitable if:

(a) The department admitted or stated to the recipient or to the recipient's authorized representative that the recipient was entitled in whole or in part to the money or services overpaid, or acted in a manner which would reasonably lead that recipient to believe that the recipient was eligible to receive in whole or in part the money or services overpaid; and

(b) The recipient retained or accepted the money or services overpaid on the faith of such an admission, statement, act or omission; upon which the recipient had a right to rely; and

(c) The recipient would suffer an injury if the department were allowed to repudiate the department's admission, statement, act or omission.

(d) Injury as used in this section includes the imposition of liability for repayment of a debt due the state.

(3) If the department determines recovery would be inequitable:

- (a) The recipient shall not be liable for repayment;
- (b) The overpayment shall not be a debt due the state; and

(c) The recipient shall be informed.

(4) If recovery would not be inequitable, the department shall notify the recipient:

- (a) Of the specific reason why recovery is not inequitable;
- (b) That the recipient is liable for repayment of the debt;
- (c) Whether the overpayment is subject to a mandatory deduction from the current grant; and
- (d) Of their right to contest the decision.

#### NEW SECTION

**WAC 388-270-1400 Recovery of overpayments by mandatory grant deduction.** (1) The department shall limit policies in this section to overpayments of grant assistance when delineating recoupment of overpayments by means of a deduction from the current grant.

(2) The department shall recoup an overpayment by mandatory deduction from future continuing assistance grants except as specified by WAC 388-270-1300.

(3) The department shall recover an intentional overpayment by a mandatory grant deduction of ten percent of the payment standard.

(4) The department may establish a monthly grant deduction of up to one hundred percent of the grant when:

(a) The overpayment is intentional;

(b) The client has cash, bank accounts, or marketable securities but refuses to use these resources in full or partial satisfaction of the overpayment; and

(c) The amount of income and resources remaining available to the assistance unit is not less than ninety percent of the grant payment standard.

(5) The department shall deduct five percent of the recipient's total monthly grant payment standard for unintentional overpayments unless the recipient voluntarily requests a larger deduction in writing.

(6) The department shall establish a monthly deduction against the clothing and incidental grant of a recipient in a nursing facility, intermediate care facility, or hospital.

The department shall not establish a monthly deduction against the vendor payment to the nursing facility or intermediate care facility or hospital.

(7) The department shall suspend an individual's grant when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(8) The department shall inform the client in writing of the amount of the monthly deduction prior to the initial grant deduction. The notification shall include:

(a) The amount of the current grant before and after the deduction is made;

(b) The date the deduction begins;

(c) The total amount of overpayment to be recouped by grant deduction; and

(d) The approximate number of months the deduction will be made; and

(e) The right to request a fair hearing.

(9) The department shall not recoup a mandatory deduction from a public assistance grant for more than one hundred percent of the amount of assistance the individual was ineligible to receive.

#### NEW SECTION

**WAC 388-270-1500 Repayment from estate.** An overpayment of assistance not repaid during the person's lifetime is repayable from the person's estate.

#### NEW SECTION

**WAC 388-270-1550 Underpayments.** The department shall repay upon discovery a current or former recipient any underpayments, not negated by budgeting against an overpayment.

#### NEW SECTION

**WAC 388-270-1600 Time limits, write-offs, and compromises.** (1) The department shall not pursue collection of an overpayment due the state after the expiration of six years from the date of notice unless:

(a) The department has commenced recovery action in a court of law; or

(b) An administrative remedy authorized by statute is in place.

(2) The department shall cease collection on a case, extended as a result of subsection (1)(a) and (b) of this section, at the end of ten years unless a court order is in effect for a longer period.

(3) The department may accept a compromise from the debtor after collection efforts have begun when the debtor offers an amount:

(a) Equal to or exceeding the amount expected to be collected within the statute of limitations; or

(b) From nonattachable income or resources and it is unlikely the debtor shall return to public assistance or be gainfully employed before the expiration of the statute of limitations; or

(c) Exceeding the projected cost of collection enforcement efforts.

(4) The department may accept a lump sum payment or an extended repayment agreement from the debtor to achieve a compromise offer. The department may decide to make the extended repayment agreement subject to accelerated payment if the debtor's financial condition significantly changes. The department may write off from the account receivable records the amount of the original balance that remains uncollected after the debtor pays the compromise amount before the expiration of the collection period allowed by statute.

(5) The department may clear an amount from its account receivable records before the expiration of the statutory collection period when there is no further possibility of collection. See WAC 388-44-330(5).

#### **WSR 94-05-049**

##### **PERMANENT RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Order 5030—Filed February 10, 1994, 8:38 a.m.]

Date of Adoption: February 10, 1994.

Purpose: To establish a registration fee schedule for resident and nonresident beekeepers, owning and/or operating hives in Washington, in support of the industry apiary program within the Department of Agriculture.

Citation of Existing Rules Affected by this Order: Amending WAC 16-602-025.

Statutory Authority for Adoption: Chapter 15.60 RCW. Pursuant to notice filed as WSR 94-01-162 on December 21, 1993.

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

February 10, 1994

James M. Jesernig

Director

#### NEW SECTION

**WAC 16-602-025 Apiarist registration fees, schedule.**

(1) Beekeepers in the following two categories shall pay a fee for owning or operating colonies of bees in Washington:

(a) Resident beekeepers of Washington;

(b) Nonresident beekeepers operating colonies in Washington for the purpose of producing honey or other products, or their use or rental for pollination of agricultural crops.

PERMANENT

January 21, 1994  
 N. Jerry Schlesinger, D.P.M.  
 Board Chairman

(2) Both categories of beekeepers shall pay a fee based upon the number of colonies they own or will operate during the calendar year in Washington. The fee schedule shall be as follows:

1 -	5 colonies	\$	5.00
6 -	25 colonies	\$	10.00
26 -	100 colonies	\$	25.00
101 -	300 colonies	\$	50.00
301 -	500 colonies	\$	100.00
501 -	1,000 colonies	\$	200.00
1,001 or more	colonies	\$	300.00

This fee schedule shall remain in effect unless changed upon the advice of the apiary advisory committee and pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The registration fee shall be paid, on or before April first, on the number of colonies of bees:

- (a) Owned by resident beekeepers;
- (b) Operated and or rented for pollination by nonresident beekeepers during the calendar year in Washington.

A late charge of one and one-half percent per month shall be assessed on the unpaid balance against persons more than thirty days in arrears.

**WSR 94-05-051**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 (Podiatric Medical Board)  
 [Filed February 10, 1994, 10:42 a.m.]

Date of Adoption: January 21, 1994.

Purpose: To implement 1993 legislation relative to postgraduate training requirements by establishing approved postgraduate training programs and eligibility for licensure. Modifies rules regulating unlicensed practice and continuing education. Includes housekeeping changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-922-110, 246-922-220, and 246-922-250; and amending WAC 246-922-100, 246-922-120, 246-922-260, 246-922-300, and 246-922-310.

Title of Rule: WAC 246-922-032 Postgraduate podiatric medical training defined, 246-922-033 Eligibility for licensure, 246-922-100 Acts that may be delegated to an unlicensed person, 246-922-120 General provisions, 246-922-260 Maintenance of patient records, 246-922-300 Podiatric continuing education required, and 246-922-310 Categories of creditable podiatric continuing education activities; and repealing WAC 246-922-110 Acts that may not be performed by unlicensed persons, 246-922-220 Exercise of professional judgment and skills, and 246-922-250 Excessive fees.

Statutory Authority for Adoption: RCW 18.22.015.

Pursuant to notice filed as WSR 94-24-027 on November 22, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-922-300 was modified to exclude risk management courses as they are difficult to determine if patient care is being improved or the business aspects of a practice are benefited.

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

AMENDATORY SECTION (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-100 Acts that may be delegated to an unlicensed person.** A podiatric physician and surgeon may allow an unlicensed person to perform the following acts under the podiatric physician and surgeon's supervision((-)) limited to the following:

- (1) Patient education in foot hygiene.
- (2) Deliver a sedative drug in an oral dosage form to patient.
- (3) Give preoperative and postoperative instructions.
- (4) Assist in administration of nitrous oxide analgesia or sedation, but the unlicensed person shall not start the administration of the gases and shall not adjust the flow of the gases unless instructed to do so by the podiatric physician and surgeon. Patients must never be left unattended while nitrous oxide analgesia or sedation is administered to them. This regulation shall not be construed to prevent any person from taking appropriate action in the event of a medical emergency.
- (5) Take health histories.
- (6) Determine rate and quality of patient's radial pulses.
- (7) Measure the patient's blood pressure.
- (8) Perform a plethysmographic or doppler study.
- (9) Observe the nature of the patient's shoes and hose.
- (10) Observe and report wearing patterns on the patient's shoes.
- (11) Assist in obtaining material for a culture-sensitivity test.
- (12) Take scrapings from the skin or nails of the feet, prepare them for microscopic and culture examination.
- (13) Perform weightbearing and nonweightbearing x-rays.
- (14) Photograph patient's foot disorder.
- (15) Debride hyperkeratotic lesions of the foot.
- (16) Remove and apply dressing and/or padding.
- (17) Make necessary adjustments to the biomechanical device.
- (18) Produce impression casting of the foot.
- (19) Produce the following:
  - (a) Removable impression insoles and modifications.
  - (b) Protective devices for alleviating or dispersing pressure on certain deformities or skin lesions such as ulcers, corns, calluses, digital amputation stumps (e.g., latex shields).
- (20) Apply strap and/or pad to the foot and/or leg.
- (21) Prepare the foot for anesthesia as needed.
- (22) Know the indications for and application of cardiopulmonary resuscitation (CPR).
- (23) Prepare and maintain a surgically sterile field.
- (24) Apply flexible cast (e.g., Unna Boot).
- (25) Apply cast material for immobilization of the foot and leg.
- (26) Remove sutures.
- (27) Debride nails.
- (28) Administer physical therapy as directed by the podiatric physician and surgeon.

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(29) Counsel and instruct patients in the basics of:

(a) Their examination, treatment regimen and prophylaxis for a problem.

(b) Patient and family foot health promotion practices.

(c) Patient and family care of specific diseases affecting the foot (e.g., diabetes, cerebrovascular accident, arthritis).

(d) Performing certain exercises and their importance.

(30) Give patient or family supplementary health education materials.

**AMENDATORY SECTION** (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-120 General provisions.** (1) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" shall mean any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" shall mean any health care institution which comes under chapter 18.51 RCW.

(4) "Board" shall mean the Washington state podiatric medical board, whose address is:

Department of Health  
Professional Licensing Services  
1300 Quince St., (~~MS: EY-23~~)  
P.O. Box 47868  
Olympia, WA 98504-7868

(5) "Podiatric physician and surgeon" shall mean a person licensed pursuant to chapter 18.22 RCW.

(6) "Mentally or physically disabled podiatric physician and surgeon" shall mean a podiatric physician and surgeon who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice podiatric medicine and surgery with reasonable skill and safety to patients by reason of any mental or physical condition.

**AMENDATORY SECTION** (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-260 Maintenance of patient records.** Any podiatric physician and surgeon who treats patients in the state of Washington shall maintain complete and legible treatment records regarding patients treated. These records shall include, but shall not be limited to x-rays, treatment plans, patient charts, patient histories, correspondence, financial data and billing. These records shall be retained by the podiatric physician and surgeon in an orderly, accessible file and shall be readily available for inspection by the Washington state podiatric medical board or its authorized representative. Complete patient treatment records shall be maintained for a minimum of seven years after treatment is rendered.

**AMENDATORY SECTION** (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-300 Podiatric continuing education required.** The podiatric medical board encourages licensees to deliver high-quality patient care. The board recognizes that continuing education programs designed to inform practitioners of recent developments within podiatric medi-

cine and relative fields and review of various aspects of basic professional education and podiatric practice are beneficial to professional growth. The board encourages participation in podiatric continuing education as a mechanism to maintain and enhance competence.

(1) Twenty-five contact hours of scientific podiatric continuing education shall be required annually to maintain a current license.

Five credit hours may be granted for one hour of course instruction. A maximum of five hours may be claimed per renewal period.

(2) Approved courses shall be scientific in nature designed to provide information and enhancement of current knowledge of the mechanisms of disease and treatment, which may include applicable clinical information.

(a) Serving as a resident in an approved post-graduate residency training program shall satisfy the continuing education credit for licensure renewal.

(b) Continuing education activities which do not affect the delivery of patient care, (e.g., marketing and billing), may not be claimed for continuing education credit.

(3) In case a licensee fails to meet the requirements due to illness, retirement (with no further provision of podiatric services being provided consumers), or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant an extension of time or a change in requirements. In the case of permanent retirement or illness, the board may grant indefinite waiver of podiatric continuing education as a requirement for relicensure, provided an affidavit is received indicating the podiatric physician and surgeon is not providing podiatric services to consumers. If such permanent retirement or illness status is changed or podiatric services are resumed, it is incumbent upon the licensee to immediately notify the board and show proof of practice competency as determined necessary by the board.

**AMENDATORY SECTION** (Amending Order 158B, filed 4/25/91, effective 5/26/91)

**WAC 246-922-310 Categories of creditable podiatric continuing education activities.** The following categories of creditable podiatric continuing education activities sponsored by the following organizations are approved by the board. The credits must be earned in the twelve-month period preceding application for renewal of licensure. One contact hour is defined as a typical fifty-minute classroom instructional session or its equivalent.

(1) Scientific courses or seminars approved by the American Podiatric Medical Association and its component societies and affiliated and related organizations.

(2) Scientific courses or seminars offered by accredited, licensed, or otherwise approved hospitals, colleges, and universities and their associated foundations and institutes offering continuing education programs in podiatric medicine.

(3) Scientific courses or seminars offered by recognized nonpodiatric medical and health-care related societies (e.g., the American Medical Association, the American Physical Therapy Association) offering continuing education programs related to podiatric medicine.

(4) Scientific courses or seminars offered by other nonprofit organizations, other proprietary organizations, and individuals offering continuing education in podiatric medicine.

(5) A post-graduate residency training program accredited by the council on podiatric medical education.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 246-922-110 Acts that may not be performed by unlicensed persons.
- WAC 246-922-220 Exercise of professional judgment and skills.
- WAC 246-922-250 Excessive fees.

**NEW SECTION**

**WAC 246-922-032 Postgraduate podiatric medical training defined.** (1) For the purposes of this chapter, postgraduate podiatric medical training shall be considered to mean clinical training that meets the educational standards established by the profession. The training must be acquired after satisfactory completion of a course in an approved school of podiatric medicine and surgery as specified in RCW 18.22.040. Clinical performance shall be deemed satisfactory to fulfill the purposes of this requirement. This definition shall be considered to include, but not be limited to, rotating podiatric residency, podiatric orthopedic residency, and podiatric surgical residency.

(2) The board approves the following postgraduate clinical training courses: Programs approved by the American Podiatric Medical Association Council on Podiatric Medical Education which are listed in the 1992-1993 directory of *Approved Residencies in Podiatric Medicine*, and programs approved by the Council on Podiatric Medical Education at the time the postgraduate training was obtained.

**NEW SECTION**

**WAC 246-922-033 Eligibility for licensure.** An applicant for licensure or limited licensure must file a completed application and applicable fee, which shall include information and documentation relative to education and training, past practice performance, licensure history, and a record of all adverse or correctional actions taken by another state or appropriate regulatory body, ability to safely practice podiatric medicine with reasonable skill and safety to the consumer, and other relevant documentation or information as the board may require to determine fitness or eligibility for licensure.

(1) Applicants requesting a license to practice podiatric medicine shall have completed one year postgraduate podiatric medical training in a program approved by the board as defined in WAC 246-922-032, provided that applicants graduating before July 1, 1993, shall be exempt from the postgraduate training requirement.

(2) Applicants requesting a limited license to practice in an approved postgraduate podiatric medical training program shall have graduated from an approved school of podiatric medicine and surgery.

**WSR 94-05-052  
PERMANENT RULES  
DEPARTMENT OF HEALTH**  
[Filed February 10, 1994, 10:46 a.m.]

Date of Adoption: September 8, 1993.

Purpose: To repeal chapter 246-520 WAC because program moved to the Department of Social and Health Services and new rules adopted by that agency.

Citation of Existing Rules Affected by this Order: Repealing chapter 246-520 WAC.

Statutory Authority for Adoption: RCW 43.20.050.

Pursuant to notice filed as WSR 93-16-099 on August 4, 1993.

Effective Date of Rule: Thirty-one days after filing.  
February 9, 1994  
Bruce Miyahara  
Secretary

**REPEALER**

The following chapter of the Washington Administrative Code is repealed.

- WAC 246-520-001 Purpose
- WAC 246-520-010 Definitions
- WAC 246-520-020 Services
- WAC 246-520-030 Reimbursement
- WAC 246-520-040 Eligibility
- WAC 246-520-050 Transfer of resources without adequate consideration
- WAC 246-520-060 Fiscal information
- WAC 246-520-070 Procedures for eligiobity determination

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

**WSR 94-05-053  
PERMANENT RULES  
DEPARTMENT OF HEALTH**  
[Filed February 10, 1994, 10:48 a.m.]

Date of Adoption: February 2, 1994.

Purpose: To amend the rule to reflect the current revised American Dental Association dental hygiene education program accreditation standards.

Citation of Existing Rules Affected by this Order: Amending WAC 246-815-030.

Statutory Authority for Adoption: RCW 18.29.130.

Pursuant to notice filed as WSR 94-01-056 on December 8, 1993.

Effective Date of Rule: Thirty-one days after filing.  
February 9, 1994  
Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-815-030 Education requirements for licensure applicants.** (1) To be eligible for dental hygiene licensure, the applicant must have successfully completed a

PERMANENT

dental hygiene education program approved by the secretary of the department of health. The secretary adopts those standards of the American Dental Association Commission on Dental Accreditation relevant to the accreditation of dental hygiene schools, in effect in January, ~~((1981))~~ 1993. In implementing the adopted standards, the secretary approves those dental hygiene education programs which were accredited by the commission as of January ~~((1981))~~ 1993. *Provided*, That the accredited education program's curriculum includes:

- (a) Didactic and clinical competency in the administration of injections of local anesthetic;
- (b) Didactic and clinical competency in the administration of nitrous oxide analgesia;
- (c) Didactic and clinical competency in the placement of restorations into cavities prepared by a dentist; and
- (d) Didactic and clinical competency in the carving, contouring, and adjusting contacts and occlusions of restorations.

(2) Dental hygiene education programs approved by the secretary of the department of health pursuant to the American Dental Association Commission on Dental Accreditation standards in effect in January, ~~((1981))~~ 1993, whose curriculum does not include the didactic and clinical competency enumerated in (1)(a)-(d) above will be accepted if the applicant has successfully completed an expanded functions education program(s) approved pursuant to WAC 246-815-110, 246-815-120, and 246-815-130.

(3) A form will be provided in the department of health licensure application packages for the purpose of education verification.

**WSR 94-05-058**  
**PERMANENT RULES**  
**BUILDING CODE COUNCIL**

[Filed February 10, 1994, 4:08 p.m.]

Date of Adoption: November 19, 1993.

Purpose: To adopt revisions to the council's policies and procedures for consideration of statewide and local amendments to the state building code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-04-015, 51-04-018, 51-04-020, 51-04-025, and 51-04-060.

Statutory Authority for Adoption: RCW 19.27.035.

Other Authority: Chapter 34.05 RCW.

Pursuant to notice filed as WSR 93-16-110 on August 4, 1993.

Changes Other than Editing from Proposed to Adopted Version: Proposed options for revision to WAC 51-04-030 were not adopted; voluntary criteria for use by the council when determining the need for proposed state-wide code changes were adopted into WAC 51-04-020; and WAC 51-04-015 was revised to allow state-wide code changes in order to correct errors and omissions.

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

February 7, 1994

Gene Colin  
Chair

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

**WAC 51-04-015 Definitions.** (1) "Supplements and accumulative supplements" mean the publications between editions of the uniform codes and standards which include changes to the current edition of the uniform codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency state-wide amendment" means any proposed state-wide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants~~((;))~~; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or ~~((to comply with enacted state))~~ by the direction of the Washington state legislature or federal legislation. Emergency state-wide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "State building code" means the Uniform Building Code and Standards; the Uniform Mechanical Code including Appendix B, Chapter 22 Fuel Gas Piping; the Uniform Fire Code and Standards; the Uniform Plumbing Code and Standards, excluding Chapters 11 and 12; the state regulations for barrier-free facilities; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

(7) "State-wide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. State-wide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(8) "State building code update cycle" means that period during which the uniform code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW~~((--During the code update cycle, the entire building code is updated by the council. The code update cycle commences upon availability of the publication of the current edition of the Uniform Codes by the International Conference of Building Officials, and concludes with formal adoption of the revised building code by the council and final review by the state legislature.~~

~~Within sixty days of the receipt of the new current editions of the uniform codes as published by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively, the council shall enter rulemaking to update the building code.)~~ hereinafter referred

to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the uniform codes, hereinafter referred to as "submission periods."

(9) "Uniform codes" means the Uniform Building, Mechanical, Plumbing, and Fire Codes as published by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively.

**AMENDATORY SECTION** (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

**WAC 51-04-018 ((Preproposal)) Petition for preliminary review.** An agency, city or county, or other interested individual or organization wishing to submit state-wide or local government residential amendments to the building code for council consideration, may file with the council a ((preproposal)) petition for preliminary review of the state-wide or local government residential amendment, in order to solicit comments from council members and interested parties, prior to council action.

The council may refer a ((preproposal)) petition for preliminary review to one of the council standing committees for review and comment.

**AMENDATORY SECTION** (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

**WAC 51-04-020 Policies for the consideration of proposed state-wide amendments.** State-wide and emergency state-wide amendments to the state building code should be based on one of the following criteria:

(1) The amendment is needed to address a critical life/safety need.

(2) The amendment is needed to address a specific state policy or statute.

(3) The amendment is needed for consistency with state or federal regulations.

(4) The amendment is needed to address a unique character of the state.

(5) The amendment corrects errors and omissions.

State-wide and emergency state-wide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency state-wide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for state-wide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

In every year excluding the year with the adoption period, the state building code council shall identify a submission period of at least thirty days when revisions to the uniform codes and the state building code which addresses portions of the state building code other than uniform codes may be submitted. The state building code council shall review all submissions and accept for future rule making those revisions favorably reviewed. Revisions accepted shall be submitted to the International Conference

of Building Officials, the International Association of Plumbing and Mechanical Officials and the International Fire Code Institute, respectively, as proposed revisions to the uniform codes (unless recently considered as amendments) and held for further review during the adoption period.

The adoption period commences upon availability of the publication of the new edition of the uniform codes by the International Conference of Building Officials, and concludes with formal adoption of the revised building code by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. At the beginning of the adoption period, the state building code council shall identify a limited submission period of at least thirty days. During this period, the council will receive revisions proposed to:

The uniform codes provided that the proposed revisions shall be limited to revisions which address changes in the uniform codes since the previous edition.

The state building code which addresses existing state-wide amendments to the uniform codes.

The state building code which addresses portions of the state building code other than the uniform codes.

In addition, the state building code council shall review for adoption those proposed revisions to the uniform code accepted after preliminary review in those submission periods since the last adoption period. The state building code council shall consider the action of the International Conference of Building Officials, the International Association of Plumbing and Mechanical Officials and the International Fire Code Institute, respectively, in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the uniform codes the council shall enter rule making to update the building code.

**AMENDATORY SECTION** (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

**WAC 51-04-025 Procedure for submittal or proposed state-wide amendments.** All proposed state-wide amendments shall be submitted in writing to the council, on the form provided by the council.

Petitions for state-wide amendments to the building code ((should)) shall be submitted to the council ((within thirty days of publication of the new current editions of the uniform codes as revised by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively)) during the submission period and the adoption period in accordance with WAC 51-04-020.

Petitions for emergency state-wide amendments to the building code may be submitted at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020.

The council may refer a proposed state-wide amendment to one of the council standing committees for review and comment prior to council action in accordance with chapter 34.05 RCW.

The council shall deal with all proposed state-wide amendments within the time frames required by chapter 19.27 RCW, RCW 34.05.330, and all other deadlines established by statute.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

**WAC 51-04-060 Opinions** (~~(and interpretations)~~). RCW 19.27.031 grants the council authority to render opinions relating to the building code at the request of a local building official.

For the purposes of this section, the term "building official" means the local or state official, or their designee, responsible for implementation and enforcement of the specific code provision on which the opinion is requested.

Council building code related opinions (~~(and interpretations)~~) shall be limited to the state regulations for barrier-free facilities, the state energy code, the state ventilation and indoor air quality code, and council amendments to the uniform codes.

~~(The Washington state energy office shall provide opinions and interpretations related to the state energy code.)~~ Council related opinions may be developed and approved by a standing committee of the council.

Opinions approved by a standing committee may be reviewed and modified by the council.

Energy code related opinions shall be developed in consultation with the Washington state energy office.

#### WSR 94-05-059

#### PERMANENT RULES

#### BUILDING CODE COUNCIL

[Filed February 10, 1994, 4:29 p.m., effective April 1, 1994]

Date of Adoption: November 19, 1993.

Purpose: To adopt revised requirements for complying with window, door, and skylight thermal efficiency standards in the Washington state energy code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11-0201, 51-11-0502, 51-11-0602, 51-11-0625 through 51-11-0630, and 51-11-1006.

Statutory Authority for Adoption: Chapters 19.27, 19.27A, and 34.05 RCW.

Pursuant to notice filed as WSR 93-16-113 on August 4, 1993; and WSR 93-20-129 on October 6, 1993.

Changes Other than Editing from Proposed to Adopted Version: Pursuant to RCW 34.05.340(3), the following itemized code language changes were made in response to the public comment:

1. Separate code requirements for doors from windows, in the existing code, window and door requirements are integrated. In some cases the current code ultimately defined doors as windows in order to fit code requirements. In testimony that the council received during the public hearings, the case was made that a door is much different than a window. Doors and windows differ in their function, percent of the overall building envelope, materials used and manufacturing processes. For separation and clarification, the following code requirements were adopted: WAC 51-11-0201 General definitions, a separate definition for "Door" was drafted and inserted in the code. The definition of "Glazing" was amended to more specifically include only the daylight opening area for swinging doors with glazing and the rough opening area for sliding glass doors. The definition of "Glazing area" was amended to be consistent with the

new door and glazing definitions and define how the areas of such shall be accounted for in the compliance calculations; WAC 51-11-0502.1.5.1 Standard Procedure for Determination of Glazing U-Values and 51-11-0502.1.5.2 Standard Procedure for Determination of Door U-Values, section 0502.1.5.1 is now dedicated exclusively to glazing and section 0502.1.5.2 is now dedicated exclusively to doors; and WAC 51-11-0602.6 Exterior doors, new subsections (0602.6.1 Exterior Door Area and 0602.6.2 Exterior Door U-Value) were created to mirror the format of 0602.7 Glazing. These new door subsections are more explicit and deal with regulations for doors exclusively.

2. Relief for doors, public testimony also revealed that the National Fenestration Rating Council (NFRC) standard 100-91 does not yet contain a complete procedure for certifying thermal tests for doors. It was demonstrated that it would be premature for the council to adopt NFRC standards for doors at this time. Default tables were suggested as a viable option to testing. In addition, the case was made that doors are a very small percentage of the overall envelope. They have a small impact as an energy conservation measure, especially if they are opened and closed multiple times daily. The following door allowances were adopted: WAC 51-11-0502.1.5.2 Standard Procedure for Determination of Door U-Values, this section allows the use of the default tables (WAC 51-11-1006, Tables 10-6C and 10-6D). Exception 1 allows NFRC tests. Exception 3 allows one unlabeled or untested exterior swinging door for ornamental, security or architectural purposes; and WAC 51-11-0602.6, Exception 2 Exterior Doors, also allows one unlabeled or untested exterior swinging door for ornamental, security or architectural purposes.

3. Relief for skylights, similar to doors, the NFRC has several fundamental issues to resolve related to mounting procedures before the Standard 100-91 is complete for testing and certifying skylights. A default table was again suggested as a solution during public testimony. The following skylight allowances were adopted: WAC 51-11-0502.1.5.1, Exception 2 Standard Procedure for Determination of Glazing U-Values, this exception to the NFRC test standard allows the use of a default table (WAC 51-11-1006, Table 10-6B).

4. Relief for small businesses, the cost for National Fenestration Rating Council (NFRC) membership, testing and certification can be expensive and thus prohibitive, especially for small businesses. NFRC has future plans to provide a fair and equitable method for small businesses to participate in their program. Until that time, the Washington State Energy Code, pursuant to the Regulatory Fairness Act, chapter 19.85 RCW, will provide alternative methods of compliance for small businesses as follows: WAC 51-11-0201 General definitions, the council decided that small businesses should be allowed to use alternative methods of compliance as it relates to the fenestration thermal transmittance testing requirements. Based on testimony during the public hearing, the council decided that the definition of a small business in RCW 43.31.025 was not a true indication of a small business in the fenestration industry. The council expanded the definition to allow the 50 or fewer employees stipulation to refer directly to window products. The new definition also allows a business to be categorized as a small business if it has one million dollars or less per year in gross

sales of window products. If a business meets the definition of a small business, it may use a default table rather than going to the time and expense of testing and certifying its products; and WAC 51-11-0502.1.5.1 Exception 2, this new exception allows small businesses to use industry standard default values (WAC 51-11-1006, Table 10-6B) rather than going to the expense of testing and certification.

5. Log homes, proposed log home changes are not adopted: All proposed log home changes are withdrawn. The code language will be reinstated to the current code in the following sections: WAC 51-11-0402.5(f) Exception 2, 0525 Equation 1, 0527 Equation 3, 0601.1, 0602.1, 0602.2, 0602.3, 0602.4, 0602.5, 0602.6, 0602.7.1, 0602.7.2 exception and 0603.1; and WAC 51-11-0502.1.5, Exception 3, WAC 51-11-0629 Table 6-5 footnotes 8 and 9, and 51-11-0630 Table 6-6 footnotes 9 and 10, these deemed to satisfy provisions which allow a transition period for builders to continue using an industry standard window value are also applied to log homes.

6. Changes to language for clarification, WAC 51-11-0502.1.5.1, changed "listed" to "listed in the NFRC Certified Products Directory" for clarification; and WAC 51-11-0502.1.5.1 and 51-11-0502.1.5.2, Exception 1, changed reference from "NFRC Standard 100-91" to "National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC" for clarification.

7. New and moved default tables, WAC 51-11-1006, Table 10-6A, replaces the existing punitive default table. This new version is based on tested and simulated numbers plus an additional 15 percent penalty and is much more complete than the existing table; WAC 51-11-1006, Table 10-6B, this new table is based on tested and simulated industry standard average numbers and is available for use for skylights and by small businesses; WAC 51-11-1006, Table 10-6C, this table is the existing Table 10-6B for doors with the added 0.40 value for a 1-3/4-inch panel door with 3/4-inch panels. This door is an industry standard; and WAC 51-11-1006, Table 10-6D, this is a new table to allow default values for glazed doors. This was necessary since the requirements for windows and doors are now separated.

Effective Date of Rule: April 1, 1994.

February 4, 1994

Gene Colin  
Chair

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

#### WAC 51-11-0201 General definitions.

201.1 Application of Terms: For the purposes of this Code, certain abbreviations, terms, phrases, words and their derivatives, shall be as set forth in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. In the event there is a question about the definition of a term, the definitions for terms in the codes enumerated in RCW 19.27.031 and the edition of Webster's dictionary referenced therein shall be considered as the sources for providing ordinarily accepted meanings.

**AAMA:** American Architectural Manufacturers Association

**Addition:** See the Washington State Building Code.

**Advanced framed ceiling:** Advanced framing assumes full and even depth of insulation extending to the outside edge of exterior walls. (See Standard Framing.)

**Advanced framed walls:** Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall.

**AFUE. Annual fuel utilization efficiency:** Unlike steady state conditions, this rating is based on average usage including on and off cycling as set out in the standardized Department of Energy Test Procedures.

**Air conditioning, comfort:** The process of treating air to control simultaneously its temperature, humidity, cleanliness and distribution to meet requirements of the conditioned space.

**ASHRAE:** American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

**ASTM:** American Society for Testing and Materials

**Automatic:** Self-acting, operating by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature or mechanical configuration. (See **Manual**.)

**Below grade walls:** Walls or the portion of walls which are entirely below the finish grade or which extend two feet or less above the finish grade.

**Building, existing:** See the Washington State Building Code.

**Boiler capacity:** The rate of heat output in Btu/h measured at the boiler outlet, at the design inlet and outlet conditions and rated fuel/energy input.

**Building envelope:** The elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior or to or from spaces exempted by the provisions of Section 101.3.1.

**Building official:** The official authorized to act in behalf of a jurisdiction code enforcement agency or its authorized representative.

**Building project:** A building or group of buildings, including on-site energy conversion or electric-generating facilities, which utilize a single submittal for a construction permit or are within the boundary of a contiguous area under one ownership.

**Comfort Envelope:** The area on a psychrometric chart enclosing all those conditions described in Standard RS-4, Figure No. 1, as being comfortable.

**Conditioned space:** All spaces which are provided with heated and/or cooled air or which are capable of being maintained at temperatures over fifty degrees F during the heating season, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors).

**Cooled space:** Space within a building which is provided with a positive cooling supply.

**COP - Coefficient of performance:** The ratio of the rate of net heat output (heating mode) or heat removal

(cooling mode) to the rate of total on-site energy input to the heat pump, expressed in consistent units and under designated rating conditions. (See Net Heat Output, Net Heat Removal, Total On-Site Energy Input.)

**Deadband:** The temperature range in which no heating or cooling is used.

**Degree day, heating:** A unit, based upon temperature difference and time, used in estimating fuel consumption and specifying nominal heating load of a building in winter. For any one day when the mean temperature is less than sixty-five degrees F there exist as many degree days as there are Fahrenheit degrees difference in temperature between the mean temperature for the day and sixty-five degrees F.

**Door:** An operable opening area in the shell of a conditioned space, excluding sliding glass doors, which is designed and used as a means of ingress and egress. A door may also include a double door one of which is fixed and one of which is operable.

**Door area:** Total area of door measured using the rough opening and including the door and frame.

**Dwelling unit:** See the Washington State Building Code.

**EER. Energy efficiency ratio:** The ratio of net equipment cooling capacity in Btu/h to total rate of electric input in watts under designated operating conditions.

**Efficiency, HVAC system:** The ratio of useful energy (at the point of use) to the energy input for a designated time period, expressed in percent.

**Emissivity:** The ability to absorb infrared radiation. A low emissivity implies a higher reflectance of infrared radiation.

**Energy:** The capacity for doing work; taking a number of forms which may be transformed from one into another, such as thermal (heat), mechanical (work), electrical and chemical; in customary units, measured in kilowatt-hours (kWh) or British thermal units (Btu). (See **New energy**.)

**Energy, recovered:** (See **Recovered energy**.)

**Exterior envelope:** (See **Building envelope**.)

**Floor over unconditioned space:** A floor which separates a conditioned space from an unconditioned space which is buffered from exterior ambient conditions including vented crawl spaces and unconditioned basements or other similar spaces, or exposed to exterior ambient conditions including open parking garages and enclosed garages which are mechanically ventilated.

**F-Value:** The perimeter heat loss factor expressed in Btu/hr•ft•°F.

**Glazing:** All areas, including the frames, in the shell of a conditioned space that let in natural light including windows, clerestories, skylights, sliding ((or swinging)) glass doors and glass block walls. The daylight opening area in all other doors shall be considered glazing for the purpose of calculating glazing area. The daylight opening area in all other doors is included in the door U-value and shall not be considered in calculations of glazing U-values.

**Glazing area:** Total area of the glazing measured using the rough opening, and including the glazing, sash, and frame. ((For doors where the daylight opening area is less than fifty percent of the door area, the glazing area is the daylight opening area. For all other doors, the glazing area is the door area.)) For sliding glass doors the glazing area is

the rough opening area. For all other doors the glazing area is the daylight opening area.

**Gross conditioned floor area:** The horizontal projection of that portion of interior space which is contained within exterior walls and which is conditioned directly or indirectly by an energy-using system, and which has an average height of five feet or greater, measured from the exterior faces.

**Gross exterior wall area:** The normal projection of the building envelope wall area bounding interior space which is conditioned by an energy-using system; includes opaque wall, window and door areas. The gross area of walls consists of all opaque wall areas, including foundation walls, between floor spandrels, peripheral edges of floors, window areas including sash, and door areas, where such surfaces are exposed to exterior ambient conditions and enclose a conditioned space including interstitial areas between two such spaces.

**Gross floor area:** The sum of the areas of the several floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the center line of walls separating buildings, but excluding: Covered walkways, open roofed-over areas, porches and similar spaces. Pipe trenches, exterior terraces or steps, chimneys, roof overhangs and similar features.

**Gross roof/ceiling area:** The sum of the areas of the roof/ceiling assembly, consisting of the total interior surface area of all elements, including skylights, which enclose a conditioned space.

**Guest room:** See the Washington State Building Code.

**Heat:** The form of energy that is transferred by virtue of a temperature difference.

**Heat storage capacity:** The physical property of materials (mass) located inside the building envelope to absorb, store, and release heat.

**Heated space:** Space within a building which is provided with a positive heating supply. Finished living space within a basement or registers or heating devices designed to supply heat to a basement space shall automatically define that space as heated space. (See **Positive Heating Supply**.)

**HSPF. Heating season performance factor:** The total heating output (in Btu) of a heat pump during its normal annual usage period for heating divided by the total (watt hour) electric power input during the same period, as determined by test procedures consistent with the U.S. Department of Energy "Test Procedure for Central Air Conditioners, Including Heat Pumps" published in the December 27, 1979, Federal Register, Vol 44, No. 24, IOCFR. 430. When specified in Btu per watt hour an HSPF of 6.826 is equivalent to a COP of 2.0.

**Humidistat:** A regulatory device, actuated by changes in humidity, used for automatic control of relative humidity.

**HVAC:** Heating, ventilating and air conditioning.

**HVAC system components:** HVAC system components provide, in one or more factory-assembled packages, means for chilling and/or heating water with controlled temperature for delivery to terminal units serving the conditioned spaces of the buildings. Types of HVAC system components include, but are not limited to, water chiller

packages, reciprocating condensing units and water source (hydronic) heat pumps. (See **HVAC system equipment**.)

**HVAC system efficiency:** (See **Efficiency, HVAC system**.)

**HVAC system equipment:** HVAC system equipment provides, in one (single package) or more (split system) factory-assembled packages, means for air circulation, air cleaning, air cooling with controlled temperature and dehumidification; and optionally, either alone or in combination with a heating plant, the functions of heating and humidifying. The cooling function may be either electrically or heat operated and the refrigerant condenser may be air, water or evaporatively cooled. Where the equipment is provided in more than one package, the separate packages shall be designed by the manufacturer to be used together. The equipment may provide the heating function as a heat pump or by the use of electric elements. (The word "equipment" used without modifying adjective may, in accordance with common industry usage, apply either to HVAC system equipment or HVAC system components.)

**Illumination:** The density of the luminous flux incident on a surface; it is the quotient of the luminous flux by the area of the surface when the latter is uniformly illuminated.

**Infiltration:** The uncontrolled inward air leakage through cracks and interstices in any building element and around windows and doors of a building caused by the pressure effects of wind and/or the effect of differences in the indoor and outdoor air density.

**Insulation baffle:** A rigid material, resistant to wind driven moisture, the purpose of which is to allow air to flow freely into the attic or crawl space and to prevent insulation from blocking the ventilation of these spaces, or the loss of insulation. Example materials for this purpose are sheet metal, or wax impregnated cardboard.

**Luminaire:** A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the electric power supply.

**Manual:** Capable of being operated by personal intervention. (See **Automatic**.)

**Net heat output:** The change in the total heat content of the air entering and leaving the equipment (not including supplementary heat and heat from boilers).

**Net heat removal:** The total heat content of the air entering and leaving the equipment (without heat) or the difference in total heat content of the water or refrigerant entering and leaving the component.

**New energy:** Energy, other than recovered energy, utilized for the purpose of heating or cooling. (See **energy**.)

**Nominal R-value:** The thermal resistance of insulation as specified by the manufacturer according to recognized trade and engineering standards.

**Nonrenewable energy sources:** All energy sources that are not renewable energy sources including natural gas, oil, coal, wood, liquified petroleum gas, steam, and any utility-supplied electricity.

**Occupancy:** See the Washington State Building Code.

**Opaque envelope areas:** All exposed areas of a building envelope which enclose conditioned space, except openings for windows, skylights, doors, glazing and building service systems.

**Open blown:** Loose fill insulation pneumatically installed in an unconfined attic space.

**Outdoor air:** Air taken from the outdoors and, therefore, not previously circulated through the system.

**Packaged terminal air conditioner:** A factory-selected combination of heating and cooling components, assemblies or sections intended to serve a room or zone. (For the complete technical definition, see Standard RS-10.)

**Packaged terminal heat pump:** A factory-selected combination of heating and cooling components, assemblies or sections intended for application in an individual room or zone. (For the complete technical definition, see Standard RS-21.)

**Permeance (perm):** The ability of a material of specified thickness to transmit moisture in terms of amount of moisture transmitted per unit time for a specified area and differential pressure (grains per hour•ft<sup>2</sup>•inches of HG). Permeance may be measured using ASTM E-96-72 or other approved dry cup method as specified in RS-1.

**Pool cover:** A vapor-retardant cover which lies on or at the surface of the pool.

**Positive cooling supply:** Mechanical cooling deliberately supplied to a space, such as through a supply register. Also, mechanical cooling indirectly supplied to a space through uninsulated surfaces of space cooling components, such as evaporator coil cases and cooling distribution systems which are capable of maintaining air temperatures within the space of eighty-five degrees F, or lower, at the exterior design conditions specified in Section 302.1. To be considered exempt from inclusion in this definition, such surfaces shall comply with the insulation requirements of this Code.

**Positive heating supply:** Heat deliberately supplied to a space by design, such as a supply register, radiator or heating element. Also, heat indirectly supplied to a space through uninsulated surfaces of service water heaters and space heating components, such as furnaces, boilers and heating and cooling distributions systems which are capable of maintaining air temperature within the space of fifty degrees F, or higher, at the exterior design conditions specified in Section 302.1. To be considered exempt from inclusion in this definition, such surfaces shall comply with the insulation requirements of this Code.

**Power:** In connection with machines, the time rate of doing work. In connection with the transmission of energy of all types, the rate at which energy is transmitted; in customary units, it is measured in watts (W) or British Thermal Units per hour (Btu/h).

**Public facility rest room:** A rest room used by the transient public on a regular (rather than casual) basis. Examples include rest rooms in service stations, airports, train terminals and convention halls. Rest rooms incorporated with private guest rooms in hotels, motels or dormitories and rest room facilities intended for the use of employees and not usually used by the general public are not considered public facility rest rooms.

**Radiant slab:** A slab on grade containing heated pipes, ducts, or electric heating cables that constitute a radiant slab or portion thereof for a complete or partial heating of the structure.

**Readily accessible:** See the Washington State Mechanical Code.

**Recooling:** The removal of heat by sensible cooling of the supply air (directly or indirectly) that has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

**Recovered energy:** Energy utilized which would otherwise be wasted (i.e. not contribute to a desired end use) from an energy utilization system.

**Reheat:** The application of sensible heat to supply air that has been previously cooled below the temperature of the conditioned space by either mechanical refrigeration or the introduction of outdoor air to provide cooling.

**Renewable energy sources:** Renewable energy sources of energy (excluding minerals) are derived from: (1) incoming solar radiation, including but not limited to, natural daylighting and photosynthetic processes; (2) energy sources resulting from wind, waves and tides, lake or pond thermal differences; and (3) energy derived from the internal heat of the earth, including nocturnal thermal exchanges.

**Reset:** Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

**Roof/ceiling assembly:** A roof/ceiling assembly shall be considered as all components of the roof/ceiling envelope through which heat flows, thus creating a building transmission heat loss or gain, where such assembly is exposed exterior ambient conditions to and encloses a conditioned space. The gross area of a roof/ceiling assembly consists of the total interior surface of such assembly, including skylights.

**Sequence:** A consecutive series of operations.

**Service systems:** All energy-using systems in a building that are operated to provide services for the occupants or processes housed therein, including HVAC, service water heating, illumination, transportation, cooking or food preparation, laundering or similar functions.

**Service water heating:** Supply of hot water for domestic or commercial purposes other than comfort heating.

**Shaded:** Glazed area which is externally protected from direct solar radiation by use of devices permanently affixed to the structure or by an adjacent building, topographical feature, or vegetation.

**Shall:** Denotes a mandatory code requirement.

**Single family:** One and two family residential dwelling units with no more than two units in a single building.

**Skylight:** A glazing surface that has a slope of less than sixty degrees from the horizontal plane.

**Slab-on-grade, exterior:** Any portion of a slab floor in contact with the ground which is less than or equal to twenty-four inches below the final elevation of the nearest exterior grade.

**Slab-below-grade:** Any portion of a slab floor in contact with the ground which is more than twenty-four inches below the final elevation of the nearest exterior grade.

**Small business:** 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, or which has a million dollars or less per year in gross sales, of window products.

**Solar energy source:** Source of natural daylighting and of thermal, chemical or electrical energy derived directly from conversion of incident solar radiation.

**Standard framing:** All framing practices not defined as "intermediate" or "advanced" shall be considered standard. (See Advanced framed ceiling, Advanced framed walls, Intermediate framed wall.)

**Substantial contact:** A condition where adjacent building materials are placed in a manner that proximal surfaces are contiguous, being installed and supported as to eliminate voids between materials, without compressing or degrading the thermal performance of either product.

**System:** A combination of central or terminal equipment or components and/or controls, accessories, interconnecting means, and terminal devices by which energy is transformed so as to perform a specific function, such as HVAC, service water heating or illumination.

**Tapering:** Installation of a reduced level of ceiling insulation at the eaves, due to reduced clearance.

**Thermal by-pass:** An area where the envelope surrounding the conditioned space is breached, or where an ineffective application compromises the performance of a thermal or infiltration barrier, increasing the structure's energy consumption by exposing finished surfaces to ambient conditions and additional heat transfer.

**Thermal conductance (C):** Time rate of heat flow through a body (frequently per unit area) from one of its bounding surfaces to the other for a unit temperature difference between the two surfaces, under steady conditions ( $\text{Btu/hr}\cdot\text{ft}^2\cdot\text{°F}$ ).

**Thermal resistance (R):** The reciprocal of thermal conductance ( $\text{hr}\cdot\text{ft}^2\cdot\text{°F}/\text{Btu}$ ).

**Thermal transmittance (U):** The coefficient of heat transmission (air to air). It is the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films ( $\text{Btu/hr}\cdot\text{ft}^2\cdot\text{°F}$ ). The U-value applies to the fractional combinations of different materials used in series along the heat flow path.

**Thermal transmittance, overall (U<sup>o</sup>):** The overall (average) heat transmission of a gross area of the exterior building envelope ( $\text{Btu/hr}\cdot\text{ft}^2\cdot\text{°F}$ ). The U<sup>o</sup>-value applies to the combined effect of the time rate of heat flows through the various parallel paths, such as windows, doors and opaque construction areas, comprising the gross area of one or more exterior building components, such as walls, floors or roof/ceiling.

**Thermostat:** An automatic control device actuated by temperature and designed to be responsive to temperature.

**Total on-site energy input:** The combination of all the energy inputs to all elements and accessories as included in the equipment components, including but not limited to, compressor(s), compressor sump heater(s), circulating pump(s), purge devices, fan(s), and the HVAC system component control circuit.

**Transmission coefficient:** The ratio of the solar heat gain through a glazing system to that of an unshaded single pane of double strength window glass under the same set of conditions.

**U-Value:** See thermal transmittance.

**Uniform Building Code:** The Washington State Uniform Building Code as modified by the Washington State Building Code Council.

**Uniform Mechanical Code:** The Washington State Uniform Mechanical Code as modified by the Washington State Building Code Council.

**Unitary cooling and heating equipment:** One or more factory-made assemblies which include an evaporator or cooling coil, a compressor and condenser combination, and may include a heating function as well. Where such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

**Unitary heat pump:** One or more factory-made assemblies which include an indoor conditioning coil, compressor(s) and outdoor coil or refrigerant-to-water heat exchanger, including means to provide both heating and cooling functions. When such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

**Vapor retarder:** A layer of low moisture transmissivity material (not more than 1.0 perm dry cup) placed over the warm side (in winter) of insulation, over the exterior of below grade walls, and under floors as ground cover to limit the transport of water and water vapor through exterior walls, ceilings, and floors. Vapor retarding paint, listed for this application, also complies with this Code.

**Vaulted ceilings:** All ceilings where enclosed joist or rafter space is formed by ceilings applied directly to the underside of roof joists or rafters.

**Ventilation:** The process of supplying or removing air by natural or mechanical means to or from any space. Such air may or may not have been conditioned.

**Ventilation air:** That portion of supply air which comes from outside (outdoors) plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

**Walls (exterior):** Any member or group of members which defines the exterior boundaries or courts of a building and which have a slope of sixty degrees or greater with the horizontal plane, and separates conditioned from unconditioned space. Band joists between floors are to be considered a part of exterior walls.

**Zone:** A space or group of spaces within a building with heating and/or cooling requirements sufficiently similar so that comfort conditions can be maintained throughout by a single controlling device. Each dwelling unit in residential buildings shall be considered a single zone.

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-0402 Systems analysis.**

**402.1 Special Requirements for All Group R Occupancy:**

**402.1.1 Energy Budgets:** Proposed buildings designed in accordance with this section shall be designed to use no more energy from non-renewable sources for space heating, and domestic hot water heating than a standard building whose enclosure elements and energy consuming systems are designed in accordance with section 502.2 of this Code for the appropriate climate zone, and heating system type. Energy derived from renewable sources may be excluded from the total annual energy consumption attributed to the alternative building.

**402.1.2 Calculation of Energy Consumption:** The application for a building permit shall include documentation which demonstrates, using a calculation procedure as listed in Chapter 8, or an approved alternate, that the proposed building's annual space heating energy use does not exceed the annual space heating and water heating energy use of a standard building conforming to Chapter 5 of this Code for the appropriate climate zone. The total calculated annual energy consumption shall be shown in units of kWh/ft<sup>2</sup>/year or Btu/ft<sup>2</sup>/year of conditioned area.

**402.1.3 Input Values:** The following standardized input values shall be used in calculating annual space heating budgets:

PARAMETER	VALUE
Thermostat set point, heating	65° F
Thermostat set point, cooling	78° F
Thermostat night set back	65° F
Thermostat night set back period	0 hours
Internal gain	
R-3 units	3000 Btu/hr
R-1 units	1500 Btu/hr
Domestic Hot Water Heater Setpoint	120° F
Domestic Hot Water Consumption	20 gallons/person/day.
Minimum heat storage	Calculated using standard engineering practice for the actual building or as approved.
Site weather data	Typical meteorological year (TMY) or ersatz TMY data for the closest appropriate TMY site or other site as approved.
Heating equipment efficiency	
Electric resistance heat	1.00
Heat Pumps	6.80 HSPF.
Other Fuels	0.78 AFUE.

The standard building shall be modeled with glazing area distributed equally among the four cardinal directions. Parameter values that may be varied by the building designer to model energy saving options include, but are not limited to, the following:

1. Overall thermal transmittance, ((U\*)) U<sub>o</sub>, of building envelope or individual building components;
2. Heat storage capacity of building;
3. Glazing orientation; area; and shading coefficients;
4. Heating system efficiency.

**402.1.4 Solar Shading and Access:** Building designs using passive solar features with eight percent or more south

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facing equivalent glazing to qualify shall provide to the building official a sun chart or other approved documentation depicting actual site shading for use in calculating compliance under this section. The building shall contain at least forty-five Btu/°F for each square foot of south facing glass.

**402.1.5 Infiltration:** Infiltration levels used shall be set at 0.35 air changes per hour for thermal calculation purposes only.

**402.1.6 Heat Pumps:** The heating season performance factor (HSPF) for heat pumps shall be calculated using procedures consistent with section 5.2 of the U.S. Department of Energy Test Procedure for Central Air Conditioners, including heat pumps published in the December 27, 1979 Federal Register Vol. 44, No. 24.10 CFR 430. Climate data as specified above, the proposed buildings overall thermal performance value (Btu/°F) and the standardized input assumptions specified above shall be used to model the heat pumps HSPF.

**402.2 Energy Analysis:** Compliance with this chapter will require an analysis of the annual energy usage, hereinafter called an annual energy analysis.

**EXCEPTION:** Chapters 5, and 6 of this Code establish criteria for different energy-consuming and enclosure elements of the building which, will eliminate the requirement for an annual systems energy analysis while meeting the intent of this Code.

A building designed in accordance with this chapter will be deemed as complying with this Code if the calculated annual energy consumption is not greater than a similar building (defined as a "standard design") whose enclosure elements and energy-consuming systems are designed in accordance with Chapter 5.

For an alternate building design to be considered similar to a "standard design," it shall utilize the same energy source(s) for the same functions and have equal floor area and the same ratio of envelope area to floor area, environmental requirements, occupancy, climate data and usage operational schedule.

**402.3 Design:** The standard design, conforming to the criteria of Chapter 5 and the proposed alternative design shall be designed on a common basis as specified herein:

The comparison shall be expressed as kBtu or kWh input per square foot of conditioned floor area per year at the building site.

**402.4 Analysis Procedure:** The analysis of the annual energy usage of the standard and the proposed alternative building and system design shall meet the following criteria:

a. The building heating/cooling load calculation procedure used for annual energy consumption analysis shall be detailed to permit the evaluation of effect of factors specified in section 402.5.

b. The calculation procedure used to simulate the operation of the building and its service systems through a full-year operating period shall be detailed to permit the evaluation of the effect of system design, climatic factors, operational characteristics, and mechanical equipment on annual energy usage. Manufacturer's data or comparable field test data shall be used when available in the simulation of systems and equipment. The calculation procedure shall be based upon eight thousand seven hundred sixty hours of operation of the building and its service systems.

**402.5 Calculation Procedure:** The calculation procedure shall cover the following items:

a. Design requirements—Environmental requirements as required in Chapter 3.

b. Climatic data—Coincident hourly data for temperatures, solar radiation, wind and humidity of typical days in the year representing seasonal variation.

c. Building data—Orientation, size, shape, mass, air, moisture and heat transfer characteristics.

d. Operational characteristics—Temperature, humidity, ventilation, illumination, control mode for occupied and unoccupied hours.

e. Mechanical equipment—Design capacity, part load profile.

f. Building loads—Internal heat generation, lighting, equipment, number of people during occupied and unoccupied periods.

**EXCEPTION:** Group R Occupancy shall comply with calculation procedures in Chapter 8, or an approved alternate.

**402.6 Documentation:** Proposed alternative designs, submitted as requests for exception to the standard design criteria, shall be accompanied by an energy analysis comparison report. The report shall provide technical detail on the two building and system designs and on the data used in and resulting from the comparative analysis to verify that both the analysis and the designs meet the criteria of Chapter 4 of this Code.

**AMENDATORY SECTION** (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

### WAC 51-11-0502 Building envelope requirements.

#### 502.1 General:

**502.1.1:** The stated U- or F-value of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-value for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-values specified in this Section.

The U-values for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 19-27 in RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U-value shall be determined by one of the following methods:

1. Results of laboratory or field measurements.
2. Standard RS-25, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.

3. The zone method as provided in Chapter 22 of RS-1, listed in Chapter 7.

4. Effective framing/cavity R-values as provided from the following table for metal stud walls:

WALL FRAMING	CAVITY INSULATION	
	R-11	R-19
2 x 4 @ 16" o.c.	5.50	-
2 x 4 @ 24" o.c.	6.60	-
2 x 6 @ 16" o.c.	-	7.60
2 x 6 @ 24" o.c.	-	8.55

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and

b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 1712 and/or 1713 of the Uniform Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities, and maintain uniform R-values. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than twenty-five and a smoke density not to exceed four hundred fifty when tested in accordance with UBC Standard 42-1.

EXCEPTIONS:

1. Foam plastic insulation shall comply with section 1712 of the Uniform Building Code.

2. When such materials are installed in concealed spaces of Types III, IV, and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is installed in substantial contact with the unexposed surface of the ceiling, floor, or wall finish.

3. Cellulose insulation shall comply with section 1713 of the Uniform Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturers specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which

prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose-fill insulation may be used in attic spaces where the slope of the ceiling is not more than three feet in twelve and there is at least thirty inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the Uniform Building Code section 3205(c) for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point six inches vertically above the height of noncompressed insulation, and twelve inches vertically above loose fill insulation.

502.1.4.6 Wall Insulation: Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

502.1.4.7 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is no more than twenty-four inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTION: Insulation may be omitted from floor areas over heated basements, heated garages, or underfloor areas used as HVAC supply plenums. See Uniform Mechanical Code section 1008 for underfloor supply plenum requirements. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of thirty degrees from horizontal, to divert air flow below the lower surface of the floor insulation.

502.1.4.8 Slab-On-Grade: Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of twenty-four inches or downward and then horizontally beneath the slab for a minimum combined distance of twenty-four inches. Insulation installed outside the foundation shall extend downward to a minimum of twenty-four inches or to the frostline. Above grade insulation shall be protected.

EXCEPTION: For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

502.1.4.9 Radiant Slabs: The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an ap-

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proved product for its intended use. If a soil-gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

#### 502.1.4.10 Below-Grade Walls:

a. Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above grade insulation shall be protected.

b. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level.

502.1.5 Glazing and Door U-Values: ~~((For Group R Occupancy))~~ Glazing and door U-values shall be determined in accordance with section 502.1.5.1 ~~((For other occupancies, glazing and door U-values shall be determined in accordance with either section 502.1.5.1 or 502.1.5.2.))~~ and 502.1.5.2. All products shall be labeled with the NFRC certified or default U-value. The labeled U-value shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 class A.

#### EXCEPTIONS:

1. Until December 31, 1994, the following products may be assigned a U-value of 0.40 for the purposes of determining compliance with the electric resistance component performance path as determined by Equation 3 in WAC 51-11-0527:

A vinyl or wood double pane window, excluding sliding glass doors, constructed with a minimum 1/2 inch air space between glazings and either a low-e glazing or an argon fill of no less than 90%.

The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the electric resistance path in the Washington State Energy Code."

2. Until December 31, 1994, the following products may be assigned a U-value of 0.65 for the purposes of determining compliance with the other fuels component performance path as determined by Equation 3 in WAC 51-11-0527:

An aluminum, double pane window, excluding sliding glass doors, constructed with a minimum 7/16 inch air space between glazings.

The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the other fuels path in the Washington State Energy Code."

3. Log homes, in addition to the exceptions above, may utilize the following: Until December 31, 1994, the following products may be assigned a U-value of 0.31 for the purposes of determining compliance with the electric resistance or other fuels component performance path as determined by Equation 3 in WAC 51-11-0527:

A vinyl or wood double pane window, excluding sliding glass doors, constructed with a minimum 1/2 inch air space between glazings and both a low-e glazing and an argon fill of no less than 90%.

The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy either the electric resistance path or the other fuels path for log homes in the Washington State Energy Code."

502.1.5.1 Standard Procedure for Determination of Glazing ~~((and Door))~~ U-Values: U-values for glazing ~~((and doors, including all fire doors.))~~ shall be ~~((the tested U-values for thermal transmittance due to conduction resulting from either the AAMA 1503.1-88 test procedure or the ASTM C236-87 or C976-82 test procedures, provided that testing shall be conducted under established winter horizontal heat flow test conditions using fifteen mile per hour wind speed directed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1-88.~~

~~AAMA 1503.1-88 testing, shall be conducted by a laboratory accredited by AAMA to perform that test. ASTM C236-87 or C976-82 testing shall be conducted by an independent laboratory accredited by a nationally recognized accreditation program, independent of that laboratory. All tested U-values reported for listing by the state building code council after January 1, 1991, shall include certification by the manufacturer of gas content in the sealed insulated glass unit used for testing and in the production unit.~~

~~Product samples tested shall be production line units or representative of units as purchased by the consumer or contractor. Product sample sizes tested shall be in accordance with AAMA 1503.1-88, except that skylights shall be tested with a nominal two foot by four foot size, or a nominal four foot by four foot size. The installation of the test sample shall be in accordance with AAMA 1503.1-88, section 8.4. All testing performed after January 1, 1991, shall not include screens. All glazing and doors shall be identified with a label that states an overall product U-value that is no less than the actual tested U-value. The labeled U-value shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E 774-81 level A.~~

#### EXCEPTIONS:

1. ~~The exterior frame dimensions of the product sample size tested shall not deviate by more than three inches from the height and width specified, except that skylights are allowed to be tested in the closest production line size to that specified above.~~

2. ~~Passive air inlets are not required to be part of the tested assembly.~~

3. ~~Products tested prior to December 31, 1990, to AAMA 1503.1-80, ASTM C236-80 or C976-82 which are not in compliance with the test size requirement above, and which are in compliance with the product sample sizes in AAMA 1503.1-80, shall be acceptable until December 31, 1994.~~

4. ~~Untested glazing and doors shall be assigned the default U-values listed in Chapter 10. The default values for the opaque portions of doors shall be those listed in Chapter 10, provided that the U-value listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.~~

5. ~~The U-value of an insulated glazing product which has a 'grille pattern' installed between the glazing layers shall be deemed equal to the U-value of an insulated glazing product which is tested without a 'grille pattern' in between glazing layers, provided a minimum one eighth inch air space exists between the 'grille pattern' and both glass lites.~~

6. ~~For a glazing product which is manufactured with an alternative 'low-e coating' than the 'low-e coating' of the tested glazing product, the U-value shall be deemed equal provided that the alternative 'low-e coating' material has an equal or lower rated emissivity.~~

7. ~~U-factors, either tested or simulated, labeled and certified in accordance with the National Fenestration Rating Council's (NFRC) procedure 100-91 are acceptable if based on model size AA.))~~ determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification

Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC. Compliance shall be based on Model Size AA. Product samples used for U-value determinations shall be production line units or representative of units as purchased by the consumer or contractor. Products that are listed in the NFRC Certified Products Directory or certified to the NFRC standard shall not use default values.

**EXCEPTIONS:**

1. Untested glazing products may be assigned default U-values from Table 10-6A.
2. Overhead glazing and units produced by a small business may be assigned default U-values from Table 10-6B.
3. Passive air inlets are not required to be part of the tested assembly.
4. Compliance for tested overhead glazing shall be based on NFRC Model Size BB.

~~502.1.5.2 ((Alternate Glazing and Door U-Values for Other Than Group R Occupancy: Glazing U-values for other than Group R Occupancy are also allowed to be taken from Table 13 of Chapter 27 of RS-1 listed in Chapter 7 or calculated in accordance with the procedures of Chapter 27 of RS-1 listed in Chapter 7 and door U-values are also allowed to be taken from Table 6 in Chapter 22 of RS-1 listed in Chapter 7.)) Standard Procedure for Determination of Door U-Values: Half-lite and full-lite doors, including fire doors, shall be assigned default U-values from Table 10-6D. All other doors, including fire doors, shall be assigned default U-values from Tables 10-6C.~~

**EXCEPTIONS:**

1. U-values determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC.
2. The default values for the opaque portions of doors shall be those listed in Table 10-6C, provided that the U-value listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.
3. One unlabeled or untested exterior swinging door with the maximum area of 24 square feet may be installed for ornamental, security or architectural purposes. Products using this exception shall not be included in either the U-value or glazing area calculation requirements.

**502.1.6 Moisture Control:**

502.1.6.1: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than one-third of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil. polyethylene or kraft faced material).

502.1.6.3: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling (~~cavities [cavi-~~

~~ties]) cavities shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.~~

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages twelve inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Wall Insulation: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

**502.2 Thermal Criteria for Group R Occupancy:**

502.2.1: The proposed UA as calculated using Equations 2 and 3 shall not exceed the Target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using figures in Table 5-1, and all the glazing shall be located in the wall area. The opaque door area shall be the same in the target UA and the proposed UA.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units, and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts per dwelling unit, or; 2) One watt per square foot of the gross floor area.

2. Other: All gas, wood, oil, and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

~~502.3 ((Thermal Performance Criteria For Other Than Group R Occupancies.~~

~~502.3.1: The overall thermal transmittance value (U\*) of the gross area of elements of the exterior building envelope of all buildings other than low-rise residential buildings shall not exceed the values given in Tables 5-2. Equations 2, 4 and 5 shall be used to determine acceptable combinations of building components and thermal properties to meet this requirement for heating. U\* and U\*\* are specified in units of:~~

$$\frac{\text{Btu}}{\text{hr. ft}^2 \cdot \text{°F}}$$

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~~502.3.2 Slab on Grade Floors: For slab on grade floors the thermal resistance of the insulation around the perimeter of the floor shall not be less than the value given in Table 5-2.~~

~~502.3.3 Alternative Wall Allowance for Other Than Group R Occupancies: For other than Group R Occupancies, three stories or less, the maximum allowed value for average thermal transmittance ( $U_o$ ) of the exterior walls may be increased to the values given in Table 5-2 BUILDINGS OVER THREE CONDITIONED STORIES provided that at least one of the following criteria is also met:~~

~~1. Mechanical supply of outside air and mechanical exhaust of building air shall be automatically shut off and the duct closed for at least eight hours per day during hours of nonoccupancy, or~~

~~2. The primary source of heating for the building shall be one or more heat pumps meeting the provisions of section 503.4.2 or gas or oil combustion heating equipment with a minimum combustion efficiency of eighty five percent for central heating plants and eighty percent for room and space heaters. This efficiency shall be determined in accordance with the provisions of section 503.4.3.~~

~~Provided further: That if both criteria are met, the maximum allowed value for thermal transmittance ( $U_o$ ) of the exterior walls used in Table 5-2 may be increased by 0.05 in determining compliance with the provisions of the Code.~~

~~For walls with a wall weight of at least thirty lbs. per ft<sup>2</sup> (provided that walls constructed of hollow masonry units have cores filled with either grout, concrete, or with an insulating material with resistance per inch (R) of at least 2.25 ft<sup>2</sup>/hr. °F/Btu) the calculated thermal resistance of the wall sections measured face to face on wall units which are exposed to inside air temperatures, not including the thermal resistance of air films or additional exterior wall elements may be increased by twenty five percent in determining compliance with the provisions of the code provided that:~~

~~Heating and cooling set point temperatures in the conditioned spaces or zones of the building shall be separated by at least five degrees F. The temperature control shall be designed to prevent new energy from being used to heat the space above the heating set point temperature or cool the space below the cooling set point temperature.) Reserved.~~

#### 502.4 Air Leakage ((for All Occupancies)):

502.4.1: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

#### 502.4.3:

a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility

services through walls, floors, and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 occupancy shall be sealed, caulked, gasketed, or weatherstripped to limit air leakage.

b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim, and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane, or other approved technique.

d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity and sealed or gasketed to prevent air leakage into the unconditioned space.

2. Type IC rated, installed inside a sealed box constructed from a minimum one-half inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.

3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at seventy-five Pascals or 1.57 lbs/ft<sup>2</sup> pressure difference and have a label attached, showing compliance.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0525 Equation 1—Group R Occupancy.

~~EQUATION 1—GROUP R OCCUPANCY~~~~TARGET UA~~

$$U_{A_T} = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

Where:

$U_{A_T}$  = the target combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

$U_W$  = the thermal transmittance value of the opaque above grade wall area found in Table 5-1.

$A_W$  = opaque above grade wall area.

$U_{BGW}$  = the thermal transmittance value of the below grade opaque wall area found in Table 5-1.

$A_{BGW}$  = opaque below grade wall area.

$U_G$  = the thermal transmittance value of the glazing area found in Table 5-1.

$A_G$  = .15 (total floor area of the conditioned space).

$U_F$  = the thermal transmittance value of the floor area found in Table 5-1.

$A_F$  = floor area over unconditioned space.

$U_{RC}$  = the thermal transmittance value of the roof/ ceiling area found in Table 5-1.

$A_{RC}$  = roof/ceiling area.

$U_{CC}$  = the thermal transmittance value of the cathedral ceiling area found in Table 5-1.

$A_{CC}$  = cathedral ceiling area.

$U_D$  = the thermal transmittance value of the opaque door area found in table 5-1.

$A_D$  = opaque door area.

$F_S$  = concrete slab component F value found in Table 5-1.

$P_S$  = Linear ft. of concrete slab perimeter.

**EQUATION 1 -- GROUP R OCCUPANCY  
TARGET UA**

$$UA_T = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

**Where:**

$UA_T$  = the target combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

$U_W$  = the thermal transmittance value of the opaque above grade wall area found in Table 5-1.

$A_W$  = opaque above grade wall area.

$U_{BGW}$  = the thermal transmittance value of the below grade opaque wall area found in Table 5-1.

$A_{BGW}$  = opaque below grade wall area.

$U_G$  = the thermal transmittance value of the glazing area found in Table 5-1.

$A_G$  = .15 (total floor area of the conditioned space).

$U_F$  = the thermal transmittance value of the floor area found in Table 5-1.

$A_F$  = floor area over unconditioned space.

$U_{RC}$  = the thermal transmittance value of the roof/ ceiling area found in Table 5-1.

$A_{RC}$  = roof/ceiling area.

$U_{CC}$  = the thermal transmittance value of the cathedral ceiling area found in Table 5-1.

$A_{CC}$  = cathedral ceiling area.

$U_D$  = the thermal transmittance value of the opaque door area found in table 5-1.

$A_D$  = opaque door area.

$F_S$  = concrete slab component F-value found in Table 5-1.

$P_S$  = Lineal ft. of concrete slab perimeter.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0527 Equation 3—Group R Occupancy.

~~EQUATION 3—GROUP R OCCUPANCY~~

~~PROPOSED UA~~

$$UA = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

Where:

~~UA = the combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.~~

~~U<sub>W</sub> = the thermal transmittance of the opaque wall area.~~

~~U<sub>BGW</sub> = the thermal transmittance value of the below grade opaque wall area.~~

~~A<sub>BGW</sub> = opaque below grade wall area.~~

~~A<sub>W</sub> = opaque wall area.~~

~~U<sub>G</sub> = the thermal transmittance of the glazing (window or skylight) area.~~

~~A<sub>G</sub> = glazing area, including windows in exterior doors.~~

~~U<sub>F</sub> = the thermal transmittance of the floor area.~~

~~A<sub>F</sub> = floor area over unconditioned space.~~

~~U<sub>RC</sub> = the thermal transmittance of the roof/ceiling area.~~

~~A<sub>RC</sub> = roof/ceiling area.~~

~~U<sub>CC</sub> = the thermal transmittance of the cathedral ceiling area.~~

~~A<sub>CC</sub> = cathedral ceiling area.~~

~~U<sub>D</sub> = the thermal transmittance value of the opaque door area.~~

~~A<sub>D</sub> = opaque door area.~~

~~F<sub>S</sub> = concrete slab component f factor.~~

~~P<sub>S</sub> = lineal ft. of concrete slab perimeter.~~

~~NOTE: Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:~~

$$U_{W1} A_{W1} + U_{W2} A_{W2} + U_{W3} A_{W3} + \dots \text{etc.}$$

**EQUATION 3 -- GROUP R OCCUPANCY  
PROPOSED UA**

$$UA = U_W A_W + U_{BGW} A_{BGW} + U_G A_G + U_F A_F + U_{RC} A_{RC} + U_{CC} A_{CC} + U_D A_D + F_S P_S$$

**Where:**

UA = the combined thermal transmittance of the gross exterior wall, floor, and roof/ceiling assembly area.

$U_W$  = the thermal transmittance of the opaque wall area.

$U_{BGW}$  = the thermal transmittance value of the below grade opaque wall area.

$A_{BGW}$  = opaque below grade wall area.

$A_W$  = opaque wall area.

$U_G$  = the thermal transmittance of the glazing (window or skylight) area.

$A_G$  = glazing area, including windows in exterior doors.

$U_F$  = the thermal transmittance of the floor area.

$A_F$  = floor area over unconditioned space.

$U_{RC}$  = the thermal transmittance of the roof/ceiling area.

$A_{RC}$  = roof/ceiling area.

$U_{CC}$  = the thermal transmittance of the cathedral ceiling area.

$A_{CC}$  = cathedral ceiling area.

$U_D$  = the thermal transmittance value of the opaque door area.

$A_D$  = opaque door area.

$F_S$  = concrete slab component f-factor.

$P_S$  = lineal ft. of concrete slab perimeter.

**NOTE:** Where more than one type of wall, window, roof/ceiling, door, and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:

$$U_{W1} A_{W1} + U_{W2} A_{W2} + U_{W3} A_{W3} + \dots \text{etc.}$$

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-0601 Scope.**

601.1 General: This chapter establishes design criteria in terms of prescribed requirements for building construction.

The provisions of this chapter are applicable to all Group R Occupancies. Occupancies shall comply with all the requirements of Chapter 5 except for the modifications herein specified.

The building envelope requirements of this chapter may be met by installing one of the prescriptive packages in Tables 6-1 to 6-6 (~~for Group R Occupancy, or Table 6-7 for Other Occupancies~~). Installed components shall meet the requirements of section 602 and 605. Compliance with nominal R-Values shall be demonstrated for the thermal resistance of the added insulation in framing cavities and/or insulated sheathing only and shall not include the thermal transmittance of other building materials or air films, but shall permit interruption by occasional framing members.

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-0602 Building envelope requirements for Group R Occupancy.**

602.1 Roof/Ceiling: Ceilings below vented attics and single-rafter, joist-vaulted ceilings shall be insulated to not less than the nominal R-value specified for ceilings in Tables 6-1 to 6-6 as applicable.

602.2 Exterior Walls Both Above and Below Grade: Above grade exterior walls shall be insulated to not less than the nominal R-value specified in Tables 6-1 to 6-6 as applicable. The following walls should be considered to meet R-19 without additional documentation:

1. 2 x 6 framed and insulated with R-19 fiberglass batts.
2. 2 x 4 framed and insulated with R-13 fiberglass batts plus R-3.2 foam sheathing.
3. 2 x 4 framed and insulated with R-11 fiberglass batts plus R-5.0 foam sheathing.

602.3 Exterior Walls (Below Grade): Below grade exterior walls surrounding conditioned space shall be insulated to not less than the nominal R-value specified for below grade walls in Tables 6-1 to 6-6 as applicable.

602.4 Slab-on-grade Floors: Slab-on-grade floors shall be insulated along their perimeter to not less than the nominal R-values specified for slab-on-grade floors in Tables 6-1 to 6-6 as applicable. Slab insulation shall be installed in compliance with section 502.1.4.8. See Chapter 5, section 502.1.4.9, for additional requirements for radiant slab heating.

602.5 Floors Over Unconditioned Space: Floors over unconditioned spaces, such as vented crawl spaces, unconditioned basements, and parking garages shall be insulated to not less than the nominal R-value shown for floors over unconditioned spaces, in Tables 6-1 to 6-6.

602.6 Exterior Doors: (~~For all doors which are less than fifty percent glazing, including fire doors, the opaque door area shall have a maximum area weighted average U-value not exceeding that shown in Tables 6-1 to 6-6 and the glazing shall comply with section 602.7. U-values for the opaque door area shall be determined in accordance with section 502.1.5.1. For all doors which are fifty percent or more glazing, the entire door area shall comply with the glazing requirements in section 602.7.~~) Doors shall comply with Sections 602.6.1 and 602.6.2.

**EXCEPTIONS:**

1. Doors whose area and U-value are included in the calculations for compliance with the requirements for glazing in section 602.7 shall be exempt from the door U-value requirements (~~stated above~~) prescribed in Tables 6-1 to 6-6.

2. One unlabeled or untested exterior swinging door with the maximum area of 24 square feet may be installed for ornamental, security or architectural purposes. Products using this exception shall not be included in either the U-value or glazing area calculation requirements.

602.6.1 Exterior Door Area: For half-lite and full-lite doors, the glazing area shall be included in calculating the allowed total glazing area in Section 602.7.1. Single glazing used for ornamental, security or architectural purposes shall be calculated using the exception to Section 602.7.2.

602.6.2 Exterior Door U-Value: Doors, including fire doors, shall have a maximum area weighted average U-value not exceeding that prescribed in Tables 6-1 to 6-6.

**602.7 Glazing:**

602.7.1 Glazing Area: The total glazing area as defined in Chapter 2 shall not exceed the percentage of gross conditioned floor area specified in Tables 6-1 to 6-6. This area shall also include any glazing in doors (~~(using the exception of section 602.6)~~).

602.7.2 Glazing U-Value: The total glazing area as defined in Chapter 2 shall have an area weighted average U-value not to exceed that specified in Tables 6-1 to 6-6. U-values for glazing shall be determined in accordance with section 502.1.5.1. These areas and U-values shall also include any doors using the exception of section 602.6.

If the U-values for all glazing products are below the U-value specified, then no calculations are required. If compliance is to be achieved through an area weighted calculation, then the areas and U-values shall be included in the plans submitted with a building permit application.

**EXCEPTION:** Single glazing for ornamental, security, or architectural purposes shall have its area doubled and shall be included in the percentage of the total glazing area as allowed for in Tables 6-1 to 6-6. The maximum area (before doubling) allowed for the total of all single glazing is one percent of the floor area.

602.8 Air Leakage For Group R Occupancy: The minimum air leakage control measures shall be as specified in section 502.4 as applicable.

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-0603 Building mechanical systems for Group R Occupancy.**

603.1: Group R Occupancies that are space heated by air-to-air, ground-to-air, or water-to-air heat pumps shall comply with Table 6-2 or 6-4 or 6-6 for other fuels. System sizing shall be determined by an analysis consistent with section 503.2 of this Code, or, when approved by the building official, Chapter 9. All mechanical equipment efficiencies and service water heating system efficiencies shall comply with standards as stated in sections 503 and 504 of this Code.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0625 Table 6-1.

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TABLE 6-1 - PRESCRIPTIVE REQUIREMENTS FOR GROUP R OCCUPANCY CLIMATE ZONE I - HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING AREA FLOOR AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING CEILING AREA	CEILING CEILING	WALLS ABOVE GRADE	WALLS BELOW GRADE	FLOOR FLOOR	SLAB ON GRADE
I	10%	0.46	0.40	R-30	R-30	R-21	R-10	R-30	R-10
II	12%	0.43	0.30	R-30	R-30	R-19	R-10	R-30	R-10
III	13%	0.40	0.40	R-30	R-30	R-21	R-10	R-30	R-10
IV	15%	0.40	0.30	R-30	R-30	R-19	R-10	R-30	R-10
V	18%	0.39	0.30	R-30	R-30	R-21	R-10	R-30	R-10
VI	21%	0.36	0.30	R-30	R-30	R-21	R-10	R-30	R-10
VII	25%	0.32	0.30	R-30	R-30	R-18+R1	R-10	R-30	R-10
VIII	30%	0.29	0.30	R-30	R-30	R-18+R1	R-10	R-30	R-10

- 1. Reference: See specifications for materials and installation according to the manufacturer's specifications. See section 603.2.
- 2. Floor over crawl space or exposed to ambient air conditions.
- 3. Required slab perimeter insulation shall be water resistant material, manufactured for the intended use, and installed according to manufacturer's specifications. See section 603.4.
- 4. The following applies shall be applicable to buildings with an above-grade exterior 0-35 m above for glazing areas of 35% or less; 0.33 maximum for glazing areas of 30% or less.
- 5. This wall insulation requirement does not apply to well-sealed buildings plus R-5 floor slabs.

**TABLE 6-1 • PRESCRIPTIVE REQUIREMENTS<sup>1</sup> FOR GROUP R OCCUPANCY  
CLIMATE ZONE 1 • HEATING BY ELECTRIC RESISTANCE**

Option	Glazing % Floor Area	Glazing U-Value	Doors <sup>10</sup> U-Value	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall•int <sup>4</sup> Below Grade	Wall•ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>4</sup> on Grade
I.	10%	0.46	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
III.	12%	0.40 <sup>9</sup>	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV.*	15%	0.40 <sup>9</sup>	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
V.	18%	0.39	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. <sup>7</sup>	25%	0.32 <sup>7</sup>	0.20	R-38	R-30	R-19+R5 <sup>8</sup>	R-21	R-10	R-30	R-10
VIII. <sup>7</sup>	30%	0.29 <sup>7</sup>	0.20	R-38	R-30	R-19+R5 <sup>8</sup>	R-21	R-10	R-30	R-10

\* Reference Case

- <sup>1</sup> Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- <sup>2</sup> Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- <sup>3</sup> Requirement applicable only to single rafter or joist vaulted ceilings.
- <sup>4</sup> Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
- <sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.
- <sup>6</sup> Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
- <sup>7</sup> The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.
- <sup>8</sup> This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- <sup>9</sup> Until December 31, 1994, a vinyl or wood double-pane window, excluding sliding glass doors, constructed with a minimum ½ inch air space between glazings, and either a low-e glazing or an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the electric resistance path in the Washington State Energy Code."
- <sup>10</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.



**TABLE 6-2 • PRESCRIPTIVE REQUIREMENTS<sup>1</sup> FOR GROUP R OCCUPANCY  
CLIMATE ZONE 1 • HEATING BY OTHER FUELS**

Option	HVAC <sup>9</sup> Equip. Effic.	Glazing % Floor Area	Glazing U-Value	Doors <sup>11</sup> U-Value	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall <sup>oint</sup> <sup>4</sup> Below Grade	Wall <sup>ext</sup> <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
I.	Med.	10%	0.70	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
II.	Med.	12%	0.65 <sup>10</sup>	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
III.	High	21%	0.75	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
IV.*	Med.	21%	0.65 <sup>10</sup>	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
V.	Low	21%	0.60	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
VI. <sup>7</sup>	Med.	25%	0.45 <sup>7</sup>	0.40	R-38	R-30	R-19	R-19	R-10	R-25	R-10
VII. <sup>7</sup>	Med.	30%	0.40 <sup>7</sup>	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10

\* Reference Case

<sup>1</sup> Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.

<sup>2</sup> Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.

<sup>3</sup> Requirement applicable only to single rafter or joist vaulted ceilings.

<sup>4</sup> Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.

<sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.

<sup>6</sup> Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.

<sup>7</sup> The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.

<sup>8</sup> This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.

<sup>9</sup> Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88.

Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSFP of 6.35. 'Med' denotes an HSFP of 6.8. 'High' denotes an HSFP of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-7.

<sup>10</sup> Until December 31, 1994, an aluminum, double-pane window, excluding sliding glass doors, constructed with a minimum 7/16 inch air space between glazings shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the other fuels path in the Washington State Energy Code."

<sup>11</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.

PERMANENT

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0627 Table 6-3.

PERMANENT

TABLE 6-3 - PREScriptive REQUIREMENTS FOR GROUP R OCCUPANCY - CLIMATE ZONE 3 - HEATING BY ELECTRIC RESISTANCE

OPTION	GLAZING AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING	VAULTED CEILING	WALL ABOVE GRADE	WALL BELOW GRADE	WALL ON GRADE	FLOOR	SLAB ON GRADE
I	10%	0.38	0.20	R-38	R-30	R-21	R-12	R-12	R-30	R-10
II	12%	0.40	0.20	R-38	R-30	R-19+R-5 <sup>1</sup>	R-21	R-12	R-25	R-10
III	15%	0.40	0.20	R-38	R-30	R-19+R-5 <sup>1</sup>	R-21	R-12	R-30	R-10
IV	18%	0.38	0.20	R-38	R-30	R-19+R-5 <sup>1</sup>	R-21	R-12	R-30	R-10
V	21%	0.35	0.20	R-38Adv	R-38	R-19+R-5 <sup>1</sup>	R-21	R-12	R-30	R-10
VI	25%	0.30 <sup>2</sup>	0.20	R-49Adv	R-38	R-19+R-5 <sup>1</sup>	R-21	R-12	R-30	R-10
VII	30%	0.28 <sup>3</sup>	0.20	R-60Adv	R-38	R-21+R-7.5 <sup>1</sup>	R-21	R-12	R-30	R-10

1. Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio in excess of 18%, it shall comply with all of the requirements of the 21% glazing option (VI). Proposed design which does not meet the specific requirements of a listed option does not constitute compliance by Chapter 4 of the Code.

2. Requirement applies to all ceiling except single rather or false ceiling with 14-ft diameter Advanced Framed Ceiling.

3. Requirement applicable only to single rather or false ceiling.

4. Below grade walls shall be insulated at least to the extent to a minimum level of R-10, or as the listed in the same level as walls above grade. Exterior insulation installed on below grade walls shall be a minimum of 2 inches, as measured for the listed level, and installed according to the manufacturer's specifications. See section 603.2.

5. Floor over vent spaces or exposed to ambient air conditions.

6. Required slab perimeter insulation shall be a water resistant material, as required for the intended use, and installed according to manufacturer's specifications. See section 603.4.

7. The following options shall be applicable to buildings less than three stories (0-3) in exterior wall glazing areas of 21% or less: 0.31 maximum for glazing areas of 20% or less.

8. This wall insulation requires a net density R-19 wall cavity insulation plus R-5 foam sheathing.

9. This wall insulation requires a net density R-21 wall cavity insulation plus R-7.5 foam sheathing.

**TABLE 6-3 • PRESCRIPTIVE REQUIREMENTS<sup>1</sup> FOR GROUP R OCCUPANCY  
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE**

Option	Glazing % Floor Area	Glazing U-Value	Doors <sup>11</sup> U-value	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall•int <sup>4</sup> Below Grade	Wall•ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
<b>I.</b>	10%	0.38	0.20	R-38	R-30	R-21	R-21	R-12	R-30	R-10
<b>II.</b>	12%	0.40 <sup>10</sup>	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-25	R-10
<b>III.*</b>	15%	0.40 <sup>10</sup>	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
<b>IV.</b>	18%	0.38	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
<b>V.<sup>7</sup></b>	21%	0.35	0.20	R-38 <sup>Adv</sup>	R-38	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
<b>VI.<sup>7</sup></b>	25%	0.30 <sup>7</sup>	0.20	R-49 <sup>Adv</sup>	R-38	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
<b>VII.<sup>7</sup></b>	30%	0.28 <sup>7</sup>	0.20	R-60 <sup>Adv</sup>	R-38	R-21+R7.5 <sup>9</sup>	R-21	R-12	R-30	R-10

\* Reference Case

- <sup>1</sup> Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- <sup>2</sup> Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- <sup>3</sup> Requirement applicable only to single rafter or joist vaulted ceilings.
- <sup>4</sup> Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
- <sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.
- <sup>6</sup> Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
- <sup>7</sup> The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.
- <sup>8</sup> This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- <sup>9</sup> This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.
- <sup>10</sup> Until December 31, 1994, a vinyl or wood double-pane window, excluding sliding glass doors, constructed with a minimum ½ inch air space between glazings, and either a low-e glazing or an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the electric resistance path in the Washington State Energy Code."
- <sup>11</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0628 Table 6-4.

TABLE 6-4 PERSCRIPTIVE REQUIREMENTS FOR GROUP-R OCCUPANCY CLIMATE ZONE 1 HEATING BY OTHER FUELS

OPTION	HVAC EQUIPMENT	GLAZING AREA	GLAZING U-VALUE	DOORS U-VALUE	CEILING	VAULTED CEILING	WALL ABOVE GRADE	WALL BELOW GRADE	FLOOR	SLAB ON GRADE
I	Med.	10%	0.70	0.40	R-38	R-30	R-19	R-19	R-25	R-10
II	Med.	13%	0.65	0.40	R-38	R-30	R-19	R-19	R-25	R-10
III	High	17%	0.65	0.40	R-38	R-30	R-19	R-19	R-25	R-10
IV	Med.	17%	0.60	0.40	R-38	R-30	R-19	R-19	R-30	R-10
V	Low	17%	0.50	0.40	R-38	R-30	R-19	R-19	R-30	R-10
VI	Med.	21%	0.50	0.40	R-38	R-30	R-19	R-19	R-30	R-10
VII	Med.	25%	0.40	0.40	R-38	R-30	R-19	R-19	R-30	R-10
VIII	Med.	30%	0.40	0.40	R-38	R-30	R-19	R-19	R-30	R-10

- 1. Reference Case
- 2. Minimum requirements for exterior doors. For example, if a proposed door has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 31% glazing option for high rise. Proposed doors which cannot meet the specific requirements of a listed option above, may submit compliance by Chapter 2 of this Code.
- 3. Requirements apply to all ceilings and partitions in the enclosed ceiling. Add doors if enclosed Framed Ceiling.
- 4. Requirements apply to only ceiling reflector ceiling.
- 5. Below grade walls shall be insulated with a minimum R-value of R-10 or as the manufacturer directs to meet wall above grade. Exterior doors shall be insulated with a minimum R-value of R-20 or as the manufacturer directs to meet floor above grade. Exterior doors shall be insulated with a minimum R-value of R-20 or as the manufacturer directs to meet floor above grade. Exterior doors shall be insulated with a minimum R-value of R-20 or as the manufacturer directs to meet floor above grade.
- 6. Floor over roof spaces are subject to ambient air conditions.
- 7. Required slab perimeter insulation shall be water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 603.4.
- 8. The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing area of 31% or less; 0.40 maximum for glazing area of 30% or less.
- 9. This wall insulation requirement does not apply to walls in cavity insulation plus R-5 foam sheathing.
- 10. Minimum HVAC Equipment efficiency requirements. Low density as AFUE of 0.74. Mid density as AFUE of 0.78. High density as AFUE of 0.88.

PERMANENT

**TABLE 6-4 • PRESCRIPTIVE REQUIREMENTS<sup>1</sup> FOR GROUP R OCCUPANCY  
CLIMATE ZONE 2 • HEATING BY OTHER FUELS**

Option	HVAC <sup>9</sup> Equip. Effic.	Glazing % Floor Area	Glazing U-Value	Doors <sup>11</sup> U-Value	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall•int <sup>4</sup> Below Grade	Wall•ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
I.	Med.	10%	0.70	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
II.	Med.	12%	0.65 <sup>10</sup>	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
III.	High	17%	0.65 <sup>10</sup>	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
IV.*	Med.	17%	0.60	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
V.	Low	17%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VI.	Med.	21%	0.50	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VII.	Med.	25%	0.40 <sup>7</sup>	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VIII.	Med.	30%	0.40 <sup>7</sup>	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10

\* Reference Case

- <sup>1</sup> Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- <sup>2</sup> Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- <sup>3</sup> Requirement applicable only to single rafter or joist vaulted ceilings.
- <sup>4</sup> Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See section 602.2.
- <sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.
- <sup>6</sup> Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See section 602.4.
- <sup>7</sup> The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.
- <sup>8</sup> This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- <sup>9</sup> Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88.
- <sup>10</sup> Until December 31, 1994, an aluminum, double-pane window, excluding sliding glass doors, constructed with a minimum 7/16 inch air space between glazings shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the other fuels path in the Washington State Energy Code."
- <sup>11</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.

AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0629 Table 6-5.

~~TABLE 6-5  
LOG HOMES PRESCRIPTIVE REQUIREMENTS<sup>1</sup>  
HEATING BY ELECTRIC RESISTANCE~~

<del>OPTION</del>	<del>AVERAGE LOG THICKNESS</del>	<del>GLAZING % FLOOR AREA</del>	<del>GLAZING U-VALUE</del>	<del>DOORS U-VALUE</del>	<del>CEILING<sup>1</sup></del>	<del>VAULTED<sup>2</sup> CEILING</del>	<del>FLOOR<sup>3</sup></del>	<del>SLAB<sup>4</sup> ON GRADE</del>
<del>CLIMATE ZONE 1</del>								
<del>I.<sup>2</sup></del>	<del>5.5"</del>	<del>15%</del>	<del>0.31</del>	<del>0.14</del>	<del>R 60 Adv</del>	<del>R 38</del>	<del>R 38</del>	<del>R 10</del>
<del>II.<sup>2</sup></del>	<del>7.5"</del>	<del>15%</del>	<del>0.40</del>	<del>0.20</del>	<del>R 60 Adv</del>	<del>R 38</del>	<del>R 30</del>	<del>R 10</del>
<del>III.<sup>2</sup></del>	<del>9.6"</del>	<del>15%</del>	<del>0.40</del>	<del>0.20</del>	<del>R 38</del>	<del>R 30</del>	<del>R 30</del>	<del>R 10</del>
<del>CLIMATE ZONE 2</del>								
<del>IV.<sup>2</sup></del>	<del>6.7"</del>	<del>15%</del>	<del>0.31</del>	<del>0.14</del>	<del>R 60 Adv</del>	<del>R 38</del>	<del>R 38</del>	<del>R 10</del>
<del>V.<sup>2</sup></del>	<del>8.7"</del>	<del>15%</del>	<del>0.40</del>	<del>0.14</del>	<del>R 60 Adv</del>	<del>R 38</del>	<del>R 38</del>	<del>R 10</del>
<del>VI.<sup>2</sup></del>	<del>9.8"</del>	<del>15%</del>	<del>0.40</del>	<del>0.20</del>	<del>R 60 Adv</del>	<del>R 38</del>	<del>R 30</del>	<del>R 10</del>
<del>VII.<sup>2</sup></del>	<del>10.5"</del>	<del>15%</del>	<del>0.40</del>	<del>0.20</del>	<del>R 49 Adv</del>	<del>R 38</del>	<del>R 30</del>	<del>R 10</del>
<del>VIII.<sup>2</sup></del>	<del>13.5"</del>	<del>15%</del>	<del>0.40</del>	<del>0.20</del>	<del>R 38</del>	<del>R 30</del>	<del>R 30</del>	<del>R 10</del>

~~Reference Case~~

~~1 For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapters 4 or 5 of this Code.~~

~~2 Required minimum average log thickness.~~

~~3 Adv denotes Advanced Framing. Requirement applies to all ceilings except single rafter joint vaulted ceilings.~~

~~4 Requirement applicable only to single rafter joint vaulted ceilings.~~

~~5 Floors over crawl spaces or exposed to ambient air conditions.~~

~~6 Required slab perimeter insulation shall be water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~7 These options shall be applicable to buildings less than three stories.~~

PERMANENT

**TABLE 6-5  
LOG HOMES PRESCRIPTIVE REQUIREMENTS<sup>1</sup>  
HEATING BY ELECTRIC RESISTANCE**

Option	Average <sup>2</sup> Log Thickness	Glazing % Floor Area	Glazing U-Value	Doors <sup>10</sup> U-Value	Ceiling <sup>3</sup>	Vaulted <sup>4</sup> Ceiling	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
<b>Climate Zone 1</b>								
I. <sup>7</sup>	5.5"	15%	0.31 <sup>9</sup>	0.14	R-60 Adv	R-38	R-38	R-10
II. <sup>7</sup>	7.5"	15%	0.40 <sup>8</sup>	0.20	R-60 Adv	R-38	R-30	R-10
III.*	9.6"	15%	0.40 <sup>8</sup>	0.20	R-38	R-30	R-30	R-10
<b>Climate Zone 2</b>								
IV. <sup>7</sup>	6.7"	15%	0.31 <sup>9</sup>	0.14	R-60 Adv	R-38	R-38	R-10
V. <sup>7</sup>	8.7"	15%	0.40 <sup>8</sup>	0.14	R-60 Adv	R-38	R-38	R-10
VI. <sup>7</sup>	9.8"	15%	0.40 <sup>8</sup>	0.20	R-60 Adv	R-38	R-30	R-10
VII. <sup>7</sup>	10.5"	15%	0.40 <sup>8</sup>	0.20	R-49 Adv	R-38	R-30	R-10
VIII.*	13.5"	15%	0.40 <sup>8</sup>	0.20	R-38	R-30	R-30	R-10

\* Reference Case

<sup>1</sup> For Group R Occupancy use Table 6-5 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.

<sup>2</sup> Required minimum average log thickness.

<sup>3</sup> 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.

<sup>4</sup> Requirement applicable only to single rafter joist vaulted ceilings.

<sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.

<sup>6</sup> Required slab perimeter insulation shall be water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.

<sup>7</sup> These options shall be applicable to buildings less than three stories.

<sup>8</sup> Until December 31, 1994, a vinyl or wood double-pane window, excluding sliding glass doors, constructed with a minimum 1/2 inch air space between glazings, and either a low-e glazing or an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the electric resistance path in the Washington State Energy Code."

<sup>9</sup> Until December 31, 1994, a vinyl or wood double-pane window, excluding sliding glass doors, constructed with a minimum 1/2 inch air space between glazings and both a low-e glazing and an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy either the electric resistance path or the other fuels path for log homes in the Washington State Energy Code."

<sup>10</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.

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AMENDATORY SECTION (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

WAC 51-11-0630 Table 6-6.

~~TABLE 6-6  
LOG HOMES PRESCRIPTIVE REQUIREMENTS<sup>1</sup>  
HEATING BY OTHER FUELS~~

<del>OPTION</del>	<del>AVERAGE LOG THICKNESS</del>	<del>CLADDING 5 FLOOR AREA</del>	<del>CLADDING U-VALUE</del>	<del>DOORS U-VALUE</del>	<del>CEILING<sup>2</sup> U-VALUE</del>	<del>VAULTED CEILING</del>	<del>FLOOR<sup>3</sup></del>	<del>SLAB<sup>4</sup> ON GRADE</del>
<del>CLIMATE ZONE 1</del>								
<del>I.<sup>2</sup></del>	<del>3.5°</del>	<del>21%</del>	<del>0.40</del>	<del>0.39</del>	<del>R-49 Adv</del>	<del>R-38</del>	<del>R-30</del>	<del>R-10</del>
<del>II.</del>	<del>4.4°</del>	<del>21%</del>	<del>0.40</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-19</del>	<del>R-10</del>
<del>III.</del>	<del>5.2°</del>	<del>21%</del>	<del>0.50</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-19</del>	<del>R-10</del>
<del>IV.</del>	<del>6.5°</del>	<del>21%</del>	<del>0.60</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-19</del>	<del>R-10</del>
<del>V.</del>	<del>7.0°</del>	<del>21%</del>	<del>0.60</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-19</del>	<del>R-10</del>
<del>VI.<sup>2</sup></del>	<del>8.3°</del>	<del>21%</del>	<del>0.65</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-19</del>	<del>R-10</del>
<del>CLIMATE ZONE 2</del>								
<del>VII.<sup>2</sup></del>	<del>3.5°</del>	<del>17%</del>	<del>0.31</del>	<del>0.14</del>	<del>R-60 Adv</del>	<del>R-38</del>	<del>R-38</del>	<del>R-10</del>
<del>VIII.<sup>2</sup></del>	<del>3.5°</del>	<del>17%</del>	<del>0.40</del>	<del>0.40</del>	<del>R-60 Adv</del>	<del>R-38</del>	<del>R-30</del>	<del>R-10</del>
<del>IX.<sup>2</sup></del>	<del>4.6°</del>	<del>17%</del>	<del>0.40</del>	<del>0.40</del>	<del>R-60 Adv</del>	<del>R-38</del>	<del>R-30</del>	<del>R-10</del>
<del>X.</del>	<del>5.4°</del>	<del>17%</del>	<del>0.40</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-30</del>	<del>R-10</del>
<del>XI.</del>	<del>6.8°</del>	<del>17%</del>	<del>0.50</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-30</del>	<del>R-10</del>
<del>XII.<sup>2</sup></del>	<del>9.0°</del>	<del>17%</del>	<del>0.60</del>	<del>0.40</del>	<del>R-38</del>	<del>R-30</del>	<del>R-30</del>	<del>R-10</del>

~~Reference Code~~

~~<sup>1</sup> For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above, may calculate compliance by Chapter 4 or 5 of this Code.~~

~~<sup>2</sup> Required minimum average log thickness.~~

~~<sup>3</sup> Adv. denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.~~

~~Requirement applicable only to single rafter joist vaulted ceilings.~~

~~<sup>4</sup> Floors over crawl spaces or exposed to ambient air conditions.~~

~~<sup>5</sup> Required slab perimeter insulation shall be water-resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.~~

~~<sup>6</sup> These options shall be applicable to buildings less than three stories.~~

~~<sup>7</sup> For this option, minimum HVAC system efficiency is an AFUE of 0.81.~~

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**TABLE 6-6  
LOG HOMES PRESCRIPTIVE REQUIREMENTS<sup>1</sup>  
HEATING BY OTHER FUELS**

Option	Average <sup>2</sup> Log Thickness	Glazing % Floor Area	Glazing U-Value	Doors <sup>11</sup> U-Value	Ceiling <sup>3</sup>	Vaulted <sup>4</sup> Ceiling	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
<b>Climate Zone 1</b>								
<b>I.<sup>7</sup></b>	3.5"	21%	0.40	0.39	R-49 Adv	R-38	R-30	R-10
<b>II.</b>	4.4"	21%	0.40	0.40	R-38	R-30	R-19	R-10
<b>III.</b>	5.2"	21%	0.50	0.40	R-38	R-30	R-19	R-10
<b>IV.</b>	6.5"	21%	0.60	0.40	R-38	R-30	R-19	R-10
<b>V.</b>	7.0"	21%	0.60	0.40	R-38	R-30	R-19	R-10
<b>VI.*</b>	8.2"	21%	0.65 <sup>9</sup>	0.40	R-38	R-30	R-19	R-10
<b>Climate Zone 2</b>								
<b>VII.<sup>7</sup></b>	3.5"	17%	0.31 <sup>10</sup>	0.14	R-60 Adv	R-38	R-38	R-10
<b>VIII.<sup>7,8</sup></b>	3.5"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
<b>IX.<sup>7</sup></b>	4.6"	17%	0.40	0.40	R-60 Adv	R-38	R-30	R-10
<b>X.</b>	5.4"	17%	0.40	0.40	R-38	R-30	R-30	R-10
<b>XI.</b>	6.8"	17%	0.50	0.40	R-38	R-30	R-30	R-10
<b>XII.*</b>	9.0"	17%	0.60	0.40	R-38	R-30	R-30	R-10

\* Reference Case

<sup>1</sup> For Group R Occupancy use Table 6-6 for only the portion of floor area using log/solid timber walls. Use Tables 6-1 to 6-4 for all other portions of the floor area. Minimum requirements are for each option listed. Interpolations between options is not permitted. Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.

<sup>2</sup> Required minimum average log thickness.

<sup>3</sup> 'Adv' denotes Advanced Framing. Requirement applies to all ceilings except single rafter joist vaulted ceilings.

<sup>4</sup> Requirement applicable only to single rafter joist vaulted ceilings.

<sup>5</sup> Floors over crawl spaces or exposed to ambient air conditions.

<sup>6</sup> Required slab perimeter insulation shall be water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications.

<sup>7</sup> These options shall be applicable to buildings less than three stories.

<sup>8</sup> For this option, minimum HVAC system efficiency is an AFUE of 0.88.

<sup>9</sup> Until December 31, 1994, an aluminum, double-pane window, excluding sliding glass doors, constructed with a minimum 7/16 inch air space between glazings shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy the other fuels path in the Washington State Energy Code."

<sup>10</sup> Until December 31, 1994, a vinyl or wood double-pane window, excluding sliding glass doors, constructed with a minimum 1/2 inch air space between glazings and both a low-e glazing and an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value. The only labeling requirement for products using this exception shall be a description of the product, and a label stating: "This product is deemed to satisfy either the electric resistance path or the other fuels path for log homes in the Washington State Energy Code."

<sup>11</sup> Doors, including all fire doors, shall be assigned default U-values from Table 10-6C or 10-6D.

AMENDATORY SECTION (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-1006 Section 1006 Default U-values for glazing and doors.**

1006.1 Untested Glazing and Doors: Untested glazing and doors shall be assigned the ((following)) U-values((:

a. ~~Manufactured glazing products:~~

~~single glazing (all): \_\_\_\_\_ U = 1.20; \_\_\_\_\_~~

~~double glazing:~~

~~aluminum or steel framed: \_\_\_\_\_ U = 0.90; \_\_\_\_\_~~

~~wood or vinyl framed: \_\_\_\_\_ U = 0.75; \_\_\_\_\_~~

b. ~~Nonmanufactured site built fixed lite glazing products with a minimum of one half inch airspace in a wood frame only. All products supplied by manufacturers, such as kits for solariums, shall use the default U values for manufactured glazing products cited above.~~

~~air filled: \_\_\_\_\_ U = 0.60; \_\_\_\_\_~~

~~argon filled: \_\_\_\_\_ U = 0.55; \_\_\_\_\_~~

~~low e, air filled: \_\_\_\_\_ U = 0.50; \_\_\_\_\_~~

~~low e, argon filled: \_\_\_\_\_ U = 0.40; \_\_\_\_\_~~

~~Products which do not comply with all of these criteria shall use the default U values listed under manufactured glazing products.~~

e. ~~For Doors, see Table 10-6 on the next page))~~ from Tables 10-6A, 10-6B, 10-6C or 10-6D as appropriate.

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~~TABLE 10-6 TRANSMISSION COEFFICIENTS (U) FOR WOOD AND STEEL DOORS  
Rtu/hr·ft<sup>2</sup>·°F~~

<del>Nominal Door Thickness, Inches</del>	<del>Description</del>	<del>No Storm Door</del>	<del>Wood Storm Door<sup>c</sup></del>	<del>Metal Storm Door<sup>d</sup></del>
<del>Wood Doors<sup>b</sup></del>				
<del>1-3/8</del>	<del>Panel door with 7/16 inch panels<sup>e</sup></del>	<del>0.57</del>	<del>0.33</del>	<del>0.37</del>
<del>1-3/8</del>	<del>Hollow core flush door</del>	<del>0.47</del>	<del>0.30</del>	<del>0.32</del>
<del>1-3/8</del>	<del>Solid core flush door</del>	<del>0.39</del>	<del>0.26</del>	<del>0.28</del>
<del>1-3/4</del>	<del>Panel door with 7/16 inch panels<sup>e</sup></del>	<del>0.57</del>	<del>0.32</del>	<del>0.36</del>
<del>1-3/4</del>	<del>Hollow core flush door</del>	<del>0.46</del>	<del>0.29</del>	<del>0.32</del>
<del>1-3/4</del>	<del>Panel door with 1-1/8 inch panels<sup>e</sup></del>	<del>0.39</del>	<del>0.26</del>	<del>0.28</del>
<del>1-3/4</del>	<del>Solid core flush door</del>	<del>0.33</del>	<del>0.28</del>	<del>0.25</del>
<del>2-1/4</del>	<del>Solid core flush door</del>	<del>0.27</del>	<del>0.20</del>	<del>0.21</del>
<del>Steel Doors<sup>b</sup></del>				
<del>1-3/4</del>	<del>Fiberglass or mineral wool core w/ steel stiffeners, no thermal break<sup>f</sup></del>	<del>0.60</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Paper honeycomb core without thermal break<sup>f</sup></del>	<del>0.56</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid urethane foam core without thermal break<sup>a</sup></del>	<del>0.40</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid fire rated mineral fiberboard core without thermal break<sup>f</sup></del>	<del>0.38</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polystyrene core without thermal break (18 gage commercial steel)<sup>f</sup></del>	<del>0.35</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core without thermal break (18 gage commercial steel)<sup>f</sup></del>	<del>0.39</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core without thermal break (24 gage commercial steel)<sup>f</sup></del>	<del>0.28</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core w/ thermal break &amp; wood perimeter (24 gage commercial steel)<sup>f</sup></del>	<del>0.28</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid urethane foam core with thermal break</del>	<del>0.20</del>	<del>----</del>	<del>----</del>
		<del>0.19</del>	<del>0.16</del>	<del>0.19</del>

~~Notes: All U-factors for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.~~  
~~Values are based on a nominal 32 by 80 in. door size with no glazing.~~  
~~Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.~~  
~~Values for wood storm door are for approximately 50 percent glass area.~~  
~~Values for metal storm door are for any percent glass area.~~  
~~55 percent panel area.~~  
~~ASTM E-236 hotbox data on a nominal 3 by 7 ft door size with no glazing.~~

~~The U-factors in Table 6 are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hot box tests (Sabine et al. 1975; Yellat 1965) or from manufacturer's test reports. An outside surface conductance of 6.0 Btu/hr·ft<sup>2</sup>·°F was used, and the indoor surface conductance was taken as 1.6 Btu/hr·ft<sup>2</sup>·°F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, the glazing should be analyzed as a window.~~

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**TABLE 10-6A  
Window Default Table**

Description <sup>1,2,3,4</sup>	Frame Type <sup>5,6</sup>			
	Aluminum	Aluminum Thermal Break <sup>7</sup>	Wood/Vinyl	
Single	1.20	1.20	1.20	
Double, < 1/2"	Clear	0.92	0.75	0.63
	Clear + Argon	0.87	0.71	0.60
	Low-e	0.85	0.69	0.58
	Low-e + Argon	0.79	0.62	0.53
Double, ≥ 1/2"	Clear	0.86	0.69	0.58
	Clear + Argon	0.83	0.67	0.55
	Low-e	0.78	0.61	0.51
	Low-e + Argon	0.75	0.58	0.48
Triple,	Clear	0.70	0.53	0.43
	Clear + Argon	0.69	0.52	0.41
	Low-e	0.67	0.49	0.40
	Low-e + Argon	0.63	0.47	0.37

- 1 < 1/2" = a minimum dead air space of less than 0.5 inches between the panes of glass.  
 ≥ 1/2" = a minimum dead air space of 0.5 inches or greater between the panes of glass.
- 2 Any low-e (emissivity) coating (0.1, 0.2 or 0.4).
- 3 U-values listed for argon shall consist of sealed, gas-filled insulated units for argon, CO2, SF6, argon/SF6 mixtures and Krypton.
- 4 "Glass block" assemblies may use a U-value of 0.51.
- 5 Insulated fiberglass framed products shall use wood/vinyl U-values.
- 6 Aluminum clad wood windows shall use the U-values listed for wood/vinyl windows.
- 7 Aluminum Thermal Break = An aluminum thermal break framed window shall incorporate the following minimum design characteristics:
  - a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr/ft<sup>2</sup>/degree F;
  - b) The thermal break material must produce a gap in the frame material of not less than 0.210 inches; and,
  - c) All metal framing members of the products exposed to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.

**TABLE 10-6B**  
**APPROVED WINDOW AND SKYLIGHT DEFAULT TABLE<sup>1</sup>**

DESCRIPTION <sup>2,3,4,5,6</sup>	FRAME TYPE <sup>7,8</sup>			
	ALUMINUM	ALUM. THERMAL BREAK <sup>9</sup>	WOOD/VINYL	ALUM. CLAD WOOD/REINFORCED VINYL <sup>10</sup>
Double, Clear ¼"	0.82	0.66	0.56	0.59
Double, Clear ¼" + argon	0.77	0.63	0.53	0.56
Double, Low-e4 ¼"	0.76	0.61	0.52	0.54
Double, Low-e2 ¼"	0.73	0.58	0.49	0.51
Double, Low-e1 ¼"	0.70	0.55	0.47	0.49
Double, Low-e4 ¼" + argon	0.70	0.55	0.47	0.49
Double, Low-e2 ¼" + argon	0.66	0.52	0.43	0.46
Double, Low-e1 ¼" + argon	0.64	0.50	0.41	0.43
Double, Clear ⅜"	0.78	0.63	0.54	0.57
Double, Clear ⅜" + argon	0.75	0.60	0.51	0.54
Double, Low-e4 ⅜"	0.72	0.57	0.48	0.51
Double, Low-e2 ⅜"	0.69	0.54	0.45	0.48
Double, Low-e1 ⅜"	0.66	0.51	0.43	0.46
Double, Low-e4 ⅜" + argon	0.68	0.53	0.44	0.47
Double, Low-e2 ⅜" + argon	0.63	0.49	0.41	0.44
Double, Low-e1 ⅜" + argon	0.61	0.47	0.39	0.41
Double, Clear ½"	0.75	0.60	0.50	0.54
Double, Clear ½" + argon	0.72	0.58	0.48	0.51
Double, Low-e4 ½"	0.68	0.53	0.44	0.47
Double, Low-e2 ½"	0.64	0.50	0.41	0.44
Double, Low-e1 ½"	0.61	0.47	0.39	0.42
Double, Low-e4 ½" + argon	0.65	0.50	0.42	0.44
Double, Low-e2 ½" + argon	0.60	0.46	0.37	0.40
Double, Low-e1 ½" + argon	0.58	0.43	0.35	0.38
Triple, Clear ¼"	0.66	0.52	0.42	0.44
Triple, Clear ¼" + argon	0.63	0.49	0.39	0.42
Triple, Low-e4 ¼"	0.64	0.50	0.40	0.40
Triple, Low-e2 ¼"	0.62	0.48	0.39	0.41
Triple, Low-e1 ¼"	0.61	0.47	0.38	0.40
Triple, Low-e4 ¼" + argon	0.60	0.46	0.37	0.39
Triple, Low-e2 ¼" + argon	0.58	0.43	0.34	0.37
Triple, Low-e1 ¼" + argon	0.57	0.42	0.34	0.36
Triple, Clear ½"	0.61	0.46	0.37	0.40
Triple, Clear ½" + argon	0.59	0.45	0.36	0.38
Triple, Low-e4 ½"	0.58	0.43	0.35	0.37
Triple, Low-e2 ½"	0.55	0.41	0.32	0.35
Triple, Low-e1 ½"	0.54	0.39	0.31	0.33
Triple, Low-e4 ½" + argon	0.55	0.41	0.32	0.35
Triple, Low-e2 ½" + argon	0.52	0.38	0.30	0.32
Triple, Low-e1 ½" + argon	0.51	0.37	0.29	0.31

## Footnotes to Table 10-6B

- 1 Subtract 0.02 from the listed default U-value for non-aluminum spacer. Acceptable spacer materials may include but is not limited to fiberglass, wood and butyl or other material with an equivalent thermal performance.
- 2 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.  
3/8" = a minimum dead air space of 0.375 inches between the panes of glass.  
1/2" = a minimum dead air space of 0.5 inches between the panes of glass.  
Product with air spaces different than those listed above shall use the value for the next smaller air space; i.e. 3/4-inch = 1/2-inch U-values, 7/16-inch = 3/8-inch U-values, 5/16-inch = 1/4-inch U-values.
- 3 Low-e4 (emissivity) shall be 0.4 or less.  
Low-e2 (emissivity) shall be 0.2 or less.  
Low-e1 (emissivity) shall be 0.1 or less.
- 4 U-values listed for argon shall consist of sealed, gas-filled insulated units for argon, CO<sub>2</sub>, SF<sub>6</sub>, and argon/SF<sub>6</sub> mixtures. The following conversion factor shall apply to Krypton gas-filled units: 1/4" or greater with krypton is equivalent to 1/2" argon.
- 5 Dividers placed between glazing: The U-value listed shall be used where the divider has a minimum gap of 1/8-inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-value for True Divided Lite windows.
- 6 "Glass block" assemblies may use a U-value of 0.51.
- 7 Insulated fiberglass framed products shall use wood/vinyl U-values.
- 8 Subtract 0.02 from the listed default values for solariums.
- 9 Aluminum Thermal Break = An aluminum thermal break framed window shall incorporate the following minimum design characteristics:
  - a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr/ft<sup>2</sup>/F°;
  - b) The thermal break material must produce a gap in the frame material of not less than 0.210 inches; and,
  - c) All metal framing members of the products exposed to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.
- 10 Aluminum clad wood windows shall use the U-values listed for Aluminum Clad Wood/Reinforced Vinyl windows. Vinyl clad wood window shall use the U-values listed for Wood/Vinyl windows. Any vinyl frame window with metal reinforcement in more than one rail shall use the U-values listed for Aluminum Clad Wood/Reinforced Vinyl window.

**TABLE 10-6C**  
**TRANSMISSION COEFFICIENTS (U) FOR WOOD AND STEEL DOORS**  
**Btu/h · ft<sup>2</sup> · F**

Nominal Door Thickness, Inches	Description	No Storm Door	Wood Storm Door <sup>c</sup>	Metal Storm Door <sup>d</sup>
<b>Wood Doors<sup>b</sup></b>				
1-3/8	Panel door with 7/16 inch panels <sup>e</sup>	0.57	0.33	0.37
1-3/8	Hollow core flush door	0.47	0.30	0.32
1-3/8	Solid core flush door	0.39	0.26	0.28
1-3/4	Panel door with 7/16 inch panels <sup>e</sup>	0.57	0.33	0.36
1-3/4	Hollow core flush door	0.46	0.29	0.32
1-3/4	Panel door with 3/4 inch panels <sup>e</sup>	0.40	0.27	0.29
1-3/4	Panel door with 1-1/8 inch panels <sup>e</sup>	0.39	0.26	0.28
1-3/4	Solid core flush door	0.33	0.28	0.25
2-1/4	Solid core flush door	0.27	0.20	0.21
<b>Steel Doors<sup>b</sup></b>				
1-3/4	Fiberglass or mineral wool core w/ steel stiffeners, no thermal break <sup>f</sup>	0.60	---	---
1-3/4	Paper honeycomb core without thermal break <sup>f</sup>	0.56	---	---
1-3/4	Solid urethane foam core without thermal break <sup>a</sup>	0.40	---	---
1-3/4	Solid fire rated mineral fiberboard core without thermal break <sup>f</sup>	0.38	---	---
1-3/4	Polystyrene core without thermal break (18 gage commercial steel) <sup>f</sup>	0.35	---	---
1-3/4	Polyurethane core without thermal break (18 gage commercial steel) <sup>f</sup>	0.29	---	---
1-3/4	Polyurethane core without thermal break (24 gage commercial steel) <sup>f</sup>	0.29	---	---
1-3/4	Polyurethane core w/ thermal break & wood perimeter (24 gage commercial steel) <sup>f</sup>	0.20	---	---
1-3/4	Solid urethane foam core with thermal break	0.19	0.16	0.17

Note: All U-values for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.

- a Values are based on a nominal 32 by 80 in. door size with no glazing.
- b Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.
- c Values for wood storm door are for approximately 50 percent glass area.
- d Values for metal storm door are for any percent glass area.
- e 55 percent panel area.
- f ASTM C 236 hotbox data on a nominal 3 by 7 ft door size with no glazing.

The U-values in Table 6C are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hotbox tests (Sabine et al. 1975; Yellot 1965) or from manufacturer's test reports. An outdoor surface conductance of 6.0 Btu/h · ft<sup>2</sup> · °F was used, and the indoor surface conductance was taken as 1.4 Btu/h · ft<sup>2</sup> · °F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, refer to Table 10-6D.

TABLE 10-6D  
APPROVED GLAZED DOOR DEFAULT U-VALUES<sup>2</sup>

Description <sup>2,3,4,5</sup>	Door Material			
	Insulated <sup>6</sup>		Wood <sup>7</sup>	
	Full-Lite <sup>4,9</sup>	Half-Lite <sup>10,11</sup>	Full-Lite <sup>3</sup>	Half-Lite <sup>10</sup>
Double, Clear 1/4"	0.39	0.31	0.47	0.42
Double, Clear 1/4" + argon	0.37	0.30	0.45	0.41
Double, Low-e4 1/4"	0.36	0.30	0.44	0.41
Double, Low-e2 1/4"	0.35	0.29	0.43	0.40
Double, Low-e1 1/4"	0.24	0.28	0.41	0.39
Double, Low-e4 1/4" + argon	0.33	0.28	0.41	0.39
Double, Low-e2 1/4" + argon	0.31	0.26	0.39	0.38
Double, Low-e1 1/4" + argon	0.31	0.26	0.38	0.37
Double, Clear 3/8"	0.37	0.30	0.45	0.41
Double, Clear 3/8" + argon	0.36	0.29	0.44	0.41
Double, Low-e4 3/8"	0.34	0.28	0.42	0.40
Double, Low-e2 3/8"	0.33	0.28	0.41	0.39
Double, Low-e1 3/8"	0.21	0.26	0.38	0.37
Double, Low-e4 3/8" + argon	0.32	0.27	0.40	0.38
Double, Low-e2 3/8" + argon	0.29	0.25	0.37	0.37
Double, Low-e1 3/8" + argon	0.29	0.25	0.36	0.36
Double, Clear 1/2"	0.36	0.29	0.44	0.41
Double, Clear 1/2" + argon	0.34	0.28	0.42	0.40
Double, Low-e4 1/2"	0.32	0.27	0.40	0.38
Double, Low-e2 1/2"	0.30	0.26	0.38	0.37
Double, Low-e1 1/2"	0.29	0.25	0.36	0.36
Double, Low-e4 1/2" + argon	0.30	0.26	0.38	0.37
Double, Low-e2 1/2" + argon	0.28	0.25	0.36	0.36
Double, Low-e1 1/2" + argon	0.28	0.24	0.34	0.35
Triple, Clear 1/4"	0.31	0.26	0.39	0.38
Triple, Clear 1/4" + argon	0.29	0.25	0.37	0.37
Triple, Low-e4 1/4"	0.30	0.26	0.38	0.37
Triple, Low-e2 1/4"	0.29	0.25	0.37	0.36
Triple, Low-e4 1/4" + argon	0.27	0.24	0.35	0.35
Triple, Low-e2 1/4" + argon	0.26	0.24	0.34	0.35

## Footnotes to Table 10-6D

- 1 Subtract 0.02 from the listed default U-value for insulated spacers. Insulated spacer material includes fiberglass, wood and butyl or other material with an equivalent Thermal performance.
  - 2 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.  
3/8" = a minimum dead air space of 0.375 inches between the panes of glass.  
1/2" = a minimum dead air space of 0.5 inches between the panes of glass.  
Products with air spaces different than those listed above shall use the value for next smaller air space; i.e. 3/4-inch = 1/2-inch U-values, 7/16-inch = 3/8-inch U-values, 5/16-inch = 1/4-inch U-values.
  - 3 Low-e4 (emissivity) shall be 0.4 or less.  
Low-e2 (emissivity) shall be 0.2 or less.  
Low-e1 (emissivity) shall be 0.1 or less.
  - 4 U-values listed for argon shall consist of sealed, gas-filled, insulated units for argon, CO<sub>2</sub>, SF<sub>6</sub>, and argon/SF<sub>6</sub> mixtures.  
The following conversion factor shall apply to Krypton gas-filled units:  
1/4-inch or greater airspace of Krypton gas-fill = 1/2-inch air space Argon gas-fill.
  - 5 Dividers placed between glazing: The U-values listed shall be used where the divider has a minimum gap of 1/8-inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-value for True Divided Lite windows.
  - 6 Insulated = Any urethane insulated foam core door with a thermal break. Thermal Break = A thermal break door shall incorporate the following design characteristics:
    - a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr•ft<sup>2</sup>•°F; and
    - b) The thermal break material shall not be less than 0.210 inches.
  - 7 Wood = any wood door.
  - 8 Full-Lite = A door that consists of more than 50 percent glazing.
  - 9 Add 0.05 to the listed U-value for Full-Lite values if the insulated door does not have a thermal break.
  - 10 Half-Lite = A door that consists of 50 percent or less glazing.
  - 11 Add 0.06 to the listed U-value for Half-Lite values if the insulated door does not have a thermal break.
-

**WSR 94-05-062**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 11, 1994, 8:48 a.m.]

Date of Adoption: February 11, 1994.

Purpose: To provide county assessors with the interest rate and property tax component for use in valuing farm and agricultural land classified within current use program for assessment year 1994.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-262.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Other Authority: RCW 84.34.065.

Pursuant to notice filed as WSR 94-01-166 on December 21, 1993.

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

February 11, 1994

William N. Rice

Assistant Director

Property Tax

AMENDATORY SECTION (Amending WSR 93-07-067, filed 3/17/93)

**WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.** For assessment year ((+1993)) 1994, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((+0.26)) 9.69 percent; and
- (2) The property tax component for each county is:

<u>((COUNTY</u>	<u>PERCENT</u>	<u>COUNTY</u>	<u>PERCENT</u>
Adams	1.43	Lewis	1.30
Asotin	1.56	Lincoln	1.49
Benton	1.50	Mason	1.43
Chelan	1.52	Okanogan	1.45
Clallam	1.29	Pacific	1.49
Clark	1.29	Pend Oreille	1.09
Columbia	1.33	Pierce	1.61
Cowlitz	1.19	San Juan	0.93
Douglas	1.47	Skagit	1.16
Ferry	1.12	Skamania	1.05
Franklin	1.62	Snohomish	1.25
Garfield	1.47	Spokane	1.64
Grant	1.43	Stevens	1.21
Grays Harbor	1.40	Thurston	1.54
Island	0.91	Wahkiakum	1.13
Jefferson	1.11	Walla Walla	1.42
King	1.26	Whatcom	1.44
Kitsap	1.23	Whitman	1.55
Kittitas	1.31	Yakima	1.41
Klickitat	1.27))		

<u>COUNTY</u>	<u>PERCENT</u>	<u>COUNTY</u>	<u>PERCENT</u>
Adams	1.46	Lewis	1.36
Asotin	1.68	Lincoln	1.54
Benton	1.53	Mason	1.52
Chelan	1.49	Okanogan	1.47
Clallam	1.31	Pacific	1.49
Clark	1.30	Pend Oreille	1.16
Columbia	1.41	Pierce	1.62
Cowlitz	1.22	San Juan	0.92
Douglas	1.48	Skagit	1.17
Ferry	1.11	Skamania	1.08
Franklin	1.62	Snohomish	1.35
Garfield	1.44	Spokane	1.77

Grant	1.46
Grays Harbor	1.53
Island	0.90
Jefferson	1.24
King	1.23
Kitsap	1.34
Kittitas	1.32
Klickitat	1.28

Stevens	1.21
Thurston	1.51
Wahkiakum	1.18
Walla Walla	1.49
Whatcom	1.40
Whitman	1.64
Yakima	1.49

**WSR 94-05-063**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 11, 1994, 8:50 a.m.]

Date of Adoption: February 11, 1994.

Purpose: To provide county assessors with the current interest rate that is used in refunding property taxes.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-220.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Other Authority: RCW 84.69.100.

Pursuant to notice filed as WSR 94-01-167 on December 21, 1993.

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

February 11, 1994

William N. Rice

Assistant Director

Property Tax

AMENDATORY SECTION (Amending WSR 93-06-096, filed 3/3/93)

**WAC 458-18-220 Refunds—Rate of interest.** The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid or the claim for refund is filed, whichever is later. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid (chapter 84.68 RCW); Year tax paid or claim filed (whichever is later) (chapter 84.69 RCW)	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%

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**WSR 94-05-064**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 11, 1994, 8:53 a.m.]

Date of Adoption: February 11, 1994.

Purpose: Amend rule to correct computation used to calculate personal property ratio that is, in turn, used to calculate state levy.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 458-53-160.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Other Authority: RCW 84.48.075.

Pursuant to notice filed as WSR 94-01-168 on December 21, 1993.

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

February 11, 1994

William N. Rice

Assistant Director

Property Tax

AMENDATORY SECTION (Amending Order PT 87-5, filed 5/29/87)

**WAC 458-53-160 Indicated personal property ratio—Computation.** (1) For each personal property assessed value stratum, excluding properties identified in WAC 458-53-110(7) and 458-53-165 (~~and~~), an average sample assessed value, and an average sample true and fair value will be determined from the results of selected audit studies. ((These)) The average ((stratum)) sample assessed value((s will be multiplied by the corresponding number of personal property accounts in each stratum to derive a stratum estimated total assessed value and a stratum estimated total true and fair value. These estimated stratum total estimated assessed and true and fair values will be added to provide a county total estimated assessed value and a county total estimated true and fair value)) for each stratum divided by the average sample true and fair value determines the ratio for each assessed value stratum.

(2) ~~((To the actual personal property assessed value and ratio related true and fair value totals for a county (subsection (1) of this section) are added assessed values of those properties identified in WAC 458-53-110(7) and 458-53-165 and related true and fair values calculated by the ratio relationships determined for those same properties.~~

(3) ~~The sum of the total personal property assessed and true and fair values as determined by subsections (1) and (2) of this section shall be the basis for the county's indicated personal property ratio. The sum total of assessed values will be divided by the sum total of true and fair values to derive the ratio. Values from each county's Assessor's Certificate of Assessment Rolls to County Board of Equalization will be used in the computation of each county's indicated personal property ratio except as provided in WAC 458-53-150(6).~~

(4) ~~The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for personal property.~~

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**Step 1 - Determination of Average Sample Values**

(1)	(2)	(3)	(4)	(5)
Stratum	Number of Samples	Average Assessed Value of Samples (Col. 2 : Col. 1)	Total Market Value of Samples	Average Market Value of Samples (Col. 4 : Col. 1)
\$ 0 - 9,999	15	\$ 75,000	\$ 5,000	\$ 6,667
10,000 - 39,999	20	400,000	20,000	25,000
Over 39,999	10	500,000	50,000	75,000

**Step 2 - Weighting of Average Sample Values**

(1)	(2)	(3)	(4)	(5)	(6)
Stratum	Total Property Listings	Average Sample Assessed Value (Col. 2 x Col. 1)	Average Sample Market Value (Col. 4 x Col. 1)	Total Estimated Market Value (Col. 4 x Col. 1)	Ratio (Col. 3 : Col. 5)
\$ 0 - 9,999	125	\$ 5,000	\$ 6,667	\$ 833,375	.7500
10,000 - 39,999	216	20,000	25,000	5,400,000	.8000
Over 39,999	70	50,000	75,000	5,925,000	.6667
Outriders	2		1,000,000	1,366,775	.7316
		\$9,895,000		13,525,150	73.16%

Sample study weighted ratio 73.16%

**Step 3 - Application of Sample Weighted Relationship to Actual Assessed Value.**

(1)	(2)	(3)
Actual County Assessed Value Personal Property (From Assessor's Certificate)	Determined Assessment to Market Ratio	County Market Value Related to Actual Assessed Value (Col. 1 : Col. 2)
\$ 9,100,000	.7316 (from Step 2)	\$ 12,438,491
Other (WAC 458-53-110(7) or 458-53-165 properties)	100,000	100,000
Totals	\$ 9,200,000	\$ 12,538,491 = .7337
County Indicated Personal Property Ratio		73.37%

(5) Individual assessed or true and fair personal property values, classified as "outriders" according to WAC 458-53-150(8), will be used in personal property ratio computation in a manner similar to that used for real property outriders in real property ratio computation.)) The actual total assessed value of the county for each stratum divided by the ratio for each assessed value stratum, as determined by using the calculation set forth in subsection (1) of this section, determines the indicated true and fair value of each stratum for the county.

(3) The actual county total assessed values of properties identified in WAC 458-53-110(7) and 458-53-165 are added as separate categories to the assessed value stratum. Ratios determined for these properties are applied against the total assessed values to determine the related total true and fair values.

(4) The sum of the actual total county assessed values will be divided by the sum of the related true and fair values to determine the overall county indicated personal property ratio.

(5) The following illustration, using simulated values and ratios, indicates the ratio computation procedures for personal property.

STEP 1 - STRATUM AVERAGE VALUE AND RATIO COMPUTATIONS

Stratum	(1) Number of Samples	(2) Average Assessed Value of Samples	(3) Average Market Value of Samples	(4) Stratum Ratio (Col. 2 ÷ Col. 3)
\$ 0 - 9,999	20	\$ 6,000	\$ 7,800	.769
10,000 - 39,999	20	20,000	38,000	.526
Over 40,000	20	80,000	90,000	.889

STEP 2 - APPLICATION OF STRATUM RATIOS TO ACTUAL COUNTY ASSESSED VALUES

Stratum	(1) Actual County Personal Property Assessed Values	(2) Ratio	(3) County Market Value Related to Actual Assessed Value (Col. 1 ÷ Col. 2)
\$ 0 - 9,999	\$12,500,000	.769	\$ 16,254,876
10,000 - 39,999	33,000,000	.526	62,737,643
Over 40,000	90,000,000	.889	101,237,345
WAC 458-53-110(7) or 458-53-165 Properties	0		0
Totals	\$135,500,000	÷	\$180,229,864 = .752
County Indicated Personal Property Ratio			75.2%

**WSR 94-05-067**  
**PERMANENT RULES**  
**PUGET SOUND AIR**  
**POLLUTION CONTROL AGENCY**  
 [Filed February 14, 1994, 10:39 a.m.]

Effective Date of Rule: Thirty-one days after filing.  
 February 11, 1994  
 Gerald S. Pade  
 Air Pollution Engineer

Date of Adoption: February 10, 1994.

Purpose: To clarify the regulations; to make the definitions consistent with revisions to chapter 174-491 [173-491] WAC; to include only glass furnaces in the exemption from opacity monitoring requirements; to improve enforceability of Stage I and II vapor recovery system requirements; and amend registration requirements for storage tanks.

Citation of Existing Rules Affected by this Order: Repealing Regulation I: Sections 3.03, 3.07, 5.09, 9.17 and Regulation III: Section 1.09; and amending Regulation I: Sections 3.01, 3.05, 5.03, 9.09 and Regulation II: Sections 1.05, 2.07, 3.03.

Statutory Authority for Adoption: Chapter 70.94 RCW. Pursuant to notice filed as WSR 94-02-083 on January 5, 1994.

AMENDATORY SECTION

**REGULATION I SECTION 3.01 DUTIES AND POWERS OF THE CONTROL OFFICER**

Pursuant to the provisions of the "Washington Clean Air Act" (Chapter 70.94 RCW), the Board (~~shall~~) has appointed a Control Officer whose sole responsibility (~~shall be~~) is to observe and enforce the provisions of the Act and all orders, rules, and regulations pursuant thereto, including but not limited to Regulations I, II, and III of the Puget Sound Air Pollution Control Agency. The Control Officer (~~shall be~~) is empowered by the Board to sign official complaints,

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issue citations, initiate court suits, or use other legal means to enforce the provisions of the Act.

~~((The Control Officer shall also be required to maintain appropriate records and submit periodic reports to the Board.))~~

#### REPEALER

### **REGULATION I SECTION 3.03 DISPLAY OF NOTICES: REMOVAL OR MUTILATION PROHIBITED**

#### AMENDATORY SECTION

### **REGULATION I SECTION 3.05 INVESTIGATIONS BY THE CONTROL OFFICER**

(a) For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the Control Officer or a duly authorized representative shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less.

~~((b) It shall be unlawful for any person to))~~ No person shall refuse ((entry or)) access to the Control Officer or a duly authorized representative who requests entry for the purpose of inspection, and who presents appropriate credentials((:)); nor shall ((for)) any person ~~((to))~~ obstruct, hamper, or interfere with any such inspection.

(b) For the purpose of determining compliance with an emission standard, the Control Officer or a duly authorized representative shall have the authority to conduct testing of a source or to order the owner or operator of the source to have it tested and to report the results to the Agency. In the event the Agency conducts the test, the Agency shall provide the owner or operator an opportunity to observe the sampling and to obtain a sample at the same time.

~~((c) In order to demonstrate compliance with emission standards, the Control Officer shall have the authority to require a source to be tested, either by Agency personnel or by the owner, using source test procedures approved by the Agency. The owner shall be given reasonable advance notice of the requirement of the test.~~

~~(d) In order for Agency personnel to perform a source test, the Control Officer shall have the authority to require the owner of the source to provide an appropriate platform and sampling ports. The owner shall have the opportunity to observe the sampling and, if there is adequate space to conduct the tests safely and efficiently, to obtain a sample at the same time.))~~

#### REPEALER

### **REGULATION I SECTION 3.07 FALSE AND MISLEADING ORAL STATEMENTS: UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS**

#### NEW SECTION

### **REGULATION I SECTION 3.07 COMPLIANCE TESTS**

(a) Testing of sources for compliance with emission standards shall be performed in accordance with current U.S. Environmental Protection Agency approved methods unless specific methods have been adopted by the Board. Where there is no federally approved or Board approved method, testing shall be performed in accordance with a method approved in writing by the Control Officer.

(b) The owner or operator of a source shall notify the Agency in writing at least 2 weeks prior to a compliance test, provide the Agency an opportunity to review the test plan, and an opportunity to observe the test.

(c) The owner or operator of any source required to perform a compliance test shall submit a report to the Agency no later than 60 days after the test. The report shall include:

- (1) A description of the source and the sampling location;
- (2) The time and date of the test;
- (3) A summary of results, reported in units and for averaging periods consistent with the applicable emission standard;
- (4) A description of the test methods and quality assurance procedures employed;
- (5) The amount of fuel burned or raw material processed by the source during the test;
- (6) The operating parameters of the source and control equipment during the test;
- (7) Field data and example calculations; and
- (8) A statement signed by the senior management official of the testing firm certifying the validity of the source test report.

#### AMENDATORY SECTION

### **REGULATION I SECTION 5.03 REGISTRATION REQUIRED**

All air contaminant sources within the jurisdiction of the Agency shall be registered with the Agency, except any of the excluded sources which are listed in Exhibit A to this Regulation I, which by this reference is made a part hereof as now constituted or hereafter amended.

#### **EXHIBIT A - INSIGNIFICANT SOURCES**

##### Exclusions:

- (1) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.
- (2) Fuel burning equipment that has a maximum input rate of:
  - (i) less than 0.5 million Btu per hour (0.15 million joules per second) burning waste-derived fuel; or
  - (ii) less than 10 million Btu per hour (3 million joules per second) burning natural gas, propane, or butane; or
  - (iii) less than 1 million Btu per hour (0.3 million joules per second) burning any other fuel.
- (3) Insecticide, pesticide, or fertilizer spray equipment.
- (4) Internal combustion engines less than the size thresholds of the proposed United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79) or the

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promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines).

(5) Laboratory equipment used exclusively for chemical or physical analyses.

(6) Laundry dryers without control equipment.

(7) Dryers or ovens used solely to accelerate evaporation.

(8) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather, or ceramics which does not release air contaminants to the ambient air.

(9) Storage tanks:

(i) that do not store substances capable of emitting air contaminants; or

(ii) with a rated capacity of ~~((less than))~~ 1,000 gallons (3,780 liters) or less used for storage of gasoline; or

(iii) with a rated capacity of less than 10,000 gallons (38,000 liters) used for storage of volatile organic compounds; or

(iv) with a rated capacity of less than 40,000 gallons (150,000 liters) used for storage of volatile organic compounds with a true vapor pressure less than 0.01 kPa (0.002 psia).

(10) Sanitary or storm drainage systems.

(11) Welding, brazing, or soldering equipment.

(12) Asphalt roofing and laying equipment (not including manufacturing or storage).

(13) Restaurants and other retail food-preparing establishments.

(14) Cold solvent cleaners using a solvent with a true vapor pressure less than or equal to 4.2 kPa (0.6 psia).

(15) Retail printing operations (not including web presses).

(16) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings, or similar structures.

(17) Sources which due to the amount and nature of air contaminants produced, and potential to contribute to air pollution, are determined through review by the Control Officer not to warrant registration.

**REPEALER**

**REGULATION I SECTION 5.09 NONCOMPLIANCE IS UNLAWFUL**

**AMENDATORY SECTION**

**REGULATION I SECTION 9.09 ~~((EMISSION OF))~~ PARTICULATE MATTER ~~((CONCENTRATION))~~ EMISSION STANDARDS**

(a) It shall be unlawful for any person to cause or allow the emission of particulate matter in excess of the following concentrations ~~((standards contained in Table H))~~:

~~((TABLE H))~~

~~((Maximum Allowable Particulate Emission Concentration))~~

~~((Type of Source))~~

~~((A-)) Refuse Burning Equipment:~~

1. Rated at 12 tons per day or less without heat recovery and without hydrochloric acid control equipment . . . . . 0.10 gr/dscf @ 7% O<sub>2</sub>
2. Rated at 12 tons per day or less without heat recovery and with hydrochloric acid control equipment . . . . . 0.05 gr/dscf @ 7% O<sub>2</sub>
3. Rated at 12 tons per day or less with heat recovery . . . . . 0.02 gr/dscf @ 7% O<sub>2</sub>
4. Rated at greater than 12 tons per day . . . . . 0.01 gr/dscf @ 7% O<sub>2</sub>

~~((B-)) Fuel Burning Equipment:~~

1. Burning wood . . . . . 0.20 gr/dscf @ 7% O<sub>2</sub>
2. Burning wood and installed after March 13, 1968 or located within the urbanized area . . . . . 0.10 gr/dscf @ 7% O<sub>2</sub>
3. Burning wood, rated at 100 million Btu per hour or greater and located within the urbanized area . . . . . 0.04 gr/dscf @ 7% O<sub>2</sub>
4. Burning wood and installed after March 1, 1986 . . . . . 0.02 gr/dscf @ 7% O<sub>2</sub>
5. Burning fuel other than wood . . . . . 0.05 gr/dscf @ 7% O<sub>2</sub>
6. Burning coal or other solid fossil fuel and installed after March 1, 1986 . . . . . 0.01 gr/dscf @ 7% O<sub>2</sub>

~~((C-)) Equipment used in a Manufacturing~~

Process: . . . . . 0.05 gr/dscf

~~((-----~~

~~NOTE: The emissions standards in this table do not necessarily represent the best available control technology (BACT) for a particular source category.~~

~~(b) Source sampling performed in connection with the standards of this Regulation shall be performed using current Environmental Protection Agency requirements where applicable and available, otherwise by using procedures and definitions adopted by the Board after public hearing or such procedures mutually agreed upon by the Board or the Control Officer and the equipment owner. A copy of said procedures and definitions shall be kept on file in the office of the Agency for examination by interested persons.)~~

~~(b) ~~((e))~~ It shall be unlawful for any person to cause or allow the emission of any air contaminant (as determined by a continuous emission monitoring system) that ~~((from any source subject to Section 9.09(a) which))~~ is:~~

~~(1) Greater than 20% opacity for a period or periods aggregating more than 3 minutes in any 1 hour; or~~

~~(2) Greater than 5% opacity for a 1-hour average.~~

~~(c) The provisions of Section 9.09 (b)(2) shall not apply to any source that has obtained an Order of Approval for a Notice of Construction that correlates the particulate matter concentration with opacity such that any violation of the alternate opacity standard accurately indicates a violation of the applicable emission standard of Section 9.09(a).~~

~~(d) The provisions of Section 9.09 (b)(2) shall not apply to any glass furnace that annually tests for compliance with the applicable emission standard of Section 9.09(a).~~

~~((d)) Opacity measurements made to determine compliance with Section 9.09(e) shall be performed in accordance with the provisions of Article 12 of this Regulation.~~

~~(e) The owner or operator of a source subject to the requirements of Section 9.09(a) may apply for an alternate to the requirements of Sections 9.03(a) or 9.09(e) by submitting a Notice of Construction application which contains appropriate data correlating the particulate emissions from the source, measured in grains per dry standard cubic foot, with percent opacity such that any violation of the opacity limit accurately indicates a violation of the applicable particulate standard of Section 9.09(a).~~

~~(f) The provisions of Section 9.09 (e)(2) shall not apply to any source which meets the following requirements:~~

~~(1) The particulate emissions shall be tested annually using procedures approved by the Agency.~~

~~(2) The monthly excess emission report required by Section 12.04(d) shall contain a list of the number of hours in each day in which the average hourly opacity exceeded 5%. Based on this information, the Control Officer shall have the authority to order additional particulate source tests as necessary to determine compliance with the emission standards contained in Section 9.09(a):)~~

## REPEALER

## **REGULATION I SECTION 9.17 REPORT OF STARTUP, SHUTDOWN, BREAKDOWN, OR UPSET CONDITION**

### AMENDATORY SECTION

## **REGULATION II SECTION 1.05 SPECIAL DEFINITIONS**

When used in Regulation II of the Puget Sound Air Pollution Control Agency:

~~((a)) **ADHESIVE BONDING PRIMER** means a coating applied in a very thin film to aerospace metal adhesive bond detail components for corrosion protection and adhesion:))~~

~~(a) **AEROSPACE COMPONENT** means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.~~

~~(b) **ANTI GLARE/SAFETY COATING** means a coating that does not reflect light.~~

~~(c) **BOTTOM LOADING** means the filling of a tank through a ~~((submerged fill))~~ line entering the bottom of the tank.~~

~~(d) **BULK GASOLINE PLANT** means a gasoline storage and transfer facility that receives more than 90% of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.~~

~~(e) **CAMOUFLAGE COATING** means a coating applied on motor vehicles to conceal such vehicles from detection.~~

~~((g)) **CARB** means the California Air Resources Board:))~~

~~(f) **COLOR MATCH** means the ability of a repair coating to blend into an existing coating so that color difference is not visible.~~

~~(g) **COMMERCIAL AEROSPACE PRIMER** means BMS 10-11, Type I.~~

~~(h) **COMMERCIAL AEROSPACE TOPCOAT** means BMS 10-11, Type II.~~

~~(i) **CUTBACK ASPHALT** means an asphalt that has been blended with more than 7% petroleum distillates by weight.~~

~~(j) **EXTREME PERFORMANCE COATING** means any coating used on the surface of a Group II vehicle, mobile equipment or their parts or components that during intended use is exposed to industrial grade detergents, cleaners or abrasive scouring agents or extreme environmental conditions as determined by the Control Officer.~~

~~(k) **FLEXOGRAPHIC PRINTING** means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.~~

~~((n)) **FLIGHT TEST COATING** means a coating applied to test aircraft to protect from corrosion and to provide required marking during flight test evaluation.~~

~~(o) **FUEL TANK COATING** means a coating applied to a fuel tank of an aircraft to protect it from corrosion:))~~

~~(l) **GASOLINE** means a volatile organic compound having a true vapor pressure greater than 10.5 kilopascals (kPa) (1.5 pounds per square inch absolute - psia) at 20°C temperature, that is a liquid at standard conditions of 102.9 kPa (14.7 psi) and 20°C, and is used as a fuel for internal combustion engines.~~

~~(m) **GASOLINE LOADING TERMINAL** means a gasoline transfer facility that receives more than 10% of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.~~

~~((t)) **GASOLINE STATION** means any site dispensing gasoline into fuel tanks of motor vehicles, marine vessels, or aircraft from stationary storage tanks:))~~

~~(n) **GELCOAT** means a polyester resin surface coating that provides a cosmetic enhancement and improves resistance to degradation from exposure to the environment.~~

~~(o) **GROUP I VEHICLES** means passenger cars, large/heavy-duty truck cabs and chassis (10,000 pounds gross vehicle weight), light- and medium-duty trucks and vans (<10,000 pounds gross vehicle weight), and motorcycles.~~

~~(p) **GROUP II VEHICLES ((AND EQUIPMENT))** means public transit buses ((and mobile equipment)).~~

~~((v)) **MASKANT FOR CHEMICAL ETCHING** means a coating applied directly to an aerospace component to protect those areas when etching other parts of the component:))~~

~~(q) **METALLIC/IRIDESCENT TOPCOAT** means any coating that contains more than 5 grams per liter (0.042 lb/gal) of metal or iridescent particles, as applied, where such particles are visible in the dried film.~~

~~(r) **MILITARY AEROSPACE PRIMER** means the current version of MIL-P-85582.~~

~~(s) **MILITARY AEROSPACE TOPCOAT** means the current version of MIL-C-85285.~~

~~((z)) **MINIMIZE** means to reduce volatile organic compound evaporation to the atmosphere to the least possible quantity:))~~

~~(t) ((aa))~~ **MOBILE EQUIPMENT** means any equipment that may be drawn or is capable of being driven on a roadway, including, but not limited to, truck bodies, truck trailers, utility bodies, camper shells, mobile cranes, bulldozers, street cleaners, golf carts and implements of handiery.

~~((bb) MULTI-COAT SYSTEM means a coating system where more than one product/coat is being used to finish a component. The VOC for a multi-coat system shall be calculated as follows:~~

$$\text{VOC}_{Tm} = \frac{\text{VOC}_{x^1} + \text{VOC}_{x^2} \dots \text{VOC}_{x^n}}{n}$$

where:

~~VOC<sub>Tm</sub> is the sum of the VOC content as applied in a multi-coat (m) system.~~

~~VOC<sub>x</sub> is the VOC content as applied of any given product/coat.~~

~~n is the total number of product/coats applied to the component.)~~

~~(u) ((ee))~~ **PACKAGING ROTOGRAVURE PRINTING** means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, that are, in subsequent operations, formed into packaging products and labels for articles to be sold.

~~(v) ((dd))~~ **PETROLEUM REFINERY** means a facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting or reforming unfinished petroleum derivatives.

~~(w) ((ee))~~ **PETROLEUM SOLVENT** means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms that exists as a liquid under standard conditions, frequently called "Stoddard" solvent.

~~(x) ((ff))~~ **POLYESTER RESIN** means a group of synthetic resins containing ethylenic unsaturation and capable of undergoing free radical polymerization with styrene monomer.

~~(y) ((gg))~~ **PRECOAT** means any coating that is applied to bare metal primarily to deactivate the metal surface for corrosion resistance to a subsequent water-based primer.

~~(z) ((hh))~~ **PRETREATMENT WASH PRIMER** means any coating that contains a minimum of 0.5% acid by weight, is necessary to provide surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

~~(aa) ((ii))~~ **PRIMER** means a coating applied directly to a component for purposes of corrosion protection, protection from the environment, functional fluid resistance and adhesion of subsequent coatings.

~~(bb) ((jj))~~ **PRIMER SEALER** means any coating applied prior to the application of a topcoat for the purpose of corrosion resistance, adhesion of the topcoat, color uniformity, and to promote the ability of an undercoat to resist penetration by the topcoat.

~~(cc) ((kk))~~ **PRIMER SURFACER** means any coating applied prior to the application of topcoat for the purpose of corrosion resistance, adhesion of the topcoat, and that

promotes a uniform surface by filling in surface imperfections.

~~(dd) ((ll))~~ **PROCESS UNIT** means all the equipment essential to a particular production process.

~~(ee) ((mm))~~ **PUBLICATION ROTOGRAVURE PRINTING** means rotogravure printing upon paper that is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements and other types of printed materials.

~~((nn) ROLL PRINTING means the application of ink to a substrate by means of a series of hard rubber or steel rolls each with only partial coverage.)~~

~~(ff) ((oo))~~ **ROTOGRAVURE PRINTING** means the application of ink to a substrate by means of a roll printing technique that involves an intaglio or recessed image areas in the form of cells.

~~(gg) ((pp))~~ **SOLVENT RECOVERY DRYER** means a dry cleaning dryer that employs a condenser to liquify and recover solvent vapors evaporated in a closed-loop, recirculating stream of heated air.

~~((qq) SPACE VEHICLE COATING means a coating applied to vehicles used beyond Earth's atmosphere.)~~

~~(hh) ((rr))~~ **SPECIALTY COATINGS** are coatings that are necessary due to unusual job performance requirements. Said coatings include, but are not limited to, adhesion promoters, uniform finish blenders, elastomeric materials, gloss flatteners, bright metal trim repair, and antiglare/safety coatings.

~~(ii) ((ss))~~ **SUBMERGED FILL LINE** means ~~((a pipe, tube, fitting or other hardware for loading liquid into a tank with either a discharge opening flush with the tank bottom; or with a discharge opening entirely below the lowest normal operating draw-off level or that level determined by a liquid depth 2½ times the fill line diameter when measured in the main portion of the tank, but not in sumps or similar protrusions;))~~ any discharge pipe or nozzle that meets either of the following conditions:

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

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

~~(jj) ((tt))~~ **TEMPORARY PROTECTIVE COATING** means a coating applied to an aerospace component to protect it from mechanical and environmental damage during manufacturing.

~~(kk) ((uu))~~ **TOPCOAT** means a coating applied over a primer or directly to a component primarily for purposes of appearance or identification.

~~(ll) ((vv))~~ **TOUCHUP** means the portion of the operation that is necessary to cover minor imperfections.

~~(mm) ((ww))~~ **TRANSPORT TANK** means a container with a capacity greater than 1,000 liters (264 gallons) used for transporting gasoline, including but not limited to, tank truck, tank trailer, railroad car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer, or railroad car.

~~(nn) ((xx))~~ **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of an organic liquid (determined with methods described in American Petroleum Institute

Bulletin 2517, "Evaporation Loss from Floating Roof Tanks", February 1989).

~~((oo))~~ ~~((yy))~~ **TURNAROUND** ~~((or PROCESS UNIT TURNAROUNDS))~~ means the shutting down and starting up of process units for periodic maintenance and repair of equipment, or other planned purpose.

~~((pp))~~ ~~((zz))~~ **VAPOR RECOVERY SYSTEM** means a process that prevents emission to the atmosphere of volatile organic compounds released by the operation of any transfer, storage, or process equipment.

~~((aaa))~~ **VOLATILE ORGANIC COMPOUND** or **VOC** means any organic compound that participates in atmospheric photo-chemical reactions. This excludes all compounds determined to have negligible photochemical reactivity by the U.S. Environmental Protection Agency and listed in 40 CFR 51.100(s:))

AMENDATORY SECTION

**REGULATION II SECTION 2.07 GASOLINE STATIONS**

(a) Stage 1 vapor recovery system requirements ~~((Section 2.07(b)))~~ shall apply to:

(1) All gasoline stations ~~((in existence on January 1, 1979))~~ with a total annual gasoline throughput greater than 200,000 gallons and total gasoline storage capacity greater than 10,000 gallons; and

(2) All new stationary gasoline storage tanks ~~((:))~~ greater than 1,000 gallons capacity ~~((, installed or reconstructed after January 1, 1979))~~.

(b) It shall be unlawful for the owner or operator of a gasoline station subject to Stage 1 vapor recovery system requirements ~~((any person))~~ to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank unless ~~((the following conditions are met))~~:

(1) The ~~((Such))~~ stationary storage tank ~~((shall be))~~ is equipped with a permanent submerged fill ~~((pipe))~~ line and ~~(("CARB-certified"))~~ Stage 1 vapor recovery system certified by the California Air Resources Board ~~((that is maintained and operated according to the manufacturer's specifications))~~;

(2) The ~~((Such))~~ transport tank is ~~((shall be))~~ equipped to balance vapors; and

(3) All vapor return lines are ~~((shall be))~~ connected between the transport tank and the stationary storage tank, and the Stage 1 vapor recovery system is ~~((shall be))~~ operating. ~~((All vapor return couplings shall have vapor-tight gasket seals and all vapor return cam locks shall be in good working order and be locked.))~~

(c) Stage 2 vapor recovery system requirements ~~((Section 2.07 (d) and (e)))~~ shall apply to:

(1) All gasoline stations ~~((in existence on August 2, 1994))~~ located in King, Pierce, and Snohomish Counties ~~((ozone nonattainment areas))~~ with a total annual gasoline throughput greater than 600,000 gallons and a total gasoline storage capacity greater than 10,000 gallons; ~~((and))~~

(2) All gasoline stations ~~((in existence on August 2, 1994))~~ located in Kitsap County ~~((ozone attainment areas))~~ with a total annual gasoline throughput greater than 840,000 gallons and a total gasoline storage capacity greater than 10,000 gallons; and

(3) All new stationary gasoline storage tanks ~~((:))~~ greater than 1,000 gallons capacity ~~((, installed or reconstructed after August 2, 1994))~~.

(d) The owner or operator of a gasoline station subject to Stage 2 vapor recovery system requirements shall install a Stage 2 vapor recovery system in accordance with the following schedule.

(1) Businesses that own 10 or more gasoline stations in King, Pierce, Snohomish, and Clark Counties:

(A) At least 50% of facilities with an annual throughput greater than 840,000 gallons by May 1, 1994;

(B) The remaining facilities with an annual throughput greater than 840,000 gallons by May 1, 1995; and

(2) All gasoline stations with an annual throughput greater than 1,200,000 gallons by May 1, 1994; and

(3) All other gasoline stations by December 31, 1998.

(e) ~~((d))~~ It shall be unlawful for the owner or operator of a gasoline station subject to Stage 2 vapor recovery system requirements to cause or allow the transfer of gasoline from any stationary storage tank into any motor vehicle fuel tank (except motorcycles) unless ~~((all of the following requirements are met))~~:

(1) ~~((Each))~~ gasoline dispenser is ~~((shall be))~~ equipped with a ~~(("CARB-certified"))~~ Stage 2 vapor recovery system ~~((, approved under Article 6 of Regulation I,))~~ certified by the California Air Resources Board and installed in accordance with the system's certification requirements ~~((schedule in Section 2.07(e)))~~;

(2) ~~((All))~~ vapor return line ~~((s shall be))~~ is connected between the stationary storage tank and the motor vehicle fuel tank;

~~((3))~~ All Stage 2 vapor recovery equipment shall be installed in accordance with the system's certification requirements and shall be maintained to be leak free, vapor-tight, and in good working order;

(3) All bellows-type nozzles are inspected daily, and if determined to be defective are taken out of service until repaired or replaced;

~~((4))~~ Whenever a Stage 2 vapor recovery system component is determined to be defective, the owner or operator shall take the system out of service until it has been repaired, replaced, or adjusted, as necessary. The operator shall inspect each nozzle bellows daily;

(4) ~~((5))~~ The owner or operator of each gasoline station utilizing a Stage 2 vapor recovery system shall conspicuously post ~~((o))~~ Operating instructions for the Stage 2 vapor recovery nozzles are conspicuously posted ~~((system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly using the vapor recovery nozzles))~~ and include a warning against topping off. ~~((Additionally, t))~~ The instructions shall include a prominent display of the Department of Ecology's toll-free telephone number for complaints regarding the operation and condition of the ~~((vapor recovery))~~ nozzles.

~~((e))~~ The owner or operator of an existing gasoline station shall install a Stage 2 vapor recovery system in accordance with the following schedule.

(1) Businesses that own 10 or more gasoline stations in Washington:

(A) At least 50% of facilities with an annual throughput greater than 1,200,000 gallons by May 1, 1993;

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~~(B) The remaining facilities with an annual throughput greater than 1,200,000 gallons by May 1, 1994; and~~

~~(C) All other facilities by December 31, 1998. (See Section 2.07(e) of this Regulation.)~~

~~(2) Businesses that own 10 or more gasoline stations in King, Pierce, Snohomish, and Clark Counties:~~

~~(A) At least 50% of facilities with an annual throughput greater than 840,000 gallons by May 1, 1994;~~

~~(B) The remaining facilities with an annual throughput greater than 840,000 gallons by May 1, 1995; and~~

~~(C) All other facilities by December 31, 1998. (See Section 2.07(e) of this Regulation.)~~

~~(3) Businesses that own fewer than 10 gasoline stations in Washington:~~

~~(A) All facilities with an annual throughput greater than 1,200,000 gallons by May 1, 1994; and~~

~~(B) All other facilities by December 31, 1998. (See Section 2.07(e) of this Regulation.))~~

AMENDATORY SECTION

**REGULATION II SECTION 3.03 CAN AND PAPER COATING OPERATIONS**

It shall be unlawful for any person to cause or allow the application of any coating from the following processes that has a VOC content in excess of the following limits (~~specified below~~):

Process	VOC Content (excluding water ((but including negligibly reactive compounds)))	
	Grams/Liter	(Lbs/Gal)
Can Coating Basecoat (exterior and interior) and overvarnish	340	(2.8)
Interior body spray, exterior end, spray or roll coat	510	(4.2)
End scaling compound	440	(3.7)
Paper Coating	350	(2.9)

REPEALER

**REGULATION III SECTION 1.09 EMISSION MONITORING REQUIREMENTS**

PERMANENT



**WSR 94-05-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 94-05—Filed February 2, 1994, 1:53 p.m.]

Date of Adoption: February 2, 1994.

Purpose: Regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-20-025.

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: Exposed shellfish pots result in the death of the shellfish entrapped within, and wastage of the shellfish. This rule is necessary to prevent wastage.

Effective Date of Rule: Immediately.

February 2, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-20-02500B General provisions—Shellfish.**

It is unlawful to set shellfish pots in such a manner that the entire shellfish pot is not covered with water at all times.

**WSR 94-05-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 94-06—Filed February 2, 1994, 1:57 p.m.]

Date of Adoption: February 2, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-44-05000I; and amending WAC 220-44-050.

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: This regulation is necessary for conservation and to maintain consistency between state and federal regulations.

Effective Date of Rule: Immediately.

February 2, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-44-05000J Coastal bottomfish catch limits.**

Notwithstanding the provisions of WAC 220-44-050, effective immediately 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) Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) 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.

(b) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

(c) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

(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.

(2) Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all groundfish taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

(a) 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.

(b) Widow rockfish - Cumulative limit of 30,000 pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel 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

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(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.

(e) Yellowtail rockfish -

(i) North of Cape Lookout (45°20'15"N) - Cumulative limit of 14,000 pounds. No minimum size.

(ii) South of Cape Lookout - Cumulative limit of 30,000 pounds provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the Department Montesano Office at (206) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(B) The declaration must include: vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano Office at 48A Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port notified the Montesano Office during business hours.

(iii) There is a maximum cumulative limit for landings from both north and south of Cape Lookout of 30,000 pounds.

(iv) Wholesale fish dealers purchasing more than 14,000 pounds of yellowtail rockfish must enter the declaration number on the fish receiving ticket.

(f) DTS Complex - (Sablefish, Dover sole and thornyhead rockfish) - Cumulative limit of 50,000 pounds, of which no more than 30,000 pounds may be thornyhead rockfish.

The following limits apply to sablefish taken under this subsection:

(i) Trawl vessels - Cumulative limit of 12,000 pounds. Vessel trip limit of 1,000 pounds or 25 percent of the DTS complex, whichever is greater (the sablefish allowance equals .33 x the combined weight of Dover sole and thornyhead rockfish). In the trip limit, no more than 5,000 pounds may be sablefish less than 22 inches in length. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(ii) Non-trawl vessels - Vessel trip limit of 250 pounds (round weight) January 1 until further notice. To convert round weight from dressed weight, multiply the dressed weight by 1.6.

(g) Sebastes complex - All other species of rockfish except Pacific ocean perch, widow, shortbelly, yellowtail, thornyhead (*Sebastes* spp.) and black rockfish except black rockfish taken with hook and line gear as provided for in (d) above - Cumulative limit of 80,000 pounds. No minimum size.

(h) Pacific Whiting - Vessel trip limit of 10,000 pounds through April 14, 1994. No minimum size. No vessel trip

limit beginning 0001 hours April 15, 1994. No minimum size.

(3) Groundfish open access fishery limits. The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63:

(a) Rockfish - Vessel trip limit of 10,000 pounds. Cumulative trip limit of 40,000 pounds of which no rockfish may exceed the cumulative limits for the limited entry fisheries.

(b) Sablefish - Daily trip limit of 250 pounds.

(4) 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 limit, vessel trip limit or daily trip limit.

(5) 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.

**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.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-44-05000I Coastal bottomfish catch limits.  
(93-144)

#### **WSR 94-05-005 RESCISSION OF EMERGENCY RULES BOARD OF PILOTAGE COMMISSIONERS**

[Filed February 3, 1994, 11:10 a.m., effective March 6, 1994]

Date of Adoption: January 27, 1994.

Purpose: To rescind the emergency rule currently in effect, filed on December 21, 1993, as WSR 94-01-154, the rescission to take effect on March 6, 1994, when a new permanent rule takes effect.

Statutory Authority for Adoption: RCW 88.16.035.

Effective Date of Rule: March 6, 1994.

February 2, 1994  
Armand L. Tiberio  
Chair

#### **WSR 94-05-007 EMERGENCY RULES BUILDING CODE COUNCIL**

[Filed February 3, 1994, 2:40 p.m.]

Date of Adoption: January 14, 1994.

Purpose: To adopt revised requirements for complying with window thermal efficiency standards in the Washington State Energy Code.

Citation of Existing Rules Affected by this Order: Repealing WAC 51-11-1006; and amending WAC 51-11-0502; and new section WAC 51-11-1011.

Statutory Authority for Adoption: Chapters 19.27, 19.27A, and 34.05 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: The State Building Code Council (council), based on the following enumerated good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate adoption and repeal of certain council rules is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

In January 1993, the Federal Trade Commission (FTC) filed a lawsuit against Pacific Inspection and Research Laboratory, Inc. (PIRL) challenging the reliability of thermal value (U-value) tests conducted by PIRL on window products.

On August 30, 1993, the FTC and PIRL entered into a settlement agreement (FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION AND SETTLEMENT OF CLAIMS FOR RELIEF) whereby PIRL has agreed to retract the tested U-values for all thermal performance tests conducted between January 1, 1984, and March 16, 1992, and may either retract or correct thermal performance tests conducted after March 16, 1992. The settlement agreement will be entered as an order by the federal court having jurisdiction over the *FTC v. PIRL* lawsuit.

The council, under RCW 19.27A.020(5), maintains a list of the tested U-values for glazing products available in the state (window list). 442 tests conducted by PIRL prior to March 16, 1992, and 31 tests conducted after March 16, 1992, have been submitted to the council for placement on the window list.

The 473 PIRL tests comprise approximately 50% of the window list and according to testimony of representatives of Washington state window manufacturers, those 473 PIRL tests account for approximately 80% of the windows sold in the state of Washington. Following the retraction of the U-value test scores by PIRL, between 442 and 473 window products will be without tested U-values.

The council is responsible for adoption of the Washington State Energy Code (energy code), chapter 51-11 WAC. The energy code sets forth a requirement that thermal values be tested U-values and that all glazing and doors be labeled with an overall product U-value that is no less than the actual tested U-value. See WAC 51-11-502.1.5.1. The labeled U-value is used in all calculations to determine compliance with the energy code. The energy code also provides that untested glazing and doors can be assigned U-values under the energy code's default tables. See WAC 51-11-502.1.5.1, Exception 4.

The current energy code authorizing statute specifies AAMA or ASTM thermal testing of windows. However, the industry standards are changing to National Fenestration Rating Council (NFRC) testing standards. The council has received testimony that only three laboratories in the United States are presently testing to AAMA standards. The lack of laboratory space, the costs of the tests and the change in the industry standard do not make retesting to AAMA standards feasible.

Currently, NFRC tested and certified values can be used to satisfy energy code compliance. See WAC 51-11-502.1.5.1, Exception 7. However, few window manufacturers currently have completed product line testing to NFRC standards which would allow the sale of window products under that exception to the code.

The current energy code default table contains punitive U-values for window products. Such a default table was adopted to encourage U-value testing but is not usable to competitively sell windows in the marketplace.

The adoption of new interim default tables is required to allow the continued sale of existing PIRL-tested inventory to prevent chaos in the marketplace which would be caused by the inability of retailers and manufacturers to sell existing inventory and a shortage of window products.

The adoption of interim default tables will also prevent the immediate layoff of personnel in the window manufacturing industry which might otherwise occur in companies which have sold all or a majority of their products in reliance on PIRL tests and have not yet completed testing to NFRC standards.

The continuation of the sale of products under interim default tables will also preserve jobs in the construction industry, help assure that shortages of doors and window products are avoided and new housing is affordable and timely completed. A sufficient availability of windows is required for protection from vandalism and from the elements in current construction which might otherwise occur if builders are unable to purchase adequate quantities of window products to place in structures currently under construction.

The adoption of interim default tables will also prevent confusion among inspectors and building officials who are responsible for reviews of energy code compliance.

The adoption of interim default tables will also help to offset a disproportionate impact of the PIRL test retraction on small businesses, many of whom sell all or a substantial portion of their inventory in reliance on PIRL tests. Without the interim default table, many small businesses would have no mechanism by which to sell their products and could go out of business.

The elimination of approximately 80% of the tested products on the market would have an adverse effect on participation in programs sponsored by regional electric utilities which are designed to encourage energy efficient homes and energy conservation. Less energy conservation is not in the best interests of the northwest given the future rate increases being faced by electric utilities.

The adoption of interim default tables based on average performance values from the ASHRAE tables will help assure regional electric utilities that they are getting what they are paying for in current conservation payment programs.

The council therefore adopts emergency rules under RCW 34.05.350 which are proposed in Attachment 2.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 34.05.350(2) and 19.27A.045, the permanent rule is set to go into effect on April 1, 1994, at the end of the legislative session. The purpose of filing this second emergency rule is to provide regulations during the time lapse between the expiration date of the first emergency rule and the effective date of the permanent rule.

Effective Date of Rule: Immediately.

February 3, 1994  
Gene Colin  
Chair

**AMENDATORY SECTION** (Amending WSR 92-01-140, filed 12/19/91, effective 7/1/92)

**WAC 51-11-0502 Building envelope requirements.**

502.1 General:

502.1.1: The stated U- or F-value of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-value for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-values specified in this Section.

The U-values for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 19-27 in RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U-value shall be determined by one of the following methods:

1. Results of laboratory or field measurements.
2. Standard RS-25, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in Chapter 22 of RS-1, listed in Chapter 7.
4. Effective framing/cavity R-values as provided from the following table for metal stud walls:

WALL FRAMING	CAVITY	INSULATION
	R-11	R-19
2 x 4 @ 16" o.c.	5.50	-
2 x 4 @ 24" o.c.	6.60	-
2 x 6 @ 16" o.c.	-	7.60
2 x 6 @ 24" o.c.	-	8.55

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

- a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and
- b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 1712 and/or 1713 of the Uniform Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities, and maintain uniform R-values. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than twenty-five and a smoke density not to exceed four hundred fifty when tested in accordance with UBC Standard 42-1.

- EXCEPTIONS:
1. Foam plastic insulation shall comply with section 1712 of the Uniform Building Code.
  2. When such materials are installed in concealed spaces of Types III, IV, and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is installed in substantial contact with the unexposed surface of the ceiling, floor, or wall finish.
  3. Cellulose insulation shall comply with section 1713 of the Uniform Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturers specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose-fill insulation may be used in attic spaces where the slope of the ceiling is not more than three feet in twelve and there is at least thirty inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the Uniform Building Code

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section 3205(c) for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point six inches vertically above the height of noncompressed insulation, and twelve inches vertically above loose fill insulation.

**502.1.4.6 Wall Insulation:** Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

**502.1.4.7 Floor Insulation:** Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is no more than twenty-four inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

**EXCEPTION:** Insulation may be omitted from floor areas over heated basements, heated garages, or underfloor areas used as HVAC supply plenums. See Uniform Mechanical Code section 1008 for underfloor supply plenum requirements. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of thirty degrees from horizontal, to divert air flow below the lower surface of the floor insulation.

**502.1.4.8 Slab-On-Grade:** Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of twenty-four inches or downward and then horizontally beneath the slab for a minimum combined distance of twenty-four inches. Insulation installed outside the foundation shall extend downward to a minimum of twenty-four inches or to the frostline. Above grade insulation shall be protected.

**EXCEPTION:** For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

**502.1.4.9 Radiant Slabs:** The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil-gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

#### 502.1.4.10 Below-Grade Walls:

a. Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above grade insulation shall be protected.

b. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level.

**502.1.5 Glazing and Door U-Values:** For Group R Occupancy, glazing and door U-values shall be determined in accordance with section 502.1.5.1. For other occupancies,

glazing and door U-values shall be determined in accordance with either section 502.1.5.1 or 502.1.5.2.

**502.1.5.1 Standard Procedure for Determination of Glazing and Door U-Values:** U-values for glazing and doors, including all fire doors, shall be the tested U-values for thermal transmittance due to conduction resulting from either the AAMA 1503.1-88 test procedure or the ASTM C236-87 or C976-82 test procedures, provided that testing shall be conducted under established winter horizontal heat flow test conditions using fifteen mile per hour wind speed directed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1-88.

AAMA 1503.1-88 testing, shall be conducted by a laboratory accredited by AAMA to perform that test. ASTM C236-87 or C976-82 testing shall be conducted by an independent laboratory accredited by a nationally recognized accreditation program, independent of that laboratory. All tested U-values reported for listing by the state building code council after January 1, 1991, shall include certification by the manufacturer of gas content in the sealed insulated glass unit used for testing and in the production unit.

Product samples tested shall be production line units or representative of units as purchased by the consumer or contractor. Product sample sizes tested shall be in accordance with AAMA 1503.1-88, except that skylights shall be tested with a nominal two foot by four foot size, or a nominal four foot by four foot size. The installation of the test sample shall be in accordance with AAMA 1503.1-88, section 8.4. All testing performed after January 1, 1991, shall not include screens. All glazing and doors shall be identified with a label that states an overall product U-value that is no less than the actual tested or default U-value. The labeled U-value shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 level A.

- EXCEPTIONS:**
1. The exterior frame dimensions of the product sample size tested shall not deviate by more than three inches from the height and width specified, except that skylights are allowed to be tested in the closest production line size to that specified above.
  2. Passive air inlets are not required to be part of the tested assembly.
  3. Products tested prior to December 31, 1990, to AAMA 1503.1-80, ASTM C236-80 or C976-82 which are not in compliance with the test size requirement above, and which are in compliance with the product sample sizes in AAMA 1503.1-80, shall be acceptable until December 31, 1994.
  4. Untested glazing and doors shall be assigned the default U-values listed in Chapter 10. The default values for the opaque portions of doors shall be those listed in Chapter 10, provided that the U-value listed for a door with a thermal break shall only be allowed if both the door and the frame have a thermal break.
  5. The U-value of an insulated glazing product which has a 'grille pattern' installed between the glazing layers shall be deemed equal to the U-value of an insulated glazing product which is tested without a 'grille pattern' in between glazing layers, provided a minimum one-eighth inch air space exists between the 'grille pattern' and both glass lites.
  6. For a glazing product which is manufactured with an alternative 'low-e coating' than the 'low-e coating' of the tested glazing product, the U-value shall be deemed equal provided that the alternative 'low-e

coating' material has an equal or lower rated emissivity.

7. U-factors, either tested or simulated, labeled and certified in accordance with the National Fenestration Rating Council's (NFRC) procedure 100-91 are acceptable if based on model size AA.
8. (a) A vinyl or wood double-pane window, with a minimum 1/2 inch air space between glazing, and either a low-e glazing or an argon fill of no less than 90%, shall be deemed to satisfy where a 0.40 U-factor is required.  
(b) An aluminum, double-pane window, with a minimum 7/16 air space between glazing shall be deemed to satisfy the glazing U-factor for other fuels where a 0.65 U-factor is required.

502.1.5.2 Alternate Glazing and Door U-Values for Other Than Group R Occupancy: Glazing U-values for other than Group R Occupancy are also allowed to be taken from Table 13 of Chapter 27 of RS-1 listed in Chapter 7 or calculated in accordance with the procedures of Chapter 27 of RS-1 listed in Chapter 7 and door U-values are also allowed to be taken from Table 6 in Chapter 22 of RS-1 listed in Chapter 7.

502.1.6 Moisture Control:

502.1.6.1: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than one-third of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil. polyethylene or kraft faced material).

502.1.6.3: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling (~~cavities~~ ~~cavities~~)) cavities shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages twelve inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Wall Insulation: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

502.2 Thermal Criteria for Group R Occupancy:

502.2.1: The proposed UA as calculated using Equations 2 and 3 shall not exceed the Target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using figures in Table 5-1, and all the glazing shall be located in the wall area. The opaque door area shall be the same in the target UA and the proposed UA.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units, and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts per dwelling unit, or; 2) One watt per square foot of the gross floor area.

2. Other: All gas, wood, oil, and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

502.3 Thermal Performance Criteria For Other Than Group R Occupancies.

502.3.1: The overall thermal transmittance value ( $U^o$ ) of the gross area of elements of the exterior building envelope of all buildings other than low-rise residential buildings shall not exceed the values given in Tables 5-2. Equations 2, 4 and 5 shall be used to determine acceptable combinations of building components and thermal properties to meet this requirement for heating.  $U^o$  and  $U^w$  are specified in units of:

$$\frac{\text{Btu}}{\text{hr} \cdot \text{ft}^2 \cdot \text{°F}}$$

502.3.2 Slab on Grade Floors: For slab on grade floors the thermal resistance of the insulation around the perimeter of the floor shall not be less than the value given in Table 5-2.

502.3.3 Alternative Wall Allowance for Other Than Group R Occupancies: For other than Group R Occupancies, three stories or less, the maximum allowed value for average thermal transmittance ( $U_o$ ) of the exterior walls may be increased to the values given in Table 5-2 BUILDINGS OVER THREE CONDITIONED STORIES provided that at least one of the following criteria is also met:

1. Mechanical supply of outside air and mechanical exhaust of building air shall be automatically shut off and the duct closed for at least eight hours per day during hours of nonoccupancy, or

2. The primary source of heating for the building shall be one or more heat pumps meeting the provisions of section 503.4.2 or gas or oil combustion heating equipment with a minimum combustion efficiency of eighty-five percent for central heating plants and eighty percent for room and space heaters. This efficiency shall be determined in accordance with the provisions of section 503.4.3.

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*Provided further:* That if both criteria are met, the maximum allowed value for thermal transmittance ( $U^o$ ) of the exterior walls used in Table 5-2 may be increased by 0.05 in determining compliance with the provisions of the Code.

For walls with a wall weight of at least thirty lbs. per  $ft^2$  (provided that walls constructed of hollow masonry units have cores filled with either grout, concrete, or with an insulating material with resistance per inch (R) of at least 2.25  $ft^2/hr.-^oF/Btu$ ) the calculated thermal resistance of the wall sections measured face to face on wall units which are exposed to inside air temperatures, not including the thermal resistance of air films or additional exterior wall elements may be increased by twenty-five percent in determining compliance with the provisions of the code provided that:

Heating and cooling set-point temperatures in the conditioned spaces or zones of the building shall be separated by at least five degrees F. The temperature control shall be designed to prevent new energy from being used to heat the space above the heating set- point temperature or cool the space below the cooling set-point temperature.

**502.4 Air Leakage for All Occupancies:**

502.4.1: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

**502.4.3:**

a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility services through walls, floors, and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 occupancy shall be sealed, caulked, gasketed, or weatherstripped to limit air leakage.

b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim, and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane, or other approved technique.

d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity

and sealed or gasketed to prevent air leakage into the unconditioned space.

2. Type IC rated, installed inside a sealed box constructed from a minimum one-half inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.

3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at seventy-five Pascals or 1.57  $lbs/ft^2$  pressure difference and have a label attached, showing compliance.

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-1006 Section 1006** (~~Default U-values for glazing and doors~~).

~~((1006.1 Untested Glazing and Doors: Untested glazing and doors shall be assigned the following U-values:~~

~~a. Manufactured glazing products:~~

- ~~single glazing (all):  $U = 1.20$ ;~~
- ~~double glazing:~~
- ~~aluminum or steel framed:  $U = 0.90$ ;~~
- ~~wood or vinyl framed:  $U = 0.75$ ;~~

~~b. Nonmanufactured site built fixed lite glazing products with a minimum of one half inch airspace in a wood frame only. All products supplied by manufacturers, such as kits for solariums, shall use the default U values for manufactured glazing products cited above.~~

- ~~air filled:  $U = 0.60$ ;~~
- ~~argon filled:  $U = 0.55$ ;~~
- ~~low e, air filled:  $U = 0.50$ ;~~
- ~~low e, argon filled:  $U = 0.40$ ;~~

~~Products which do not comply with all of these criteria shall use the default U values listed under manufactured glazing products.~~

~~e. For Doors, see Table 10-6 on the next page.) Reserved.~~

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~~TABLE 10-6 TRANSMISSION COEFFICIENTS (U) FOR WOOD AND STEEL DOORS  
Rtu/hr·ft<sup>2</sup>·°F~~

<del>Nominal Door Thickness, Inches</del>	<del>Description</del>	<del>No Storm Door</del>	<del>Wood Storm Door<sup>c</sup></del>	<del>Metal Storm<sup>d</sup> Door</del>
<del>Wood Doors<sup>b</sup></del>				
<del>1-3/8</del>	<del>Panel door with 7/16 inch panels<sup>e</sup></del>	<del>0.57</del>	<del>0.33</del>	<del>0.37</del>
<del>1-3/8</del>	<del>Hollow core flush door</del>	<del>0.47</del>	<del>0.30</del>	<del>0.32</del>
<del>1-3/8</del>	<del>Solid core flush door</del>	<del>0.39</del>	<del>0.26</del>	<del>0.28</del>
<del>1-3/4</del>	<del>Panel door with 7/16 inch panels<sup>e</sup></del>	<del>0.57</del>	<del>0.33</del>	<del>0.36</del>
<del>1-3/4</del>	<del>Hollow core flush door</del>	<del>0.46</del>	<del>0.29</del>	<del>0.32</del>
<del>1-3/4</del>	<del>Panel door with 1-1/8 inch panels<sup>e</sup></del>	<del>0.39</del>	<del>0.26</del>	<del>0.28</del>
<del>1-3/4</del>	<del>Solid core flush door</del>	<del>0.33</del>	<del>0.28</del>	<del>0.25</del>
<del>2-1/4</del>	<del>Solid core flush door</del>	<del>0.27</del>	<del>0.20</del>	<del>0.21</del>
<del>Steel Doors<sup>b</sup></del>				
<del>1-3/4</del>	<del>Fiberglass or mineral wool core w/ steel stiffeners, no thermal break<sup>f</sup></del>	<del>0.60</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Paper honeycomb core without thermal break<sup>f</sup></del>	<del>0.56</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid urethane foam core without thermal break<sup>a</sup></del>	<del>0.40</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid fire rated mineral fiberboard core without thermal break<sup>f</sup></del>	<del>0.38</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polystyrene core without thermal break (18 gage commercial steel)<sup>f</sup></del>	<del>0.35</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core without thermal break (18 gage commercial steel)<sup>f</sup></del>	<del>0.29</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core without thermal break (24 gage commercial steel)<sup>f</sup></del>	<del>0.29</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Polyurethane core w/ thermal break &amp; wood perimeter (24 gage commercial steel)<sup>f</sup></del>	<del>0.20</del>	<del>----</del>	<del>----</del>
<del>1-3/4</del>	<del>Solid urethane foam core with thermal break</del>	<del>0.19</del>	<del>0.16</del>	<del>0.17</del>

~~Notes: All U-factors for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.~~

- ~~• Values are based on a nominal 32 by 80 in. door size with no glazing.~~
- ~~• Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.~~
- ~~• Values for wood storm door are for approximately 50 percent glass area.~~
- ~~• Values for metal storm door are for any percent glass area.~~
- ~~• 55 percent panel area.~~
- ~~• ASTM E-236 hotbox data on a nominal 3 by 7 ft door size with no glazing.~~

~~The U-factors in Table 6 are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hot box tests (Sabine et al. 1975; Yellot 1965) or from manufacturer's test reports. An outside surface conductance of 6.0 Btu/hr·ft<sup>2</sup>·°F was used, and the indoor surface conductance was taken as 1.6 Btu/hr·ft<sup>2</sup>·°F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, the glazing should be analyzed as a window.~~

EMERGENCY

NEW SECTION

**WAC 51-11-1011 Default U-values for glazing and doors.**

1011.1 Untested Glazing and Doors: Untested glazing and doors shall be assigned U-values from Tables 10-11A, 10-11B or 10-11C as appropriate.

**TABLE 10-11A  
APPROVED WINDOW AND SKYLIGHT DEFAULT TABLE<sup>1,2</sup>**

DESCRIPTION <sup>3, 4, 5, 6, 7</sup>	FRAME TYPE <sup>8, 9</sup>			
	ALUMINUM	ALUM. THERMAL BREAK <sup>10</sup>	WOOD/VINYL	ALUM. CLAD WOOD / REINFORCED VINYL <sup>10</sup>
Double, Clear 1/4"	0.82	0.66	0.56	0.59
Double, Clear 1/4" + argon	0.77	0.63	0.53	0.56
Double, Low-e4 1/4"	0.76	0.61	0.52	0.54
Double, Low-e21/4"	0.73	0.58	0.49	0.51
Double, Low-e1 1/4"	0.70	0.55	0.47	0.49
Double, Low-e4 1/4" + argon	0.70	0.55	0.47	0.49
Double, Low-e2 1/4" + argon	0.66	0.52	0.43	0.46
Double, Low-e1 1/4" + argon	0.64	0.50	0.41	0.43
Double, Clear 3/8"	0.78	0.63	0.54	0.57
Double, Clear 3/8" + argon	0.75	0.60	0.51	0.54
Double, Low-e4 3/8"	0.72	0.57	0.48	0.51
Double, Low-e2 3/8"	0.69	0.54	0.45	0.48
Double, Low-e1 3/8"	0.66	0.51	0.43	0.46
Double, Low-e4 3/8" + argon	0.68	0.53	0.44	0.47
Double, Low-e2 3/8" + argon	0.63	0.49	0.41	0.44
Double, Low-e1 3/8" + argon	0.61	0.47	0.39	0.41
Double, Clear 1/2"	0.75	0.60	0.50	0.54
Double, Clear 1/2" + argon	0.72	0.58	0.48	0.51
Double, Low-e4 1/2"	0.68	0.53	0.44	0.47
Double, Low-e2 1/2"	0.64	0.50	0.41	0.44
Double, Low-e1 1/2"	0.61	0.47	0.39	0.42
Double, Low-e4 1/2" + argon	0.65	0.50	0.42	0.44
Double, Low-e2 1/2" + argon	0.60	0.46	0.37	0.40
Double, Low-e1 1/2" + argon	0.58	0.43	0.35	0.38
Triple, Clear 1/4"	0.66	0.52	0.42	0.44
Triple, Clear 1/4" + argon	0.63	0.49	0.39	0.42
Triple, Low-e4 1/4"	0.64	0.50	0.40	0.40
Triple, Low-e2 1/4"	0.62	0.48	0.39	0.41
Triple, Low-e1 1/4"	0.61	0.47	0.38	0.40
Triple, Low-e4 1/4" + argon	0.60	0.46	0.37	0.39
Triple, Low-e2 1/4" + argon	0.58	0.43	0.34	0.37
Triple, Low-e1 1/4" + argon	0.57	0.42	0.34	0.36
Triple, Clear 1/2"	0.61	0.46	0.37	0.40
Triple, Clear 1/2" + argon	0.59	0.45	0.36	0.38
Triple, Low-e4 1/2"	0.58	0.43	0.35	0.37
Triple, Low-e2 1/2"	0.55	0.41	0.32	0.35
Triple, Low-e1 1/2"	0.54	0.39	0.31	0.33
Triple, Low-e4 1/2" + argon	0.55	0.41	0.32	0.35
Triple, Low-e2 1/2" + argon	0.52	0.38	0.30	0.32
Triple, Low-e1 1/2" + argon	0.51	0.37	0.29	0.31

EMERGENCY

## Footnotes for Table 10-11A

1 The following exceptions shall apply to the default table:

(a) A vinyl or wood, double-pane window, with a minimum 1/2 inch air space between glazings, and either a low-e glazing or an argon fill of no less than 90%, shall be deemed to satisfy the glazing U-value for the electric resistance prescriptive paths III and IV in Table 6-1 and II and III in Table 6-3.

(b) An aluminum, double-pane window, with a minimum 7/16 inch air space between glazings shall be deemed to satisfy the glazing U-value for the other fuels prescriptive paths II and IV in Table 6-2 and II and III in Table 6-4.

2 Subtract 0.02 from the listed default U-value for non-aluminum spacer. Acceptable spacer materials may include but is not limited to fiberglass, wood and butyl or other material with an equivalent thermal performance.

3 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.

3/8" = a minimum dead air space of 0.375 inches between the panes of glass.

1/2" = a minimum dead air space of 0.5 inches between the panes of glass.

Product with air spaces different than those listed above shall use the value for the next smaller air space; i.e. 3/4-inch = 1/2-inch U-factor, 7/16-inch = 3/8-inch U-factors, 5/16-inch = 1/4-inch U-factor.

4 low-e4 (emissivity) shall be 0.4 or less.

low-e2 (emissivity) shall be 0.2 or less.

low-e1 (emissivity) shall be 0.1 or less.

5 U-factors listed for argon shall consist of sealed, glass-filled insulated units for argon, CO<sub>2</sub>, SF<sub>6</sub>, and argon/SF<sub>6</sub> mixtures.

The following conversion factor shall apply to Krypton gas-filled units:

1/4" or greater with krypton is equivalent to 1/2" argon.

6 Dividers placed between glazing: The U-factor listed shall be used where the divider has a minimum gap of 1/8-inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-factor for True Divided Lite windows.

7 "Glass block" assemblies may use a U-factor of 0.51.

8 Insulated fiberglass framed products shall use wood/vinyl U-factors.

9 Subtract 0.02 from the listed default values for solariums.

10 Aluminum Thermal Break = An aluminum thermal break framed window shall incorporate the following minimum design characteristics:

a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr/ft<sup>2</sup>/F°;

b) The thermal break material must produce a gap in the frame material of not less than 0.210 inches; and,

c) All metal framing members of the products exposed to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.

11 Aluminum clad wood windows shall use the U-values listed for Aluminum clad Wood/Reinforced Vinyl windows. Vinyl clad wood window shall use the U-values listed for Wood/Vinyl windows. Any vinyl frame window with metal reinforcement in more than one rail shall use the U-factors listed for Aluminum Clad Wood/Reinforced Vinyl window.

TABLE 10-11B TRANSMISSION COEFFICIENTS (U)  
FOR WOOD AND STEEL DOORS  
Btu/hr·ft<sup>2</sup>·°F

Nominal Door Thickness, Inches	Description	No Storm Door	Wood Storm Door <sup>c</sup>	Metal Storm Door <sup>d</sup>
<b>Wood Doors<sup>b</sup></b>				
1-3/8	Panel door with 7/16 inch panels <sup>e</sup>	0.57	0.33	0.37
1-3/8	Hollow core flush door	0.47	0.30	0.32
1-3/8	Solid core flush door	0.39	0.26	0.28
1-3/4	Panel door with 7/16 inch panels <sup>e</sup>	0.57	0.33	0.36
1-3/4	Hollow core flush door	0.46	0.29	0.32
1-3/4	Panel door with 1-1/8 inch panels <sup>e</sup>	0.39	0.26	0.28
1-3/4	Solid core flush door	0.33	0.28	0.25
2-1/4	Solid core flush door	0.27	0.20	0.21
<b>Steel Doors<sup>b</sup></b>				
1-3/4	Fiberglass or mineral wool core w/ steel stiffeners, no thermal break <sup>f</sup>	0.60	----	----
1-3/4	Paper honeycomb core without thermal break <sup>f</sup>	0.56	----	----
1-3/4	Solid urethane foam core without thermal break <sup>f</sup>	0.40	----	----
1-3/4	Solid fire rated mineral fiberboard core without thermal break <sup>f</sup>	0.38	----	----
1-3/4	Polystyrene core without thermal break(18 gage commercial steel) <sup>f</sup>	0.35	----	----
1-3/4	Polyurethane core without thermal break(18 gage commercial steel) <sup>f</sup>	0.29	----	----
1-3/4	Polyurethane core without thermal break(24 gage commercial steel) <sup>f</sup>	0.29	----	----
1-3/4	Polyurethane core w/ thermal break & wood perimeter(24 gage commercial steel) <sup>f</sup>	0.20	----	----
1-3/4	Solid urethane foam core with thermal break	0.19	0.16	0.17

Note: All U-factors for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.

<sup>a</sup> Values are based on a nominal 32 by 80 in. door size with no glazing.

<sup>b</sup> Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.

<sup>c</sup> Values for wood storm door are for approximately 50 percent glass area.

<sup>d</sup> Values for metal storm door are for any percent glass area.

<sup>e</sup> 55 percent panel area

<sup>f</sup> ASTM C 236 hotbox data on a nominal 3 by 7 ft door size with no glazing.

The U-factors in Table 6 are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hot box tests (Sabine et al. 1975; Yellot 1965) or from manufacturer's test reports. An outdoor surface conductance of 6.0 Btu/h·ft<sup>2</sup>·°F was used, and the indoor surface conductance was taken as 1.4 Btu/h·ft<sup>2</sup>·°F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, the glazing should be analyzed as a window.

Table 10-11C APPROVED GLAZED DOOR DEFAULT U-VALUES<sup>2</sup>

DESCRIPTION <sup>2,3,4,5</sup>	DOOR MATERIAL			
	INSULATED <sup>4</sup>		WOOD <sup>7</sup>	
	Full-Lite <sup>8,9</sup>	Half-Lite <sup>10,11</sup>	Full-Lite <sup>4</sup>	Half-Lite <sup>10</sup>
Double, Clear 1/4"	0.39	0.31	0.47	0.42
Double, Clear 1/4" + argon	0.37	0.30	0.45	0.41
Double, Low-e1 1/4"	0.36	0.30	0.44	0.41
Double, Low-e2 1/4"	0.35	0.29	0.43	0.40
Double, Low-e1 1/4"	0.24	0.28	0.41	0.39
Double, Low-e1 1/4" + argon	0.35	0.28	0.41	0.39
Double, Low-e2 1/4" + argon	0.31	0.26	0.39	0.38
Double, Low-e1 1/4" + argon	0.31	0.26	0.38	0.37
Double, Clear 3/8"	0.37	0.30	0.45	0.41
Double, Clear 3/8" + argon	0.36	0.29	0.44	0.41
Double, Low-e1 3/8"	0.34	0.28	0.42	0.40
Double, Low-e2 3/8"	0.33	0.28	0.41	0.39
Double, Low-e1 3/8"	0.21	0.26	0.38	0.37
Double, Low-e1 3/8" + argon	0.32	0.27	0.40	0.38
Double, Low-e2 3/8" + argon	0.29	0.25	0.37	0.37
Double, Low-e1 3/8" + argon	0.29	0.25	0.36	0.36
Double, Clear 1/2"	0.36	0.29	0.44	0.41
Double, Clear 1/2" + argon	0.34	0.28	0.42	0.40
Double, Low-e1 1/2"	0.32	0.27	0.40	0.38
Double, Low-e2 1/2"	0.30	0.26	0.38	0.37
Double, Low-e1 1/2"	0.19	0.25	0.36	0.36
Double, Low-e1 1/2" + argon	0.30	0.26	0.38	0.37
Double, Low-e2 1/2" + argon	0.28	0.25	0.36	0.36
Double, Low-e1 1/2" + argon	0.28	0.24	0.34	0.35
Triple, Clear 1/4"	0.31	0.26	0.39	0.38
Triple, Clear 1/4" + argon	0.29	0.25	0.37	0.37
Triple, Low-e1 1/4"	0.30	0.26	0.38	0.37
Triple, Low-e2 1/4"	0.29	0.25	0.37	0.36
Triple, Low-e1 1/4" + argon	0.27	0.24	0.35	0.35
Triple, Low-e2 1/4" + argon	0.26	0.24	0.34	0.35

- 1 Subtract 0.02 from the listed default U-value for insulated spacers. Insulated spacer material includes fiberglass, wood and butyl or other material with an equivalent K-value. Thermal performance.
- 2 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.  
3/8" = a minimum dead air space of 0.375 inches between the panes of glass.  
1/2" = a minimum dead air space of 0.5 inches between the panes of glass.  
Products with air spaces different than those listed above shall use the value for next smaller air space; i.e. 3/4-inch = 1/2-inch U-values, 7/16-inch = 3/8-inch U-values, 5/16-inch = 1/4-inch U-values
- 3 Low-e4 (emissivity) shall be 0.4 or less.  
Low-e2 (emissivity) shall be 0.2 or less.  
Low-e1 (emissivity) shall be 0.1 or less.
- 4 U-values listed for argon shall consist of sealed, gas-filled, insulated units for argon, CO<sub>2</sub>, SF<sub>6</sub>, and argon/SF<sub>6</sub> mixtures.  
The following conversion factor shall apply to Krypton gas-filled units:  
1/4-inch or greater airspace of Krypton gas-fill = 1/2-inch airspace Argon gas-fill.
- 5 Dividers placed between glazing: The U-values listed shall be used where the divider has a minimum gap of 1/8-inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-value for True Divided Lite windows.
- 6 Insulated = Any urethane insulated foam core door with a thermal break. Thermal Break = A thermal break door shall incorporate the following minimum design characteristics:  
a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/hr/ft<sup>2</sup>/F°; and  
b) The thermal break material shall not be less than 0.210 inches.
- 7 Wood = Any wood door.
- 8 Full Lite = A door that consists of more than 35 percent glazing.
- 9 Add 0.05 to the listed U-value for Full-Lite values if the insulated door does not have a thermal break.
- 10 Half Lite = A door that consists of 35 percent or less glazing.
- 11 Add 0.06 to the listed U-value for Half-Lite values if the insulated door does not have a thermal break.

EMERGENCY

**WSR 94-05-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3703—Filed February 7, 1994, 12:03 p.m., effective February 8, 1994, 12:01 a.m.]

Purpose: Corrects typographical error, punctuation mark, and date. October 31, 1993, is changed to October 1, 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 388-92-041 Trusts.

Statutory Authority for Adoption: RCW 74.08.090.

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: Corrects typographical error and punctuation mark. Subsection (5) corrected to read October 1, 1993.

Effective Date of Rule: February 8, 1994, 12:01 a.m.

February 7, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3665, filed 11/10/93, effective 12/11/93)

**WAC 388-92-041 Trusts.** (1) For the purposes of this section, the department shall ensure a trust (~~shall~~) includes any legal instrument similar to a trust.

(2) The department shall ensure this section does not apply to any trust or initial trust decree established:

(a) On or before April 6, 1986; and

(b) Solely for the benefit of a (~~mentally retarded~~) client who lives in an intermediate care facility for the mentally retarded (ICFMR).

(3) For trusts established on or before August 10, 1993, the department shall:

(a) Determine if the trust is established by the client, client's spouse, or the legal guardian for (~~an incompetent~~) a client under which:

(i) The client may be the beneficiary of all or part of the payments from the trust;

(ii) The distribution of such payments is determined by one or more of the trustees; and

(iii) The trustees are permitted to use discretion with respect to the distribution of payments to the client.

(b) Consider available to the client the greatest amount of payments permitted to be distributed under the terms of the trust when the conditions defined under subsection (3)(a) of this section exist;

(c) Apply subsection (3)(b) of this section whether or not:

(i) The trust:

(A) Is irrevocable; or

(B) Is established for purposes other than to establish eligibility for medical assistance.

(ii) The trustees actually use the discretion permitted by the trust.

(d) For an irrevocable trust not meeting the description under subsection (3)(a) of this section, consider:

(i) The trust as an unavailable resource when the client establishes the trust for a beneficiary other than the client or the client's spouse;

(ii) As an available resource the amount of the trust's assets:

(A) The client may access; or

(B) The trustee of the trust distributes as actual payments to the client.

(iii) (~~(See))~~ Referencing WAC 388-95-395 for regulations concerning the transfer of assets.

(e) For a revocable trust, consider:

(i) The full amount of the trust as an available resource of the client when the trust is established by:

(A) The client;

(B) The client's spouse and the client lives with the spouse; or

(C) A person other than the client or the client's spouse only to the extent the client has access to the assets of the trust.

~~((D) Client withdrawal of funds from such trust shall not be considered as income.))~~

(ii) Only the amounts paid to the client from the trust as an available resource when the trust is established by:

(A) The client's spouse and the client does not live with the spouse; or

(B) A person other than the client or the client's spouse and payments are distributed by a trustee of the trust.

(f) Not consider client withdrawal of funds from a trust as described under subsection (3)(e) of this section as income.

(g) Waive the requirements of subsection (3) of this section if undue hardship exists. Undue hardship includes but is not limited to situations in which:

(i) The trustee refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or

(ii) The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.

(4) For trusts established on or after August 11, 1993, the department shall follow subsection (3) of this section to determine eligibility for medical services received on or before September 30, 1993.

(5) For trusts established on or after August 11, 1993, the department shall follow subsections (6) through (14) of this section to determine eligibility for medical services received on or after (~~October 31, 1993~~) October 1, 1993.

(6) The department shall consider a trust established by the client when:

(a) All or part of the assets, as defined under WAC 388-95-395, of the trust were from the client; and

(b) The trust was established, other than by will, by:

(i) The client or the client's spouse;

(ii) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(iii) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(7) The department shall consider available to the client only the assets contributed to the trust by the client when part of the trust assets were contributed by any other person.

(8) The department shall not consider:

(a) The purposes for which a trust is established;

(b) Whether the trustees have or exercise any discretion under the terms of the trust;

(c) Restrictions on when or whether distributions may be made from the trust; or

(d) Restrictions on the use of distributions from the trust.

(9) For a revocable trust established as described under subsection (6) of this section, the department shall consider:

(a) The full amount of a revocable trust as an available resource of the client;

(b) Payments from the trust to or for the benefit of the client as income of the client; and

(c) Any payments from the trust other than payments described under subsection (9)(b) of this section as a transfer of client assets.

(10) For an irrevocable trust established as described under subsection (6) of this section, the department shall consider:

(a) As an available resource to the client, the portions of a trust or the income from the trust from which payment can be made to or for the benefit of the client. When payment is made from such irrevocable trust, the department shall consider such payments as:

(i) Income to the client when payment is to or for the client's benefit; or

(ii) The transfer of an asset when payment is made to any person for any purpose other than for the client's benefit.

(b) As a transfer of assets, a trust from which a payment cannot be made to or for the client's benefit. For such trust, the department shall find:

(i) The transfer of assets is effective the date:

(A) Of the establishment of the trust; or

(B) On which payment to the client is precluded, if later.

(ii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(11) For a revocable or irrevocable trust established by persons or with funds other than as described under subsection (6) of this section, the department shall consider such trust under subsection (3)(e) of this section.

(12) The department shall not follow subsections (6) through (11) of this section for a trust containing:

~~(a))~~ the assets of a person sixty-four years of age and younger who is disabled as defined by SSI criterion and the trust:

~~((+))~~ (a) Is established for the benefit of such person ~~(; (ii) is established)~~ by such person's parent, grandparent, legal guardian, or a court; ~~(and) or~~

~~((iii) Stipulates that the state will receive all amounts remaining in trust upon the death of the client up to the amount of Medicaid expended on behalf of such client.~~

~~(b) The assets of a person sixty-four years of age and younger who is disabled as defined by SSI criteria and the trust:~~

~~(+))~~ (b) Is managed by a nonprofit association and the nonprofit association:

~~((A))~~ (i) Maintains separate accounts for each trust beneficiary; and

~~((B))~~ (ii) May only pool such separate accounts for investment and management of fund purposes;

~~((i))~~ (c) Stipulates that the state will receive all amounts remaining in the client's account upon the death of the client up to the amount of Medicaid expended on the client's behalf.

(13) The department shall waive the application of this section if the client establishes undue hardship exists. Undue hardship includes, but is not limited to, situations where the client would be forced to go without life sustaining services.

(14) See WAC 388-95-395 for trusts the department determines a transfer of assets under this section.

**WSR 94-05-046**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**  
[Filed February 9, 1994, 3:31 p.m.]

Date of Adoption: February 9, 1994.

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 remove the sunset date of February 1994.

Citation of Existing Rules Affected by this Order: Amending Title 222 WAC, WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, 222-30-100, 222-38-020, and 222-38-030; and new sections WAC 222-30-065 and 222-30-075.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 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: This emergency rule is necessary because the current permanent rule protecting the northern spotted owl sunsets today. This emergency rule will provide protection to the species while the Forest Practices Board conducts the permanent rule adoption process.

Effective Date of Rule: Immediately.

February 9, 1994  
Jennifer M. Belcher  
Commissioner of Public Lands

Reviser's note: The material contained in this filing will appear in the 94-06 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 94-05-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 94-07—Filed February 10, 1994, 2:48 p.m.]

Date of Adoption: February 10, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07300S.

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: The harvestable surplus of sea urchins has been taken.

Effective Date of Rule: Immediately.

February 10, 1994

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

**WAC 220-52-07300T Sea urchins** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to fish for or possess sea urchins taken for commercial purposes from all state waters.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300S Sea urchins (94-01)

**WSR 94-05-083**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed February 15, 1994, 3:12 p.m.]

Date of Adoption: February 15, 1994.

Purpose: To provide tax reporting information to taxpayers for the use of resale certificates and to explain penalty provisions which apply to misuse.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-102.

Statutory Authority for Adoption: RCW 82.32.300.

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 changes contained in this rule are specifically required by chapter 25, Laws of 1993 sp. sess., and have an effective date of July 1, 1993. This emergency rule is required to give tax reporting information

to taxpayers during the interim until a permanent rule is filed.

Effective Date of Rule: Immediately.

February 15, 1994

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Legislation and Policy

AMENDATORY SECTION (Amending WSR 86-09-058, filed 4/17/86)

**WAC 458-20-102 Resale certificates. (1) Introduction.** This section explains the conditions under which a buyer may furnish a resale certificate to a seller, and explains the information and language required on the resale certificate. This section also provides tax reporting information to persons who purchase articles or services for dual purposes (i.e. for both resale and consumption). Sellers and buyers should note that amendments to RCW 82.04.470 required changes to the information and language contained on the resale certificate. These changes became effective on July 1, 1993. (See chapter 25, Laws of Washington 1993, 1st Special Session.)

**(2) Resale certificate use.** The resale certificate is a document or combination of documents which substantiates the wholesale nature of a sale. The resale certificate cannot be used for purchases which are not purchases at wholesale, or where more specific certificates, affidavits, or other documentary evidence is required by statute or other section of chapter 458-20 WAC. While the resale certificate may come in different forms, all resale certificates must satisfy the language and information requirements of RCW 82.04.470.

(a) Depending on the statements made on the resale certificate, the resale certificate may authorize the buyer to purchase at wholesale all products or services being purchased from a particular seller, or may authorize only selected products or services to be purchased at wholesale. The provisions of the resale certificate may be limited to a single sales transaction, or may apply to all sales transactions for a period not to exceed four years from the effective date. Whatever its form and/or purpose, the resale certificate must be completed in its entirety, and signed by a person who is authorized to make such a representation on behalf of the buyer.

(b) The buyer may authorize any person in its employ to issue and sign resale certificates on the buyer's behalf. The buyer is, however, responsible for the information contained on the resale certificate. A resale certificate is not required to be completed by every person ordering or making the actual purchase of articles or services on behalf of the buyer. For example, a construction company which authorizes only its bookkeeper to issue resale certificates on its behalf may authorize both the bookkeeper and a job foreman to purchase items under the provisions of the resale certificate. The construction company is not required to provide, nor is the seller required to obtain, a resale certificate signed by each person making purchases on behalf of the construction company.

(c) The buyer is responsible for educating all persons authorized to issue and/or use the resale certificate on the proper use of the buyer's resale certificate privileges.

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**(3) Resale certificate renewal.** Resale certificates must be renewed at least every four years. The buyer must renew its resale certificate whenever a change in the ownership of the buyer's business requires a new "registrations and licenses document." (See WAC 458-20-101 on tax registration.) The buyer may not make purchases under the authority of a resale certificate bearing a registration number which has been cancelled or revoked.

Sellers who have resale certificates on file without the additional language and information required by the July 1, 1993 amendment to RCW 82.04.470 are required to obtain revised resale certificates for sales made after June 30, 1993. However, the old resale certificates must be retained to substantiate the wholesale nature of sales made prior to July 1, 1993. These "old" certificates must be retained for at least five years from their last effective date. For example, a seller making its last wholesale sale to a particular buyer on April 1, 1991 must retain the "old" resale certificate until March 31, 1996, five years from the last sale subject to the provisions of that resale certificate. (See also WAC 458-20-254 on record keeping requirements.)

**(4) Sales at wholesale.** ~~((Except as hereinafter noted, all))~~ All sales are ~~((deemed to be))~~ treated as retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, ~~((to the effect))~~ verifying that the property or services purchased ~~((is))~~ are:

~~((1))~~ (a) For resale in the regular course of the buyer's business without intervening use by the buyer~~((-or))~~; or

~~((2))~~ (b) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale~~((-or))~~; or

~~((3))~~ (c) A chemical to be used in processing an article to be produced for sale~~((-See WAC 458-20-113.))~~ (see WAC 458-20-113 on chemicals used in processing); or

(d) To be used in processing ferrosilicon which is subsequently used in producing magnesium for sale; or

(e) Provided to consumers as a part of competitive telephone service, as defined in RCW 82.04.065; or

(f) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(g) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use by a farmer for producing for sale any agricultural product. (See also WAC 458-20-122 on sales to farmers.)

~~((When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.~~

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor. When any resale certificate is found to have been fraudulently tendered to any seller or given under false

or knowingly misleading circumstances, any retail sales tax which should have been paid but for the tendering of the certificate, which is assessed against the buyer, will automatically incur an evasion penalty of fifty percent of the tax found to be due.

~~No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for one of the three purposes set forth above signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:))~~ (5) **Seller's responsibilities.** When a seller receives and accepts from the buyer a resale certificate at the time of the sale, or has a resale certificate on file at the time of the sale, or obtains a resale certificate from the buyer within a reasonable time after the sale, the seller is relieved of liability for retail sales tax with respect to the sale covered by the resale certificate. The seller may accept a legible FAX or duplicate copy of an original resale certificate. In all cases, the resale certificate must be accepted in good faith by the seller. The resale certificate will be considered to be obtained within a reasonable time of the sale if it is received within one hundred twenty days of the sale or sales in question. However, refer to (d) of this subsection in event of an audit situation.

(a) If a single order or contract will result in multiple billings to the buyer, and the appropriate resale certificate was not obtained or on file at the time the order was placed or the contract entered, the resale certificate must be received by the seller within one hundred twenty days after the first billing to be considered obtained within a reasonable time of the sale. For example, a subcontractor entering into a construction contract for which it has not received a resale certificate must obtain the certificate within one hundred twenty days of the initial construction draw request to consider the resale certificate obtained in a reasonable time after the sale, even though the construction project may not be completed at that time and additional draw requests will follow.

(b) If the resale certificate is obtained more than one hundred twenty days after the sale or sales in question, the resale certificate must be specific to the sale or sales. The certificate must specifically identify the sales in question on its face, or be accompanied by other documentation signed by the buyer specifically identifying the sales in question and stating that the provisions of the accompanying resale certificate apply. A nonspecific resale certificate which is not obtained within a reasonable period of time is generally not, in and of itself, acceptable proof of the wholesale nature of the sales in question. The resale certificate and/or required documentation must be obtained within the statutory time limitations provided by RCW 82.32.050.

The following examples explain the seller's documentary requirements in typical situations when obtaining a resale certificate more than one hundred twenty days after the sale. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) Beginning in January of 1994, MN Company regularly makes sales to ABC Inc. In June of 1994 MN discovers ABC has not provided a resale certificate. MN

requests a resale certificate from ABC and, as the resale certificate will not be received within one hundred twenty days of many of the past sales transactions, requests that the resale certificate specifically identify those past sales subject to the provisions of the certificate. MN receives a legible FAX copy of an original resale certificate from ABC on July 1, 1994. Accompanying the resale certificate is a memo providing a list of the invoice numbers for all past sales transactions through May 15, 1994. This memo also states that the provisions of the resale certificate apply to all past and future sales, including those listed. MN Company has satisfied the requirement that it obtain a resale certificate specific to the sales in question. As the provisions of this resale certificate apply to both past and future sales transactions, the certificate must be renewed no later than December 31, 1997, four years from the date the resale certificate became effective.

(ii) XYZ Company makes three sales to MP Inc. in October of 1993 and does not charge retail sales tax. In the review of its resale certificate file in April of 1994, XYZ discovers it has not received a resale certificate from MP Inc. and immediately requests a certificate. As the resale certificate will not be received within one hundred twenty days of the sales in question, XYZ requests that MP provide a resale certificate identifying the sales in question. MP provides XYZ with a resale certificate which does not identify the sales in question, but simply states "applies to all past purchases." XYZ Company has not satisfied its responsibility to obtain an appropriate resale certificate. As XYZ failed to secure a resale certificate within a reasonable period of time, XYZ must obtain a certificate specifically identifying the sales in question or prove through other facts and circumstances that these sales are wholesale sales. (Refer to (c) of this subsection.) It remains the seller's burden to prove the wholesale nature of the sales made to a buyer if the seller has not obtained a valid resale certificate within one hundred twenty days of the sale.

(c) If the seller has not obtained an appropriate resale certificate or other acceptable documentary evidence (see subsection (8) below), the seller is personally liable for the tax due unless it can sustain the burden of proving through facts and circumstances that the property was sold for one of the purposes set forth in subsection (4)(a) through (g) above. The department of revenue will consider all evidence presented by the seller, including the circumstances of the sales transaction itself, when determining whether the seller has met its burden of proof. This evidence must be presented within the statutory time limitations provided by RCW 82.32.060. It is the seller's responsibility to provide the information necessary to evaluate the facts and circumstances of all sales transactions for which resale certificates are not obtained. Facts and circumstances which should be considered include, but are not necessarily limited to, the following:

(i) The nature of the buyer's business. The items being purchased at wholesale must be consistent with the buyer's business. For example, a buyer having a business name of "Ace Used Cars" would generally not be expected to be in the business of selling furniture.

(ii) The nature of the items sold. The items sold must be of a type which would normally be purchased at wholesale by the buyer.

(iii) The quantity and frequency of items sold. The number of items sold and the frequency of sales must indicate that the buyer is purchasing such items at wholesale.

(iv) Additional documentation. Other available documents, such as purchase orders and shipping instructions, should be considered in determining whether they support a finding that the sales are sales at wholesale.

(d) If in event of an audit it is discovered that the seller has not secured the necessary resale certificates and/or documentation, the seller will generally be allowed thirty days in which to obtain and present appropriate resale certificates and/or documentation, or prove by facts and circumstances the sales in question are wholesale sales. The time allotted to the seller shall commence from the date the auditor initially provides the seller with the results of the auditor's wholesale sales review. The processing of the audit report will not be delayed as a result of the seller's failure within the allotted time to secure and present appropriate documentation, or its inability to prove by facts and circumstances that the sales in question were wholesale sales. The audit report will also not be delayed because the time allotted to the seller expires prior to one hundred twenty days from the date of the sale or sales in question.

(e) If the seller is unable to provide proper documentation, or unable to prove by facts and circumstances that the sales in question are wholesale sales, the seller becomes personally liable for the taxes in question. If the seller is required to make payment to the department, and later is able to present the department with proper documentation or prove by facts and circumstances that the sales in question are wholesale sales, the seller may in writing request a refund of the taxes paid along with the applicable interest. Both the request and the documentation or proof that the sales in question are wholesale sales must be submitted to the department within the statutory time limitations provided by RCW 82.32.060. (See also WAC 458-20-229.)

(6) **Penalty for improper use.** Any buyer who uses a resale certificate to purchase items or services without payment of sales tax and who is not entitled to use the certificate for the purchase shall be assessed a penalty of fifty percent of the tax due on the improperly purchased item or service, in addition to all other taxes, penalties, and interest due. The penalty shall be assessed by the department of revenue and will apply only to the buyer. The penalty applies to purchases made after June 30, 1993, and can apply even if there was no intent to evade the payment of the tax. However, see subsection (12) of this section for situations in which the department may waive the penalty.

Persons who purchase articles or services for dual purposes (i.e. some for their own consumption and some for resale) should refer to subsection (11) of this section to determine whether they may give a resale certificate to the seller.

(7) **Resale certificate - required information.** While there may be different forms of the resale certificate, all resale certificates must satisfy the language and information requirements provided by RCW 82.04.470. The resale certificate may be in the suggested form shown below, or may be in any other form which substantially contains the following information and language:

("I hereby certify that this purchase is for resale without intervening use by me in the regular course

of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. . . . . Name as Registered . . . . .))

The undersigned buyer hereby certifies that the tangible personal property or services specified below will be purchased (a) for resale in the regular course of business without intervening use by the buyer, or (b) for use as an ingredient or component part of a new article of tangible personal property to be produced for sale, or (c) is a chemical to be used in processing a new article of tangible personal property to be produced for sale, or (d) for use as feed, seed, fertilizer, or spray materials in its capacity as a farmer as defined in Chapter 82.04 RCW. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge that the buyer is solely responsible for purchasing within the categories specified on the certificate, and that misuse of the resale privilege claimed on the certificate is subject to the legally prescribed penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law.

Name of Seller . . . . . Date . . . . .
Name of Buyer . . . . .
((Firm Name . . . . .))Address . . . . .
UBI/Revenue Registration# . . . . .
Type of Business . . . . .
Items or item categories purchased at wholesale . . . . .
Authorized agent for buyer (printed) . . . . .
Authorized Signature . . . . .
Title . . . . . ((Date . . . . .))

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from . . . . . will be purchased for resale in the regular course of business without intervening use by me, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. . . . . Name as Registered . . . . .
Firm Name . . . . . Address . . . . .
Type of Business . . . . .
Authorized Signature . . . . .
Title . . . . . Date . . . . .))

(a) The 1993 legislative changes to RCW 82.04.470 require the buyer making purchases at wholesale to specify the kinds of products or services subject to the provisions of the resale certificate. A buyer who will purchase some of the items at wholesale, and consume and pay tax on some other items being purchased from the same seller, must use terms specific enough to clearly indicate to the seller what kinds of products or services the buyer is authorized to purchase at wholesale.

(i) The buyer may list the particular products or services to be purchased at wholesale, or provide general category descriptions of these products or services. The terms used to describe these categories must be descriptive enough to restrict the application of the resale certificate provisions to those products or services which the buyer is authorized to purchase at wholesale. The following are examples of terms used to describe categories of products purchased at wholesale, and businesses which may be eligible to use such terms on their resale certificates:

(A) "Hardware" for use by a general merchandise or building material supply store, "computer hardware" for use by a computer retailer.

(B) "Paint" or "painting supplies" for use by a general merchandise or paint retailer, "automotive paint" for use by an automotive repair shop.

(C) "Building materials" or "subcontract work" for use by prime contractors performing residential home construction, "wiring" or "lighting fixtures" for use by an electrical contractor.

(i) The buyer must remit retail sales tax on any taxable product or service not listed on the resale certificate provided to the seller. The seller should charge retail sales tax on any items not listed on the resale certificate. If the buyer gave a resale certificate to the seller and later used an item listed on the certificate, or if the seller failed to collect the sales tax on items not listed on the certificate, the buyer must remit the deferred sales or use tax due to the department.

(ii) RCW 82.08.050 provides that each seller shall collect from the buyer the full amount of retail sales tax due on each retail sale. If the department finds that the seller has engaged in a consistent pattern of failing to properly charge sales tax on items not purchased at wholesale, it may hold the seller liable for such uncollected sales tax.

(iii) Persons having specific questions regarding the use of terms to describe products or services purchased at wholesale may submit such questions to the department of revenue for ruling.

(b) A buyer who will purchase at wholesale all of the products or services being purchased from a particular seller will not be required to specifically describe the items or item categories on the resale certificate. If the certificate form provides for a description of the products or services being purchased at wholesale (as does the suggested form provided above), the buyer may specify "all products and/or services" (or make a similar designation). A resale certificate completed in this manner is often described as a blanket resale certificate.

The resale certificate used by the buyer must, in all cases, be completed in its entirety. A resale certificate in which the section for the description of the items being purchased at wholesale is left blank by the buyer will not be considered a properly executed resale certificate.

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(c) If the resale certificate is used for a single transaction, the language and information required of a resale certificate may be written or stamped upon a purchase order or invoice. The language contained in a "single use" resale certificate should be modified to delete any reference to subsequent orders or purchases.

(d) Examples. The following examples explain the proper use of types of resale certificates in typical situations. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) ABC is an automobile repair shop purchasing automobile parts for resale and tools for its own use from DE Supply. ABC must provide DE Supply with a resale certificate limiting the certificate's application to automobile part purchases. However, should ABC withdraw parts from inventory to install in its own tow truck, deferred retail sales tax or use tax must be remitted directly to the department of revenue. The buyer has the responsibility to report deferred retail sales tax or use tax upon any item put to its own use, including items for which it gave a resale certificate and later used for its own use.

(ii) X Company is a retailer selling lumber, hardware, tools, automotive parts, and household appliances. X Company regularly purchases lumber, hardware, and tools from Z Distributing. While these products are generally purchased for resale, X Company may occasionally withdraw some of these products from inventory for its own use. X Company may provide Z Distributing with a resale certificate specifying "all products purchased" are purchased at wholesale. However, whenever X Company removes any product from inventory to put to its own use, deferred retail sales or use tax must be remitted to the department of revenue.

(iii) TM Company is a manufacturer of electric motors. When making purchases from its suppliers, TM issues a purchase order. This purchase order contains substantially all the language and information required of a resale certificate and a signature of the person ordering the items on behalf of TM. This purchase order includes a box which, if marked, indicates to the supplier that all or certain designated items purchased are being purchased at wholesale.

When the box indicating the purchases are being made at wholesale is marked, the purchase order can be accepted as a resale certificate. A resale certificate is not required to be in any particular form, it must simply contain substantially all the required information and language contained in the suggested resale certificate form described above. As TM Company's purchase orders are being accepted as resale certificates, they must be retained by the seller for at least five years. (See also WAC 458-20-254 on record keeping requirements.)

(8) Other documentary evidence. Other documentary evidence may be used by the seller and buyer in lieu of the resale certificate form described above. However, this documentary evidence must collectively contain the information and language generally required of a resale certificate. The conditions and restrictions applicable to the use of resale certificates apply equally to other documentary evidence used in lieu of the above-mentioned resale certificate form. The following are examples of documentary evidence which will be accepted to show that sales were at wholesale:

(a) A combination of documentation kept on file, such as a membership card or application, and a sales invoice or "certificate" taken at the point of sale with the purchases listed, provided:

(i) The documentation kept on file contains all information generally required on a resale certificate, including the names and signatures of all persons authorized to make purchases at wholesale; and

(ii) The sales invoice or "certificate" taken at the point of sale must contain the following:

(A) Language certifying the purchase is made at wholesale, with acknowledgement of the penalties for the misuse of resale privileges, as generally required of a resale certificate; and

(B) The name and registration number of the buyer/business, and an authorized signature.

(b) A contract of sale which within the body of the contract provides the language and information generally required of a resale certificate. The contract of sale must specify the products or services subject to the resale certificate privileges.

(c) Any other documentary evidence which has been approved in advance and in writing by the department of revenue.

(Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new certificate of registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years. Sellers who have valid blanket resale certificates on file without the additional language required by the March, 1983 amendment to this rule are not required to obtain revised blanket resale certificates except where a purchaser's registration with the department of revenue has been cancelled or revoked, a change occurs in the ownership of a purchaser's business and a new registration is required, or the blanket resale certificate was completed more than four years prior to the effective date of the amendment.)

((Exception as)) (9) Sales to nonresident buyers. ((In ease)) If the ((purchaser)) buyer is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in ((his)) the regular course of business outside this state, the seller ((should)) must take from such a ((purchaser)) buyer a resale certificate ((substantially in the)) as described above ((form, omitting a registration number, but including a statement to the effect that the articles purchased are for resale by him in his regular course of his business.)) The seller may accept a resale certificate from a nonresident buyer with the registration number information omitted, provided the balance of the resale certificate is completed in its entirety. The resale certificate should contain a statement that the items are being purchased for resale outside Washington.

((Exception as)) (10) Sales to farmers. ((The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farm-

ers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughterhouse, or packing house, nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.)

Farmers (~~(as defined in this rule)~~) selling agricultural products only at wholesale are not required to register with the department of revenue. (See also WAC 458-20-101 on tax registration.) (Sales of feed, seed, fertilizer, and spray materials to farmers are sales at wholesale not subject to the retail sales tax. Farmers who purchase livestock for the purpose of fattening and later reselling the same are making purchases at wholesale not subject to the retail sales tax. Upon) When making wholesale sales (of any such articles) to farmers (including farmers operating in other states), the seller (~~(should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale at wholesale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.))~~) must take from the farmer a resale certificate as described above. Farmers not required to be registered with the department of revenue may provide, and the seller may accept, resale certificates with the registration number information omitted, provided the balance of the certificates are completed in full. Persons making sales to farmers should also refer to WAC 458-20-122.

**(1) Purchases for dual** (~~(purpose. It may happen that~~) **purposes.** A buyer normally (~~(is)~~) engaged in both consuming and reselling certain types (~~(of articles)~~) of tangible personal property, and (~~(is)~~) not able to determine at the time of purchase whether the particular property purchased (~~(acquired)~~) will be consumed or resold (~~(- In such cases, the buyer should)~~), must purchase according to the general nature of ((his)) its business((- that is, if)). RCW 82.08.130. If the buyer principally ((he)) consumes the articles in question, ((he)) the buyer should not give a resale certificate for any ((portion thereof, but if,)) part of the purchase. If, on the other hand, ((he)) the buyer principally resells ((such)) the articles, ((he)) the buyer may ((sign)) issue a resale certificate for the ((whole amount of his purchases)) entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

**(a) Deferred sales tax liability.** If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, ((he)) the buyer must set up in ((his)) its books of account the value ((thereof)) of the article used and remit to the department of revenue the applicable deferred sales tax ((payable thereon)). ((Such tax should be reported on Form 2406 under use tax-)) The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

**(i) Buyers making purchases for dual purposes under the provisions of a resale certificate must remit deferred sales tax on all products or services they consume. If the buyer fails to make a good faith effort to remit this tax liability, the penalty for the misuse of resale certificate privileges may**

be assessed. This penalty will apply to the unremitted portion of the deferred sales tax liability.

A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the buyer discovers a minimum of eighty percent of the tax liability within one hundred twenty days of purchase, and remits the full amount of the discovered tax liability upon the next excise tax return. However, if the buyer does not satisfy this eighty percent threshold and can show by other facts and circumstances that it made a good faith effort to report the tax liability, the penalty will not be assessed. Likewise, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed, even if the eighty percent threshold is satisfied.

**(ii) Example.** BC Contracting operates both as a prime contractor and speculative builder of residential homes. BC Contracting purchases building materials from Seller D which are principally incorporated into projects upon which BC acts as a prime contractor. BC provides Seller D with a resale certificate and purchases all building materials at wholesale. BC must remit deferred sales tax upon all building materials incorporated into the speculative projects to be considered to be properly using its resale certificate privileges. The failure to make a good faith effort to identify and remit this tax liability may result in the assessment of the fifty percent penalty for the misuse of resale certificate privileges.

~~((On the other hand, if))~~ **(b) Tax paid at source deduction.** If the buyer has not given a resale certificate, but has paid tax on all purchases of such articles and subsequently resells ((at retail)) a portion thereof, ((he)) the buyer must ((, nevertheless,)) collect the retail sales tax from ((the purchaser and report such sales in making his tax returns. However, in such case, the)) its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may ((take)) then claim a deduction ((on his return representing his cost of)) in the amount the buyer paid for the property thus resold ((on which sales tax was paid)).

**(i) This deduction may be claimed under the retail sales tax classification only. It must be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet, which must be filed with the excise tax return. Failure to properly identify the deduction may result in the disallowance of the deduction. When completing the local sales tax portion of the tax return, the deduction must be computed at the local sales tax rate paid to the seller, and credited to the seller's tax location code.**

**(ii) Example.** Seller A is located in Spokane, Washington and purchases equipment parts for dual purposes from a supplier located in Seattle, Washington. Seller A does not issue a resale certificate for the purchase, and remits retail sales tax to the supplier at the Seattle tax rate. A portion of these parts are sold to Customer B, with retail sales tax collected at the Spokane tax rate. Seller A must report the amount of the sale to Customer B on its excise tax return, compute the local sales tax liability at the Spokane rate, and code this liability to the location code for Spokane (3210). Seller A would claim the tax paid at source deduction for the cost of the parts resold to Customer B, compute the local

sales tax credit at the Seattle rate, and code this deduction amount to the location code for Seattle (1726).

((Such deduction shall be designated as "resale purchases on which tax was paid" and listed under sales tax deductions on the back of the tax return form.))

(iii) Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the amount of tax which was paid. ((See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.))

(iv) Should the buyer resell the articles at wholesale, or under other situations where retail sales tax is not to be collected, the claim for the tax paid at source deduction on a particular excise tax return may result in a credit. In such cases, the department will issue a credit notice which may be used against future tax liabilities. However, a refund will be issued upon written request.

(12) Waiver of penalty for resale certificate misuse. The department may waive the penalty imposed for resale certificate misuse upon finding that the use of the certificate to purchase items or services by a person not entitled to use the certificate for that purpose was due to circumstances beyond the control of the buyer. However, the use of a resale certificate to purchase items or services for personal use outside of the business shall not qualify for the waiver or cancellation of the penalty. The penalty will not be waived merely because the buyer was not aware of either the proper use of the resale certificate or the penalty. In all cases the burden of proving the facts is upon the buyer.

(a) Situations under which a waiver of the penalty will be considered by the department include, but are not necessarily limited to, the following:

(i) The resale certificate was properly used to purchase products or services for dual purposes; or the buyer was eligible to issue the resale certificate; and the buyer made a good faith effort to discover one-hundred percent of its deferred sales tax liability within one hundred twenty days of purchase; and the buyer remitted the discovered tax liability upon the next excise tax return. (Refer to (11)(a)(i) above for an explanation of what constitutes "good faith effort.")

(ii) The certificate was issued and/or purchases were made without the knowledge of the buyer, and had no connection with the buyer's business activities. However, the penalty for the misuse of resale certificate privileges may be applied to the person actually issuing and/or using the resale certificate without knowledge of the buyer.

(b) The penalty prescribed for the misuse of the resale certificate may be waived or cancelled on a one time only basis if such misuse was inadvertent or unintentional, and the item was purchased for use within the business. If the department of revenue does grant a one time waiver of the penalty, the buyer shall be provided written notification at that time.

(13) Examples. The following are examples of typical situations where the fifty percent penalty for the misuse of resale privileges will or will not be assessed. These examples should be used only as a general guide. The tax status

of other situations must be determined after a review of all of the facts and circumstances.

(a) ABC Manufacturing purchases electrical wiring and tools from X Supply. The electrical wiring is purchased for dual purposes, i.e. for resale and for consumption, with more than fifty percent of the wiring purchases becoming a component of items which ABC manufactures for sale. ABC Manufacturing issues a resale certificate to X Supply specifying "electrical wiring" as the category of items purchased for resale. ABC regularly reviews its purchases and remits use tax upon the consumed wiring.

ABC is subsequently audited by the department of revenue and it is discovered that ABC Manufacturing failed to remit deferred sales tax upon three purchases of wiring for consumption. The unreported tax liability attributable to these three purchases is less than five percent of the total deferred sales tax liability for wiring purchases made from X Supply. It is also determined that the failure to remit use tax upon these purchases was merely an oversight. The fifty percent penalty for the misuse of resale certificate privileges does not apply, even though ABC failed to remit use tax on these purchases. The resale certificate was properly issued, and ABC remitted to the department more than eighty percent of the deferred sales tax liability for wiring purchases from X Supply.

(b) During a routine audit examination of a jewelry store, the department of revenue discovers that a dentist has provided a resale certificate for the purchase of a necklace. This resale certificate indicates that in addition to operating a dentistry practice, the dentist also sells jewelry. There is no indication that the jewelry store did not accept the resale certificate in good faith.

Upon further investigation, the department of revenue finds that the dentist is not engaged in selling jewelry. As the jewelry store accepted the resale certificate in good faith, the department will look to the dentist for payment of the applicable retail sales tax. In addition, the dentist will be assessed the fifty percent penalty for the misuse of resale certificate privileges. The penalty will not be waived or cancelled as the dentist misused the resale certificate privileges to purchase a necklace for personal use.

(c) During a routine audit examination of a computer dealer, it is discovered that a resale certificate was obtained from a bookkeeping service. The resale certificate was completed in its entirety and accepted in good faith by the dealer. Upon further investigation it is discovered that the bookkeeping service had no knowledge of the resale certificate, and had made no payment to the computer dealer. The employee who signed the resale certificate had purchased the computer for personal use, and had personally made payment to the computer dealer.

The fifty percent penalty for the misuse of the resale certificate privileges will be waived for the bookkeeping service. The bookkeeping service had no knowledge of the purchase or unauthorized use of the resale certificate. However, the department of revenue will look to the employee for payment of the taxes and the fifty percent penalty for the misuse of resale certificate privileges.

(d) During an audit examination it is discovered that XYZ Corporation, a duplicating company, purchased copying equipment for its own use. XYZ Corporation issued a resale certificate to the seller despite the fact that XYZ does not

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sell copying equipment. XYZ also failed to remit either the deferred sales or use tax to the department of revenue. As a result of a previous investigation by the department of revenue, XYZ had been informed in writing that retail sales and/or use tax applied to all such purchases. The fifty percent penalty for the misuse of resale certificate privileges will be assessed. XYZ was not eligible to provide a resale certificate for the purchase of copying equipment, and had previously been so informed. The penalty will apply to the unremitted deferred sales tax liability.

(e) AZ Construction issued a resale certificate to a building material supplier for the purchase of "pins" and "loads." The "pins" are fasteners which become a component part of the finished structure. The "load" is a powder charge which is used to drive the "pin" into the materials being fastened together. Z Construction is informed during the course of an audit examination that Z Construction is considered the consumer of the "loads" and may not issue a resale certificate for the purchase thereof. Z Construction indicates that it was unaware that a resale certificate could not be issued for the purchase of "loads," and there is no indication that Z Construction had previously been so informed.

The failure to be aware of the proper use of the resale certificate is not generally grounds for waiving the fifty percent penalty for the misuse of resale certificate privileges. However, AZ Construction does qualify for the "one time only" waiver of the penalty as the misuse of the resale certificate privilege was unintentional and the "loads" were purchased for use within the business.

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 94-05-084**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 15, 1994, 3:14 p.m.]

Date of Adoption: February 15, 1994.

Purpose: To provide tax reporting information to persons operating hospitals and indicate the changes which resulted from the 1993 legislative session.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 458-20-168.

Statutory Authority for Adoption: RCW 82.32.300.

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: Chapter 25, Laws of 1993 sp. sess. makes certain nonprofit hospitals and hospitals operated by political subdivisions of the state subject to business and occupation tax as of July 1, 1993.

Effective Date of Rule: Immediately.

AMENDATORY SECTION (Amending Order 87-9, filed 12/15/87)

**WAC 458-20-168 Hospitals, medical care facilities, and adult family homes. (1) Introduction.** This section provides tax reporting information to persons operating hospitals, medical care facilities, and adult family homes. It includes tax reporting changes resulting from the passage of chapter 25, laws of Washington 1993, 1st Special Session which affected nonprofit hospitals and hospitals operated by political subdivisions of the state.

((1)) (2) Definitions.

(a) The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term includes privately owned and operated hospitals, hospitals operated as nonprofit corporations, hospitals operated by political subdivisions of the state, and hospitals operated by the state but not owned by the state.

(b) The term "nursing home" means only institutions defined as nursing homes in chapter 18.51 RCW.

(c) The term "adult family home" means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140.)

((2)) (3) Business and occupation tax. There are two B&O tax classifications which can apply to persons providing medical services through the operation of a hospital, with the tax classification dependent on the organizational structure of the hospital. The B&O tax classifications are:

(a) Public or nonprofit hospitals. This B&O tax classification applies to gross income derived from personal and professional services of hospitals that are operated as nonprofit corporations, operated by political subdivisions of the state, or operated but not owned by the state. These hospitals became taxable under this B&O tax classification on July 1, 1993. These hospitals were required to report under the service B&O tax classification prior to July 1, 1993, but were entitled to a deduction for services rendered to patients.

(b) Service. The gross income derived from personal and professional services of hospitals (other than hospitals operated as nonprofit corporations or by political subdivisions of the state), nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification.

(c) Retailing. The retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from services rendered. However, this does not include charges for tangible personal property which is used in providing medical services to a patient. Tangible personal property which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately

itemized, are for providing medical services and are taxable under either the "public or nonprofit hospital" classification or the "service and other business activities" classification, depending on the type of organization making the sale. The charge for making copies of medical records is a retail sale.

~~((3))~~ **(4) Exemptions.** The following exemptions apply:

(a) Adult family homes. The gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services, is exempt from the business and occupation tax effective June 9, 1987.

(b) State owned hospitals. The gross income from a hospital owned by the state of Washington is not subject to B&O tax. (Refer to WAC 458-20-189). This exemption does not include hospital districts or hospitals which are operated by or for political subdivisions of the state, such as a county government.

(c) Kidney dialysis facilities, certain nursing homes, certain homes for unwed mothers. Persons operating kidney dialysis facilities, nursing homes and homes for unwed mothers operated as religious or charitable organizations are exempt from B&O tax on the services they provide to patients or from the sales of prescription drugs. (See WAC 458-20-18801). However, the exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder. (d) Contributions, donations and endowment funds. Amounts received as contributions, donations and endowment funds may be excluded from gross income, provided that no specific service is performed as a condition for receiving the funds. Amounts received as grants are taxable if specific services are performed as a condition for receiving the grant. (See WAC 458-20-114.)

**(5) Adjustments to revenues.** Many hospitals will perform charity care where medical care is given without charge or some portion of a charge will be cancelled. In other cases, medical care is billed to patients at "standard" rates, but later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or with private insurers. In these situations the hospital must initially include the total charges as billed to the patient as gross income. An adjustment may be taken at the time of filing future tax returns at such time as the hospital adjusts its records to reflect the actual amounts collected. In no event may the hospital reduce its current revenue by amounts which were not previously included in the taxable base. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, it may be necessary that the hospital file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect at the time the service was performed.

~~((4))~~ **Deductions:**

(a) Hospitals operated by the United States or its instrumentalities or the state of Washington or its political subdivisions may deduct amounts derived as compensation for medical services to patients and sales of prescription drugs and medical supplies furnished as an integral part of such services. (See RCW 82.04.4288.)

~~(b) Other hospitals operated as nonprofit corporations as well as nursing homes and homes for unwed mothers operated as religious or charitable organizations may also deduct the amounts described in subsection (a) above (see RCW 82.04.4289), provided that:~~

~~(i) No part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder; and~~

~~(ii) No deduction will be allowed under (a) of this subsection, unless written evidence is submitted to the department of revenue showing that the hospital building is entitled to exemption from taxation under the property tax laws of this state.~~

~~(c) In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC 458-20-114.)~~

~~((5))~~ **(6) Retail sales tax.** Retail sales which are subject to retailing business tax, as provided earlier, are also subject to retail sales tax. These businesses are required to pay retail sales tax on purchases of medical supplies, durable equipment, and consumables. (For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)

~~((6) Exemptions--)~~ **(7) Retail sales and use tax exemptions.** The following exemptions from the retail sales and use tax apply:

(a) Effective on May 6, 1993, all items which are reasonably necessary for the operation of free hospitals may be purchased without payment of retail sales or use tax. This includes all supplies and equipment. It also includes any items which are used in providing health care. "Free hospitals" means a hospital that does not charge patients for health care provided by the hospital. (Refer to Chapter 205, laws of Washington 1993).

(b) Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are exempt of retail sales tax where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained ((, and such sales are separately accounted for)). Sales of prosthetic devices, hearing aids as defined in RCW 18.35.010(3), and ostomic items whether or not prescribed are also exempt of sales tax. See WAC 458-20-18801.

~~((7) Sales of medical supplies, durable equipment, and consumables, but excluding prosthetic devices and ostomic items, to hospitals and nursing homes for their own use in providing personal or professional services are subject to the retail sales tax, irrespective of whether or not such hospitals or nursing homes are subject to the business tax.~~

~~(For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)~~

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 94-05-085**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed February 15, 1994, 3:15 p.m.]

Date of Adoption: February 15, 1994.

Purpose: To provide taxpayers with interim tax reporting information while permanent rules are being drafted and to advise taxpayers of potential errors in existing rules caused by legislative changes.

Citation of Existing Rules Affected by this Order: New section WAC 458-20-901.

Statutory Authority for Adoption: RCW 82.32.300.

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: 2nd ESSB 5967, chapter 25, Laws of 1993 sp. sess., made tax law changes which took effect on July 1, 1993.

Effective Date of Rule: Immediately.

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**NEW SECTION**

**WAC 458-20-901 Notification of rules with temporary defects.** (1) **Introduction.** The 1993 legislature made many changes to the taxes administered by the department of revenue. Unless otherwise indicated, these changes were enacted as part of 2nd ESSB 5967, chapter 25, Laws of Washington 1993, 1st Special Session. Unless otherwise indicated, these changes were effective July 1, 1993. The department previously issued on an emergency basis WAC 458-20-900 to provide interim tax reporting information and to identify rules which are in the process of revision. WAC 458-20-900 has expired and is superseded by WAC 458-20-901. The department is proceeding to revise its permanent administrative rules as rapidly as it can to reflect these changes. The department expects to have these rules revised by mid-1994. Changes in the law take precedence over the administrative rules in the case of conflicts. In order to assist taxpayers, the following summarizes the major legislative changes and the rules which have been identified for revision. Taxpayers who report their taxes in the manner discussed below will not be penalized as the result of subsequent changes of interpretation through the issuance of permanent rules.

(2) **Summary of major legislative changes.** The following is a summary of the major changes to the business and occupation (B&O) tax, retail sales tax, and use tax:

(a) **Retail sales tax.** Retail sales tax was extended to a number of new services effective July 1, 1993. These services are now subject to the retailing B&O tax and retail sales tax. For the most part, these services were previously taxable under the service and other business activities classification of the B&O tax. Refer to subsection (4) for a

list and discussion of the services which have been added as retail sales.

(b) **New selected business services B&O tax.** There is a new B&O tax classification which applies to certain business services. These services were previously subject to the service and other business activities tax classification. The tax rate for this new classification is 2.5 percent. Refer to subsection (5) for a list and discussion of the business services which are subject to this tax.

(c) **New financial services B&O tax.** There is a new B&O tax classification which applies to persons engaged in banking, loan, security, investment management, investment advisory, or other financial businesses. These services had previously been taxable under the service and other business activities tax classification. The tax rate which applies to this new classification is 1.7 percent. This tax rate applies to all income derived from the listed activities, including investment and interest income.

(d) **Nonprofit and public hospitals.** Certain nonprofit hospitals were previously exempt of B&O tax. This exemption, contained in RCW 82.04.4288, has been repealed by 2ESSB 5304, Chapter 492, Laws of Washington 1993. These hospitals, as well as those operated by the state or any of its political subdivisions, are taxable under the nonprofit public hospital B&O tax classification effective July 1, 1993. The B&O tax rate for these taxpayers is .75 percent. Those hospitals which were previously taxable under the service and other business activities classification will continue to be taxable under that classification. Taxpayers engaged in this business should also refer to WAC 458-20-168 which has been amended on an emergency basis.

(e) **Birth control prescriptions.** The law previously contained an exemption from retail sales tax for prescription drugs or other substances which are prescribed and dispensed for the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailments in humans. This exemption did not include birth control prescriptions since pregnancy was not considered to be an ailment. The exemption now includes drugs and other substances which are prescribed by a physician for family planning purposes, including prevention of conception. The exemption is also available to family planning clinics that are under contract with the department of health to provide family planning services. This exemption became effective on July 1, 1993.

(f) **Resale certificate abuse.** An additional penalty may be imposed after July 1, 1993 for the misuse of a resale certificate. The penalty is fifty percent of the retail sales tax which would have applied to the purchase. The penalty will apply even in the absence of fraud or evasion. There are also additional restrictions in the use of the resale certificate and additional requirements for information which must be shown on the resale certificate. The department has issued WAC 458-20-102 on an emergency basis which explains in detail the changes in the use of resale certificates.

(g) **Contributions in aid of construction.** The exemption previously contained in RCW 82.04.417 was repealed effective July 1, 1993.

(h) **Health maintenance organizations, health care service contractors, certified health plans.** Health maintenance organizations and health care service contractors were previously taxable under the service B&O tax classification. Effective January 1, 1994, these taxpayers will be subject to

a tax on premiums and prepayments which will be administered by the insurance commissioner's office. To the extent that income is taxable for this "insurance premiums" tax, the B&O tax will not apply. Co-payments or deductibles paid by the patient will continue to be taxable for the B&O tax. Amounts received from the United States or any instrumentalities thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act will not become subject to the premiums tax until July 1, 1997 and will continue to be subject to the B&O tax until that date.

**(i) Sales of vessels to foreign residents.** For sales of vessels, retail sales tax will not be due for sales to foreign residents after July 25, 1993, even though delivery is taken in Washington if all the requirements for exemption are met. This exemption is the result of passage of SSB 5368, Chapter 119, Laws of Washington 1993. The documentation requirements now in WAC 458-20-238 will apply to foreign residents as well as residents from other states. The retail sales tax does apply to these sales if the vessel will be used in Washington for more than forty-five days.

**(j) Cigarette and tobacco products.** The taxes on cigarettes and tobacco products have been increased and are scheduled for additional increases over the next several years.

**(k) Tax deferrals.** The tax deferral programs have been extended.

**(l) Sales to nonresidents with local delivery.** The law provides an exemption from retail sales tax for sales of tangible personal property to nonresidents of certain other states, possessions, or provinces of Canada when the item is purchased for use outside Washington, but previously required the seller to examine two pieces of identification of the purchaser. Only residents of states, possessions, or provinces having less than a three percent sales tax qualify. SB 5251, Chapter 444, Laws of Washington 1993, requires the vendor to examine only one piece of identification of the customer. The identification document must contain a photograph of the customer and be intended to establish residency of the purchaser in a tax exempt qualifying state, possession, or province, such as a drivers license. The seller must continue to retain a record which identifies the customer and proof that was relied upon in making the tax exempt sale. This provision became effective July 25, 1993.

**(m) Printing and publishing.** Publishers of periodicals or magazines are no longer taxable under the printing and publishing B&O classification. Such persons will now be taxable under the wholesaling or retailing B&O tax classification on sales of the magazines or periodicals made within Washington. Sales made to persons outside Washington will be taxable under the manufacturing B&O tax. Sales of advertising will be taxable under the service and other business activities B&O tax.

**(3) Effect of tax rate changes and timing for tax reporting.** Taxpayers must report their business activities in the proper tax reporting period in order to avoid future tax assessments because of the failure to report the income under the proper tax classification where the tax classification has changed as the result of a law change. Taxpayers can be generally guided by WAC 458-20-235 and WAC 458-20-145 in determining in which period a sale should be reported, though these sections deal primarily with retail transactions.

**(a) B&O tax and retail sales tax.** With respect to services performed and billed after the change in tax classifications, the tax classification which applies is the one in effect at the time the service is performed, irrespective that a contract may have been signed prior to the change. Where the work is begun prior to the tax classification change and there are progress billings, the proper tax classification for tax reporting is the one in effect at the time the service provider was entitled to receive the progress payment.

**(b) Prepaid services.** When the customer has paid for the service in full and is entitled to receive the service prior to the tax classification change, the income will be taxable under the classification in effect at the time payment was received, irrespective that actual performance of the service may occur after the tax classification change.

**(c) Sales of gift certificates.** When a gift certificate is sold which will be redeemed for services, the sale is considered to take place at the time the gift certificate is redeemed and should be reported under the tax classification in effect at that time. It is important that sellers understand the difference between prepaid services and gift certificates. The purchaser of a gift certificate does not purchase a specific service or merchandise. The decision as to the service or merchandise which will be purchased is not made until the time the certificate is given to the seller for redemption. The value of the certificate is applied as if it were cash towards the purchase price, which may be less or greater than the value of the certificate. On the other hand, a prepaid service involves the situation where the customer purchases a specific service or merchandise, makes full payment, and is entitled to receive the service or merchandise. The fact that the customer may choose to purchase the service or merchandise as a gift for a friend does not change this purchase into the purchase of a gift certificate. The following examples show the distinction.

**(i)** Jane Doe purchases a gift certificate having a value of \$50 from ABC Physical Fitness Club. ABC will allow non-members to use its physical fitness facilities through an hourly usage charge. It also has a store from which health foods are sold. Jane Doe gives the gift certificate to a non-member. The sale is considered to take place at the time the gift certificate is redeemed. The tax classification which applies will depend on the type of purchases made and the tax classification which applies to those purchases at the time of redemption.

**(ii)** Jane Doe purchases the right to ten tanning sessions. Payment is made in full and Jane Doe is entitled to use the tanning booth anytime. Under the terms of the purchase agreement, Jane Doe may give the right to some or all of these tanning sessions to anyone she pleases. This is a prepaid service. The tax classification which applies is that which was in effect at the time Jane Doe made her payment.

**(4) New retail services.** A number of new services have been added to the definition of a retail sale. These service providers continue to be subject to payment of the retail sales tax on purchases of equipment which is used in providing the service. The following services have been added and are now subject to the retail sales tax:

**(a) Landscape maintenance and horticultural services.** This includes grass cutting, hedge trimming, watering

lawns and other plants, pruning or trimming of trees and shrubs, fertilizing, pest spraying, etc.

**(b) Service charges for professional sports tickets.** This involves the purchase of tickets to professional sporting events when the tickets are purchased from independent ticket agents and the agent makes a charge for providing this service. The fee for handling the sale of tickets to attend professional sporting events is subject to the retail sales tax. The local retail sales tax will be based on the location of the seller used by the purchaser in making the purchase. The admission charge to the event is not subject to the retail sales tax. The fee for handling the sale of tickets to cultural events, nonprofessional sports events, or other events is not a retail sale and this income continues to be taxable under the service classification.

**(c) Guided tours and charters.** Charges for guided tours and guided charters in Washington are subject to retail sales tax. Persons engaged in these business activities should refer to WAC 458-20-258, filed October 18, 1993, for more information.

**(d) Physical fitness services.** This includes all activities of services related to physical fitness such as, weight lifting, running tracks, exercise equipment, aerobics classes, personal trainers, etc. Certain activities, such as swimming, racquet ball, tennis, etc., were previously a retail sale and continue to be taxable as such. Physical fitness services do not include self-defense classes, martial arts classes, yoga, or stress-management classes. For persons who are engaged in these activities and who receive the income in the form of dues and initiation fees, WAC 458-20-114 explains the available methods for determining the taxable income and for allocating the income under the appropriate tax classifications. This applies to all organizations offering these services, including health fitness clubs, parks and recreation departments, hospitals, and nonprofit youth organizations. Nonprofit youth organizations should refer to the special notice which the department has sent to these organizations for additional tax reporting information. Organizations which have not previously had to allocate their income under WAC 458-20-114 should contact the Department for assistance in calculating the percentage of dues which should be allocated as retail sales as a result of this change in the law.

**(e) Tanning and tattoo services.**

**(f) Escort and dating services.**

**(g) Steam, sauna and Turkish baths.**

**(h) Massage services.** However, massage services which are performed as part of physical therapy services will not be considered retail sales. For purposes of this rule, "physical therapy services" are defined as a treatment plan for physical illness, injury, or accident ordered or prescribed by a doctor. Physical therapy services will not be considered to be retail activities regardless of who performs the services. Physical therapy services, when performed under a doctor's order, will continue to be taxable under the service and other business activities classification, including any massage services which are part of the physical therapy. The therapist must keep a copy of the doctor's referral on file.

**(i) Coin-operated laundry facilities.** The law previously taxed as a retail sale the use of laundry services, including coin-operated laundry facilities, with the exception

of coin-operated laundry facilities in apartment houses, hotels, motels, or similar locations where the facilities were for the exclusive use of the tenants. This exception has been removed to now include all laundry services as a retail sale. Any commissions or amounts received by apartment owners, hotels, or motels for allowing the owner of the machines to place the machines on the premises continue to be taxable under the service and other business activities classification. See WAC 458-20-118.

**(j) Equipment rental with operator.** The law now defines equipment rental with operator services as a retail sale. However, where the charge is not for the rental of equipment with an operator, but is for providing subcontract services, the income will be taxable based on the nature of the services performed. For example, a person who provides transportation services will continue to be taxable under the appropriate public utility tax classification even though equipment and an operator are involved in providing the service. This also includes stevedoring, public road construction and similar activities. Though not determinative, the department will consider the type of contract in determining if the sale is in the nature of a rental of equipment with operator or is in the nature of a contract where the contractor has the responsibility to perform activities to contract specifications. Persons who provide the services of equipment with an operator are the consumers of the equipment and subject to retail sales or use tax on equipment purchases.

**(5) Selected business services.** The new B&O tax classification for selected business services includes the following services:

**(a) Stenographic, secretarial, and clerical services.** However, this does not include persons who operate employment offices which provide temporary or permanent employees. Persons operating employment offices who receive a fee for providing temporary or permanent employees continue to be taxable under the service and other business tax classification.

**(b) Computer services.** This category includes but is not limited to computer programming, custom software modification, custom software installation, custom software maintenance, custom software training, and computer systems design. The sale of software which will be sold to multiple users (generally referred to as "canned software") will continue to be a retail sale. The change in the law is to make those computer services which were previously taxed under the service classification taxable under this new B&O tax classification.

**(c) Data processing services.** This category includes but is not limited to word processing, data entry, data retrieval, data search, information compilation, payroll processing, business accounts processing, data production, and other computerized data and information storage or manipulation. Data processing services also includes the use of a computer or computer time for data processing, whether the processing is performed by the provider of the computer or by the purchaser or other beneficiary of the service.

**(d) Information services.** Information services include but are not limited to electronic data retrieval or research that entails furnishing financial or legal information, data or research, general or specialized news, or current information unless such news or current information is furnished to a

newspaper publisher or to a radio or television station licensed by the federal communications commission.

(e) **Legal, arbitration, and mediation services.** This includes but is not limited to paralegal services, legal research services, and court reporting services.

(f) **Accounting, auditing, actuarial, bookkeeping, tax preparation, and similar services.**

(g) **Design services.** Design services, whether performed by a certified, noncertified, or licensed person, includes and is not limited to the following:

(i) Engineering services, including civil, electrical, mechanical, petroleum, marine, nuclear, and design engineering, machine designing, machine tool designing, and sewage disposal system designing;

(ii) Architectural services, including but not limited to: structural or landscape design or architecture, interior design, building design, building program management, and space planning.

(h) **Business consulting services.** Business consulting services are those primarily providing operating counsel, advice, or assistance to the management or owner of any business, private, nonprofit, or public organization, including but not limited to those in the following areas: administrative management consulting, general management consulting, human resource consulting or training, management engineering consulting, management information systems consulting, manufacturing management consulting, marketing consulting, operations research consulting, personnel management consulting, physical distribution consulting, site location consulting, economic consulting, motel, hotel, and resort consulting, restaurant consulting, government affairs consulting, and lobbying.

(i) **Business management services.** This includes, but is not limited to, administrative management, business management, and office management. Property management or property leasing, motel, hotel, and resort management, and automobile parking management are not taxable under this classification and remain taxable under the service and other business activities classification.

(j) **Protective services.** This includes, but is not limited to, detective agency services and private investigating services, armored car services, guard or protective services, lie detection or polygraph services, and security system, burglar, or fire alarm monitoring and maintenance services.

(k) **Public relations or advertising services.** This includes, but is not limited to, layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision. It does exclude services provided as part of broadcast or print advertising. Services performed as part of broadcast or print advertising continue to be taxable under the service and other business activities tax classification.

(l) **Aerial and land surveying, geological consulting, and real estate appraising.**

(6) **Administrative rules being revised.** There are a number of administrative rules of the department which will not be entirely correct until revised. The information provided above should be sufficient for taxpayers to identify the specific items in the rule which are no longer correct. If you have any uncertainty of your tax liability, you are encouraged to contact the department to obtain answers to

specific tax questions. The following rules are being revised:

(a) WAC 458-20-102 Resale certificates.

(b) WAC 458-20-103 Time and place of sale.

(c) WAC 458-20-114 Nonbusiness income—Bona fide initiation fees, dues, contributions, tuition fees and endowment funds.

(d) WAC 458-20-119 Sales of meals.

(e) WAC 458-20-122 Sales of feed, seed, fertilizer and spray materials.

(f) WAC 458-20-125 Miscellaneous sales for farm use.

(g) WAC 458-20-127 Magazines and periodicals.

(h) WAC 458-20-138 Personal services rendered to others.

(i) WAC 458-20-143 Publishers of newspapers, magazines, and periodicals.

(j) WAC 458-20-146 National and state banks, mutual savings banks, savings and loan associations and other financial institutions.

(k) WAC 458-20-155 Information and computer services.

(l) WAC 458-20-165 Laundries, dry cleaners, laundry agents, self service laundries and dry cleaners.

(m) WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

(n) WAC 458-20-167 Educational institutions, school districts, student organizations, private schools.

(o) WAC 458-20-168 Hospitals, medical care facilities, and adult family homes.

(p) WAC 458-20-170 Constructing, and repairing of new or existing buildings or other structures upon real property.

(q) WAC 458-20-171 Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic.

(r) WAC 458-20-179 Public utility tax.

(s) WAC 458-20-180 Motor transportation, urban transportation.

(t) WAC 458-20-183 Amusement and recreation activities and businesses.

(u) WAC 458-20-18801 Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.

(v) WAC 458-20-193 Inbound and outbound interstate sales of tangible personal property.

(w) WAC 458-20-194 Doing business inside and outside the state.

(x) WAC 458-20-207 Attorneys.

(y) WAC 458-20-210 Sales of agricultural products by persons producing the same.

(z) WAC 458-20-211 Leases or rental of tangible personal property, bailments.

(aa) WAC 458-20-218 Advertising agencies.

(bb) WAC 458-20-224 Service and other business activities.

(cc) WAC 458-20-226 Landscape gardeners.

(dd) WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection.

(ee) WAC 458-20-233 Tax liability of medical and hospital service bureaus and associations and similar health care organizations.

- (ff) WAC 458-20-238 Sales to nonresidents of watercraft requiring Coast Guard registration or documentation.  
 (gg) WAC 458-20-240 Manufacturers, tax credits.  
 (hh) WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development facilities.  
 (ii) WAC 458-20-24002 Sales and use tax deferral—New manufacturing and research/development facilities.  
 (jj) WAC 458-20-258 Travel agents and tour operators.  
 (kk) WAC 458-20-185 Tax on tobacco products.  
 (ll) WAC 458-20-186 Tax on cigarettes.  
 (mm) WAC 458-20-189 Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.

**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 94-05-086**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 15, 1994, 3:16 p.m.]

Date of Adoption: February 15, 1994.

Purpose: To provide tax reporting information to taxpayers engaged in business as tour operators in the interim until the rule can be adopted on permanent basis.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-258.

Statutory Authority for Adoption: RCW 82.32.300.

Other Authority: Chapter 25, Laws of 1993 sp. sess.

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: 2nd ESSB 5967, chapter 25, Laws of 1993 sp. sess., made tax law changes which took effect on July 1, 1993.

Effective Date of Rule: Immediately.

February 15, 1994  
 Russell W. Brubaker  
 Assistant Director  
 Legislation and Policy

AMENDATORY SECTION (Amending WSR 90-17-003, filed 8/2/90)

**WAC 458-20-258 Travel agents (~~and~~), tour operators, guided tours and guided charters.** (1) **Introduction.** This section describes the business and occupation (B&O) taxation of travel agents and tour operators. (~~Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). Tour operators are generally taxed under the service or other business classification under RCW 82.04.290. However, the business activities of tour operators may sometimes include activities like those of a travel agent. This section recognizes the overlap of activities and taxes them consistently--)~~ The definition of "retail sale" in RCW 82.04.050 was amended in 1993 to include charges for

guided tours and guided charters. This change became effective July 1, 1993. This section also discusses the B&O and retail sales tax liability for guided tours and charters.

**(2) Definitions:**

(a) "Commission" means the fee or percentage of the charge or ~~(their)~~ its equivalent, received in the ordinary course of business as compensation for arranging the service. The customer or receiver of the service, not the person receiving the commission, is always responsible for payment of the charge.

(b) "Pass-through expense" means a charge to a tour operator business where the tour operator is acting as an agent of the customer and the customer, not the tour operator, is liable for the charge. The tour operator cannot be primarily or secondarily liable for the charge other than as agent for the customer. See: WAC 458-20-111 Advances and reimbursements.

(c) "Tour operator business" means a business activity of providing directly or through third party providers, transportation, lodging, meals, guided tours, and other associated services where the tour operator purchases or itself provides any or all of the services offered, and is itself liable for the services purchased.

(d) "Travel agent business" means the business activity of arranging transportation, lodging, meals, or other similar services which are purchased by the customer and where the travel agent or agency merely receives a commission for arranging the service.

(e) "Guide" means a person who conducts tours of specific locations or attractions by providing a narrative of the area and/or by directing the participants through the area toured. A guide does not include a person who only serves as a host or hostess to provide services such as accounting for everyone on the tour, providing maps or brochures of the area or areas toured, and/or helping with luggage or any similar problems that may arise during the tour.

(f) "Guided tour" is a sightseeing, adventure, recreational or similar experience in which a guide is present for at least twenty five percent of the time measured from the beginning to the end of the tour. Guided tours include, but are not limited to, walking tours of historic areas, hikes, mountain climbs, bicycle, kayak, rafting and canoe trips which are accompanied by a guide. Guided tours also include bus tours, boat tours and aerial tours of scenic areas during which the driver, pilot, or another person gives a narrative of the area toured.

(g) "Charter" is the hiring of the exclusive use of a bus, plane, boat or other transportation vehicle where the owner or the owner's agent retains possession, command, and control of the transportation.

(h) "Charter Operator" means a person engaged in the business of providing charters, directly or through third party providers.

(i) "Guided charter" means a charter in which a guide is present for at least twenty-five percent of the time of the charter. Guided charters include, but are not limited to, fishing charters.

**(3) Travel agents.**

(a) Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). The gross income of a travel agent or a travel agent business is the gross commissions received without any deduction for the cost of materi-

als used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense. ~~((It is taxed at the special travel agent rate.))~~

(b) Gross receipts, other than commissions, from other business activities of a travel agent, including activities as a tour operator, are taxed in the appropriate B&O classification, service, retailing, etc., as the case may be.

#### (4) Tour operators.

~~(a) ((The gross income of a tour operator or a tour operator business is the gross commissions received when the activity is that of a travel agent business.~~

~~(i) When a tour operator receives commissions from a third party service provider for all or a part of the tour or tour package, the gross income of the business for that travel agent activity is the commissions received.~~

~~(b) However, if the activity is that of a tour operator business,)) Tour operators are generally taxed under the service or other business classification under RCW 82.04.290. Tour operators who directly provide guided tours in this state are taxed under the retailing business classification and must collect and remit retail sales tax on the charge for the guided tour. Guided tours are discussed in section five below. ((#))Receipts are B&O taxable in the service classification without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense; except, receipts attributable to pass-through expenses are not included as part of the gross income of the business.~~

~~(i) If pass-through expenses include lodging, meals, guided tours or other services which are retail sales, the tour operator should pay the applicable retail sales tax at source.~~

~~(b) Gross receipts from other business activities are taxed in the appropriate B&O classification. If a tour operator receives commissions from a third party service provider such as a hotel or restaurant, the commissions are taxed at the special travel agent rate.~~

~~(5) Guided tours and guided charters. Charges for guided tours and guided charters which take place in Washington State are retail sales and subject to Washington's retail sales tax and retailing B&O tax.~~

~~(a) If the guided tour or charter only takes place in this state, the total price of the guided tour or charter is subject to Washington's retail sales tax. For purposes of this rule, "in this state" includes waters contiguous to this state which are not in any other state.~~

~~(b) If a guided tour or guided charter takes place both inside and outside of Washington, that percentage of the tour that takes place in this state is subject to Washington's retail sales tax if the percentage is more than twenty-five percent. Percentage of tour relates to the time spent on the tour. For example, if one day of a three day guided tour is spent in this state and two days are spent outside this state, one third of the tour is a retail sale in this state. The tour operator must collect and remit Washington's retail sales tax on one-third of the charge for the tour.~~

~~(c) The sale takes place at the time the customer purchases the tour or charter and has the obligation to make payment. A "customer" can include the person who will take the tour as well as travel agents or other tour operators who may purchase guided tours to include in a tour package.~~

~~(d) If the tour is advertised as a tour to one location, the place of sale is the place of destination. If the tour is to~~

several areas, the place of sale is the first place in this state which is included in the tour.

(e) If a guided tour is included in a tour package which includes lodging, meals and/or other services, the guided tour portion of the package is a retail sale. If the guided tour is provided by a third party, the tour operator who packages the tour should pay retail sales tax on the charges for the guided tour as well as the charges for the lodging and meals. If the tour operator who packages the tour is personally providing the guided tour portion of the package, the tour operator would owe retailing B&O and retail sales tax on the fair market value of the guided tour portion of the package. The tour operator may advertise the tour as including retail sales tax and back the appropriate amount of retail sales tax out of the charge for the guided tour. Fair market value for the guided tour portion can be computed by one of the following methods:

(i) If the guided tour portion is also sold separately from the tour package, that amount constitutes the fair market value of the guided tour.

(ii) If the guided tour portion is not sold separately, the amounts for any lodging, meals, or guided tours provided by third parties may be deducted from the charge for the total package. The balance would constitute the fair market value of the guided tour portion of the package which is subject to retail sales tax.

(f) If more than seventy-five percent of the time spent on a guided tour is outside this state, no retail sales tax is due on the charge for the tour.

~~((#))~~ (6) Examples: The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) A travel agent issues an airplane ticket to a customer. The cost of the ticket is \$250 which is paid by the customer. The travel agent receives \$25 from the airline for providing the service. ~~((#))~~ The gross income of the business for the travel agent is the \$25 commission received~~((- (ii) The gross income of the business))~~ which is taxed at the special travel agent rate.

(b) A tour operator offers a tour costing \$1,500 per person. The tour cost consists of \$800 airfare, \$500 lodging and meals, and \$200 bus transportation. The tour operator has an arrangement with each of the service providers to receive a 10% commission for each service of the tour, which in this case is \$150 (\$80 + \$50 + \$20). The tour operator issues tickets, etc, only when paid by the customer and is not liable for any services reserved but not provided. ~~((#))~~ The tour operator is engaged in a travel agent activity and the gross income of the business is commissions received, \$150, which~~((- (ii) The gross income of the business, \$150,))~~ is taxed at the special travel agent rate.

(c) The same facts as in example (b) except that the tour operator has a policy of requiring 10% or \$150 as a down payment with the remaining \$1,350 payable 20 days prior to departure with 95% refundable up to 10 days prior to departure and nothing refunded after 10 days prior to departure. The customer cancels 15 days prior to departure and is refunded \$1,425 with the tour operator retaining \$75. ~~((#))~~ The gross income of the tour operator business is the \$75 retained which is taxed at the service B&O rate. No

amount is attributable to pass-through expense since the tour operator was not obligated to the service provider in the event of cancellation and the tour operator was not acting as the agent of the customer.

~~((ii) The gross income of the business, \$75, is taxed in the service B&O tax classification.)~~

(d) A tour operator offers a package tour for the Superbowl costing \$800 per person. The tour operator purchases noncancellable rooms in a hotel for \$300 per room for 2 nights, and game tickets which cost \$100 each. The package includes airfare which costs \$200 per person for which the tour operator receives the normal commission of \$20. As an extra feature, the tour operator offers to provide, for an extra cost, special event tickets, if available, at his cost of \$50 each. The tour operator is B&O taxable as follows:

(i) The gross income of the tour operator business is \$600 (\$800 less \$200 airfare). Because the tour operator purchased the rooms and the game tickets in its own name and is liable for the rooms or tickets if not resold, the tour operator is not operating as a travel agent business and is B&O taxable in the service classification. If the tour operator receives a commission on the rooms sold to itself, the activity remains taxable as a tour operator business under the service classification and the commission received is treated as a cost discount, not included in the gross income of the business.

(ii) The \$50 received for the special event ticket is attributable to a pass-through expense and is not included in the gross income of the tour operator business. The special event ticket receipt is attributable to a pass-through expense because the tour operator is acting as an agent for the customer.

(iii) The \$20 received as commission from the sale of the airfare is a travel agent business activity and is included as gross income of a travel agent and taxed at the special travel agent rate.

(e) A tour operator sells a package tour to Mount Rainier National Park. The tour includes transportation by bus to Paradise Lodge on Mount Rainier from Seattle, lunch at a restaurant on the way to the mountain, an optional hike, and return to Seattle. A guide accompanies the tour and provides a narrative of the areas toured. The tour is a "guided tour" because more than 25% of the time is spent with a guide. The charge for the tour, therefore, is subject to Washington's retail sales tax and Retailing B&O tax. The tour operator may advertise the tour as including applicable retail sales tax and back out the appropriate amount of tax for the guided tour portion of the package.

(i) The tour operator should pay retail sales tax at source for the lunches and deduct the total charge for the lunches from the cost of the total tour. If the tour operator receives a commission from the restaurant, that amount is subject to tax at the travel agent rate as provided in (4)(b) above. The remaining amount is considered the charge for the guided bus tour and is subject to retailing B&O tax and retail sales tax.

(ii) The place of sale is the tour destination, Mount Rainier National Park.

(f) A tour operator provides a package tour from Seattle to San Juan Island, Washington. The tour includes a bus trip to the ferry dock, a ferry ride to San Juan Island, a guided

bus tour of the island provided by a third-party tour operator, dinner, and a return ferry and bus trip. A hostess accompanies the tour to help direct and account for passengers. The total time for the tour is twelve hours; the guided bus tour is for two hours. The bus trip to and from the ferry dock is not a "guided tour" because a person who only directs and accounts for passengers is not a "guide."

(i) The company should pay retail sales tax at source on the charges for the guided bus tour of the island and for the dinner. These costs as well as the cost for the ferry tickets are pass-through costs which are not included as part of the tour operator's gross income.

(ii) The tour operator will owe B&O tax on any commission income received from the restaurant or third party tour operator at the special travel agent rate. The remaining income is taxable as a tour operator business at the service rate.

(g) A Canadian company provides guided tours from this state to British Columbia ("C" tours) and guided tours from British Columbia to this state ("W" tours). Most of the tickets are sold through the company's office in Vancouver, B.C. Passengers on the "C" tours spend more than 75% of their time in Canada. The "C" tours, therefore, are not subject to Washington's retail sales tax. Passengers on the "W" tours spend 75% of the time for the tour in this state. The tour operator must collect and remit Washington's retail sales tax on 75% of the charge for the tour. The place of sale would be the first place in this state which is included in the tour.

(h) A tour operator sells a weekend package which includes a four-hour guided bus tour of Seattle, lodging, and three meals. The tour operator purchases the lodging and meals from third party providers while itself providing the guided bus tour. Customers have the option of purchasing the tour as part of the weekend package or of purchasing only the guided bus tour. The tour operator may break out the cost of the guided bus tour from the weekend package and remit retailing and retail sales tax on that portion of the charge. The amount remaining, the "commission" for arranging the lodging and meals is subject to B&O tax at either the travel agent or service rate as provided above.

(i) A tour operator provides bus tours for senior citizens to several different localities for shopping excursions. A person hired by the tour operator accompanies the group to direct the group as to where to meet and to help with any problems that may arise during the excursion. The company is not providing a "guided tour." The company should report its income under the service classification as a tour operator.

(j) A tour operator provides bus transportation to and from the opera, theater, and various sporting events. Sometimes a person hired by the tour operator accompanies the group and gives a lecture on the event that will be seen. Such tours are not "guided tours" as the person who accompanies the tour is not a "guide" as defined in (2)(e) above. The tour operator is taxable under the service B&O tax classification.

(k) A tour operator provides an eight-hour bus tour of several different areas in Washington State. At one of the locations, the tour operator hires a local independent sight-seeing guide, sometimes referred to as a "step-on" guide, to give a one-hour tour of the local area. Because a guide is

not present for at least 25% of the tour, the tour is not a "guided tour." The tour operator owes service B&O on the charge for the tour with no deduction for the charge by the guide. The "step-on" guide owes service B&O on amounts received for providing the guide service to the tour operator.

(l) A tour operator provides an eight-hour bus tour of Whidbey Island. A "step-on" guide is present for four hours of the tour. This tour is a "guided tour" because more than 25% of the time is spent with a guide. The tour operator should report retailing B&O and collect and report retail sales tax on the total charge for the tour. The "step-on" guide owes service B&O on amounts received for providing the guide service to the tour operator.

(m) A tour operator provides a four hour boat trip to see whales and other marine life off the coast of Washington. A person accompanies the tour to give a short lecture on the area and to help the passengers spot the whales. The charter is a "guided charter" because a guide is present for the duration of the charter. The total charge for the tour is subject to Washington's retail sales tax.

**WSR 94-05-101**  
**EMERGENCY RULES**  
**MULTIMODAL TRANSPORTATION**  
**PROGRAMS AND PROJECTS**  
**SELECTION COMMITTEE**

[Filed February 16, 1994, 11:51 a.m., effective February 25, 1994]

Date of Adoption: February 25, 1994.

Purpose: To provide the rules needed by the multimodal committee to administer the four transportation accounts cited in chapter 47.60 RCW.

Citation of Existing Rules Affected by this Order: Amending chapter 240-20 WAC.

Statutory Authority for Adoption: Chapter 47.66 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: The multimodal committee meets on an infrequent basis. Permanent rules have been filed, and a public hearing has been scheduled for April 15, 1994. Current emergency rules are due to expire; the new rules are needed to enable the multimodal committee to discharge its duties.

Effective Date of Rule: February 25, 1994.

February 16, 1994  
Martha Choe  
Chair

**Chapter 240-20 WAC**  
**Multimodal Transportation Programs and Projects**  
**Selection Committee**

NEW SECTION

**WAC 240-20-001 Legislative intent.** There is significant state interest in assuring that viable multimodal transportation programs are available throughout the state. The legislature recognizes the need to create a mechanism to fund multimodal transportation programs and projects. The legislature further recognizes the complexities associated with current funding mechanisms and seeks to create a process that would allow for all transportation programs and projects to compete for limited resources.

NEW SECTION

**WAC 240-20-010 Purpose of multimodal transportation programs and projects selection committee.** The multimodal transportation programs and projects selection committee is a twenty-one member committee, organized under the provisions of chapter 393, Laws of 1993 for the purpose of selecting programs and projects for the state central Puget sound transportation account; the state public transportation systems account; the state high capacity transportation account; and the federal Intermodal Surface Transportation and Efficiency Act of 1991, state-wide competitive program.

**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 240-20-015 Definitions.** For purposes of this chapter, the following definitions shall apply:

(1) Committee - the multimodal transportation programs and projects selection committee.

(2) Department - the Washington state department of transportation.

(3) Public record - includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of fiscal form or characteristics.

(4) Exceptions - include any circumstance, condition, issue, or situation wherein a program or project may be unable to be completed on schedule and/or within its budget.

NEW SECTION

**WAC 240-20-020 Organization of committee.** (1) The committee shall elect a chair and a chair pro tem from its membership. The chair pro tem shall serve as chair when the chair is absent. The terms of these two positions shall be two years.

(2) The committee shall develop a set of by-laws to guide its operation.

NEW SECTION

**WAC 240-20-025 Time and place of meetings.** (1) Regular public meetings of the committee shall be held quarterly on the third Friday of the first month of the quarter, or the second Friday if the third Friday is a holiday. Each regular meeting will be held in a meeting room in the vicinity of the SeaTac International Airport and begin at the

hour of 9:00 a.m. or at such other time and place as designated by the committee. Written notice of the time and location of regular meetings shall be provided to individuals on the general mailing list and members of the committee at least one week prior to each meeting.

(2) A special meeting of the committee may be called by the chair or by a majority of the members of the committee, by delivering personally, by facsimile or by mail, written notice to all other members of the committee at least seventy-two hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting. All provisions of chapter 42.30 RCW shall apply to all meetings of the committee.

#### NEW SECTION

**WAC 240-20-030 Address of committee.** Persons wishing to obtain information, be placed on the general mailing list, or to make submissions or requests of any kind shall address their correspondence to:

MTPPS Clerk of the Committee  
Washington State Department of Transportation  
P.O. Box 47370  
Olympia, WA 98504-7370  
(206) 705-7920  
FAX (206) 705-6820

#### NEW SECTION

**WAC 240-20-035 Staff support to the committee.** The department shall be responsible for providing staff support to the committee. The chair shall appoint a clerk of the committee from the department who shall be responsible to the chair for arranging meeting locations and notices, maintaining records, and preparing minutes. The department responsibilities shall include, but not be limited to:

- (1) Assisting the committee in determining short-term and long-term funding needs;
- (2) Assisting the committee in developing a selection process that adheres to criteria set in statute and other criteria set by the committee;
- (3) Administering grants and ensuring that contracts are executed in a timely manner;
- (4) Distribution of funds and monitoring the status of accounts;
- (5) Staff recommendations on policy and programs as appropriate; and
- (6) Submission of an annual report to the legislative transportation committee that summarizes the activities of the committee, no later than January 1 of each year.

#### NEW SECTION

**WAC 240-20-040 Public access.** The committee shall comply with the provisions of RCW 42.17.250 through 42.17.340 dealing with public records.

#### NEW SECTION

**WAC 240-20-042 Public records officer.** The committee's public records shall be in the charge of the clerk of the committee, who shall be designated the public records officer for the committee. The person so designated shall be officed in the department of transportation office in Olympia, Washington. The public records officer shall be responsible for implementation of the committee's rules and regulations regarding public access to information and records.

#### NEW SECTION

**WAC 240-20-044 Public records available.** (1) Notes and/or a tape recording shall be made of each meeting and minutes of each committee meeting shall be approved by motion and maintained by the department.

(2) At least every two years, the clerk of the committee shall solicit names and addresses from the public for the purpose of developing a general mailing list. This solicitation shall include the publication of a legal notice in at least five newspapers of general circulation in Washington state to assure geographic distribution throughout the state.

(3) All public records of the committee, as defined in WAC 240-20-015(3) are deemed available for public inspection and copying pursuant to these rules.

#### NEW SECTION

**WAC 240-20-046 Requests for public records.** Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) If the matter requested is referenced within the current index maintained by the committee, a reference to the requested record as it is described in such index.
- (d) If the requested matter is not identifiable by reference to the committee's current index, a statement that identifies the specific record requested.
- (e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection or copying at the department's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the committee is also a party (or when such a request is made by or on behalf of an attorney for such party) the request shall be referred to the assistant attorney general assigned by the department for appropriate response.

(4) Responses to public records requests shall be made within five business days of receipt of the request. The committee must respond by either (1) providing the record, (2) acknowledging that the committee has received the request and providing a reasonable estimate of the time the agency will require to respond to the request, or (3) denying

the public record request, subject to the provisions of RCW 42.17.320.

#### NEW SECTION

**WAC 240-20-048 Availability for public inspection and copying of public records.** (1) Public records shall be available for inspection and copying during the normal business hours of the department. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

(2) No fee shall be charged for inspection of public records.

(3) The committee shall impose a reasonable charge for providing copies of public records and for the use by any person of department equipment to copy records; such charges shall not exceed the amount necessary to reimburse the department for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

#### NEW SECTION

**WAC 240-20-050 Protection of public records.** In order to implement the provisions of RCW 42.17 requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by department personnel and under the supervision of said personnel, upon the request of members of the public under the procedures set down in WAC 240-20-046, and with the approval of the clerk of the committee.

(2) No document shall be physically removed by a member of the public from the area designated by the department for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the committee shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the committee shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

#### NEW SECTION

**WAC 240-20-052 Denial of request for public records.** Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the chair of the committee to review the denial in accordance with WAC 240-20-054.

#### NEW SECTION

**WAC 240-20-054 Review of denials of public records requests.** Any person who objects to the denial of a request for a public record may request the attorney general to review the matter subject to RCW 42.17.325.

#### NEW SECTION

**WAC 240-20-056 Records index.** (1) The committee has available to all persons at the department's offices in Olympia a current index which provides identifying information as to the following records issued, adopted, or promulgated by the committee:

(a) Minutes of committee meetings, state legislation, and proposed rules and regulations pertaining to committee standards.

(b) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the committee;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, interim and final planning decisions, and application guidelines;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the public records officer and located in the department's office in Olympia, Washington.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The public records officer shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the committee.

#### NEW SECTION

**WAC 240-20-058 Availability of index.** The current index promulgated by the committee shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

#### NEW SECTION

**WAC 240-20-060 Application guidelines.** The committee shall prepare application guidelines for all fund accounts. At a minimum, such guidelines shall include all application forms needed and instructions on how to apply, sufficient information as to the scoring process to enable applicants to fairly compete, and a complete time schedule identifying key milestones from the opening of the application period to final project selection. Such guidelines shall be available upon request to the public records officer at least thirty days prior to the date applications are due to the committee.

NEW SECTION

**WAC 240-20-065 Notification of funding availability.** The committee shall ensure that notification of the availability of funds from the accounts identified in WAC 240-20-010 will be done no less than thirty calendar days prior to the date by which applications must be received. Minimum notification shall mean publishing a notice in at least five newspapers with general circulation and maximum geographic distribution within Washington state. Such notice shall include the name of the account or accounts, a short description of the account identifying its purpose, and an address and telephone number by which means an interested party can obtain further information and all application materials.

NEW SECTION

**WAC 240-20-070 Program and project selection process.** The program and project selection process shall consist of the following steps for each account.

(1) The committee shall create a technical review team. Membership on such team shall be at the discretion of the committee, but shall represent diversified interests and geographical distribution. Such team shall be responsible for screening applications for completeness. Those applications failing to meet the requirements set forth in the application guidelines identified in WAC 240-20-060 shall be recommended for rejection. The team shall then score each application deemed complete and prepare a preliminary ranked list of applications to present to the committee. All applicants shall be notified in writing as to their preliminary score and ranking.

(2) The committee shall review the applications and the recommended ranking of programs and projects received from the technical review team. The committee shall make the final selection of programs and projects.

NEW SECTION

**WAC 240-20-075 Supplemental applications.** After program and project selection, circumstances may develop wherein unobligated funds may accumulate in one or more of the accounts. Such accumulation may occur as a result of a program or project costing less than budgeted, a program or project being unable to go forward or to complete its objectives, or more funds being available in the account than projected. Should such accumulations occur, the committee may institute a supplemental application period to program those funds. Should the committee elect to do so, the application and project selection process will be subject to the conditions identified in this chapter. Furthermore, the application guidelines identified by WAC 240-20-060 and currently in use shall be used for the supplemental process.

NEW SECTION

**WAC 240-20-080 Over-programming of funds.** The committee shall select projects based on its estimate of revenues and expenditures. The committee may utilize the principle of over-programming when selecting projects, the degree of such over-programming to be at the discretion of the committee for each account and application period.

NEW SECTION

**WAC 240-20-090 Reporting.** The clerk of the committee shall be responsible for the preparation of all reports to and on behalf of the committee. Such reports shall minimally include the following:

(1) Exception reports. The clerk of the committee shall report to the chair any exceptions that occur concerning projects and programs by account. Such report shall be submitted at such time as the exception becomes known.

(2) Quarterly reports. The clerk of the committee shall provide to the committee a report of the progress of programs and projects for each account. Such report shall be submitted prior to each regularly scheduled committee meeting at a time that permits it to be part of the information packets that include the meeting agenda and past meeting minutes. The format of such report shall be determined by the committee and communicated to the clerk of the committee.

(3) Annual report. The clerk of the committee shall prepare for the committee an annual report. Such report shall be presented to the committee at the regular scheduled meeting in the last quarter of the year for approval, and then presented to the legislative transportation committees by no later than January 1 of each year.

NEW SECTION

**WAC 240-20-110 Central Puget Sound public transportation account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies with offices in King, Kitsap, Pierce, and Snohomish counties.

(2) Projects eligible for funding from the central Puget Sound public transportation account shall be limited to public transportation projects for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020; and
- (e) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the central Puget Sound public transportation account shall be limited to those located in King, Kitsap, Pierce, and Snohomish counties.

**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 240-20-120 Central Puget Sound public transportation account—Criteria.** (1) Projects selected for funding from the central Puget Sound public transportation account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
  - (b) Local transit development plans; and
  - (c) Local comprehensive land use plans.
- (2) The following criteria shall be considered by the committee in selecting programs and projects:

EMERGENCY

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

#### NEW SECTION

**WAC 240-20-130 Central Puget Sound public transportation account—Timing.**

#### NEW SECTION

**WAC 240-20-210 Public transportation systems account—Eligibility.** (1) Participation in the public transportation systems account shall be limited to those public transportation systems that contribute funds to the account.

(2) Projects eligible for funding from the public transportation systems account shall be limited to public transportation projects for:

- (a) Planning;
- (b) Development of capital projects;
- (c) Development of high capacity transportation systems as defined in RCW 81.104.015;
- (d) Development of high occupancy vehicle lanes and related facilities as defined in RCW 81.100.020;
- (e) Other public transportation system-related roadway projects on state highways, county roads, or city streets; and
- (f) Public transportation system contributions required to fund projects under federal programs and those approved by the transportation improvement board.

(3) Projects eligible for funding under the public transportation systems account shall be limited to areas in Washington state outside of the central Puget Sound region identified in WAC 240-20-110(3).

#### NEW SECTION

**WAC 240-20-220 Public transportation systems account—Criteria.** (1) Projects selected for funding from the public transportation systems account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
  - (b) Local transit development plans; and
  - (c) Local comprehensive land use plans.
- (2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including

funds administered by the committee, and safety and security issues.

#### NEW SECTION

**WAC 240-20-230 Public transportation systems account—Timing.**

#### NEW SECTION

**WAC 240-20-310 High capacity transportation account—Eligibility.** (1) Participation in the high capacity transportation account shall be limited to transit agencies and regional transportation authorities.

(2) Projects eligible for funding from the account shall be limited to planning for high capacity transportation systems.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state, and subject to the conditions identified in RCW 81.104.030 and RCW 81.104.040.

#### NEW SECTION

**WAC 240-20-320 High capacity transportation account—Criteria.** (1) Projects selected for funding from the high capacity transportation account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
  - (b) Local transit development plans; and
  - (c) Local comprehensive land use plans.
- (2) The following criteria shall be considered by the committee in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

(3) Authorizations for state funding for high capacity transportation planning projects shall be subject to the additional following criteria:

- (a) Conformance with the designated regional transportation planning organization's regional transportation plan;
- (b) Local matching funds;
- (c) Demonstration of projected improvement in regional mobility;

(d) Conformance with planning requirements prescribed in RCW 81.104.100, and if five hundred thousand dollars or more in state funding is requested, conformance with the requirements of RCW 81.104.110; and

(e) Establishment, through interlocal agreements, of a joint regional policy committee as defined in RCW 81.104.030 or RCW 81.104.040.

NEW SECTION

**WAC 240-20-330 High capacity transportation account—Timing.**

NEW SECTION

**WAC 240-20-410 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Eligibility.** (1) Eligibility to apply shall be limited to public agencies.

(2) Programs and projects eligible for funding shall be limited to the following purposes:

- (a) Planning;
- (b) Preliminary engineering;
- (c) Right-of-way acquisition;
- (d) Construction; and
- (e) Capital equipment acquisition.

(3) Projects eligible for funding under the account shall be limited to applications that directly benefit Washington state.

NEW SECTION

**WAC 240-20-420 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Criteria.** (1) Projects selected for funding from the statewide competitive program account shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with disabilities act and related state accessibility requirements; and

(b) Energy efficiency issues, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds including funds administered by the committee, and safety and security issues.

(3) In addition to the criteria identified in subsections (1) and (2) above, the committee may choose to identify additional criteria for program and project selection for the statewide competitive program. Such criteria shall be subject to public hearings as required by federal law, and shall be identified in the application guidelines as required by WAC 240-20-060.

NEW SECTION

**WAC 240-20-430 Intermodal Surface Transportation Efficiency Act, surface transportation program, statewide competitive program account—Timing.**

**WSR 94-05-015**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING AND**  
**EDUCATION COORDINATING BOARD**  
 [Memorandum—February 3, 1994]

WASHINGTON STATE  
 WORKFORCE TRAINING AND  
 EDUCATION COORDINATING BOARD  
 FEBRUARY 23, 1994

NORTH THURSTON HIGH SCHOOL  
 BOWER CENTER  
 620 SLEATER KINNEY ROAD N.E.  
 LACEY, WA  
 (8:15 a.m. - 4:00 p.m.)

WTECB will hold its regular business meeting on Wednesday, February 23 starting at 1:00 p.m. Reports will be given by the chair and executive director. The board will receive background papers and presentations on five subjects for the comprehensive plan: Basic skills of current workers, high performance work organizations, school-to-work transition, coordination, and accountability. They will take preliminary action on the targets for excellence and take action on Carl Perkins standards and measures.

People needing special accommodations, please call Shirley Sorrell at least 10 days in advance at (206) 753-5660 or scan 234-5660.

**WSR 94-05-020**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR**  
**VOLUNTEER FIRE FIGHTERS**  
 [Memorandum—February 3, 1994]

The April 1994 meeting of the State Board for Volunteer Fire Fighters has been rescheduled. The meeting will take place at 9:00 a.m. on April 22, 1994, in Suite 112 of the Olympia Forum Building, 601 11th Avenue S.E., not on April 15 as had been originally scheduled.

**WSR 94-05-021**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—February 1, 1994]

Following is the schedule(s) for regular meetings to be held by the University of Washington's Pharmacy Practice and Medical History and Ethics committees.

**Medical History and Ethics**  
**Faculty Meeting**

Meeting Dates	Location	Time
2nd Wednesdays January through June and October through December 1994	A204 Health Sciences Building UW - Seattle	1:00 p.m.

**Department of Pharmacy**  
**Faculty Meeting**

Meeting Dates	Location	Time
February 7, 1994	HSB T-341	3:30
March 7, 1994	HSB T-341	3:30
April 4, 1994	HSB T-341	3:30
May 2, 1994	HSB T-341	3:30
June 6, 1994	HSB T-341	3:30

**WSR 94-05-022**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—February 2, 1994]

Following is the updated schedule for regular meetings to be held by the University of Washington's Ophthalmology Department.

**Ophthalmology**  
**Updated February 1, 1994**  
**Department Faculty Meeting**

Meeting Dates	Location	Time
January 13, 1994	BB-824 HSC	noon
February 17, 1994	BB-824 HSC	noon
March 17, 1994	BB-824 HSC	noon
April 7, 1994	BB-824 HSC	noon
May 1994	no meeting	
June 9, 1994	BB-824 HSC	noon
July 1994	no meeting	
August 1994	no meeting	

**Clinical Faculty Meeting**

Meeting Dates	Location	Time
January 20, 1994	BB-824 HSC	noon
February 24, 1994	BB-824 HSC	noon
March 24, 1994	BB-824 HSC	noon
April 21, 1994	BB-824 HSC	noon
May 26, 1994	BB-824 HSC	noon
June 16, 1994	BB-824 HSC	noon
July 1994	no meeting	
August 1994	no meeting	

**WSR 94-05-030**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—February 7, 1994]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 17, 1994, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

MISCELLANEOUS

**WSR 94-05-031**  
**NOTICE OF PUBLIC MEETINGS**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
 [Memorandum—February 4, 1994]

At their February 3, 1994 meeting, the board of trustees of Community College District 24, rescheduled the regular April 14 meeting to Thursday, March 31, 1994, in the boardroom of Building 25 on our campus.

**WSR 94-05-041**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMISSION ON**  
**JUDICIAL CONDUCT**  
 [Memorandum—February 8, 1994]

The Commission on Judicial Conduct business meeting scheduled for 11:00 a.m., March 4, 1994, at the Sea-Tac Holiday Inn, 17338 Pacific Highway South, Seattle, WA 98188, is cancelled. The next business meeting will be held on April 1, 1994, at the above location.

**WSR 94-05-047**  
**NOTICE OF PUBLIC MEETINGS**  
**GAMBLING COMMISSION**  
 [Memorandum—February 8, 1994]

The Gambling Commission will be holding the regular meetings for the remainder of the year at the following locations:

- March 11, 1994      Nordic Inn  
1700 South Boone Street  
Aberdeen, WA 98504
- April 15, 1994      Embassy Suite Hotel  
20610 44th Avenue West  
Lynnwood, WA 98036
- May 13, 1994        Cypress Inn  
Highway 167 @ 84th Avenue exit  
Kent, Washington 98032
- June 10, 1994        Whitman Inn/Nendels  
107 North Second Street  
Walla Walla, WA 99362
- July 15, 1994        Silverdale on the Bay  
3037 Bucklin Hill Road  
Silverdale, WA 98310
- August 12, 1994      Campbell's Lodge  
P.O. Box 278  
Chelan, WA 98816
- September 9, 1994    Lakeway Inn/Best Western  
714 Lakeway Drive  
Bellingham, WA 98226
- October 14, 1994     Icicle Inn/Best Western  
505 State Highway 2  
Leavenworth, WA 98826

- November 18, 1994    Spokane, hotel to be determined.
- December 1994        No meeting.

**WSR 94-05-068**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—February 14, 1994]

Board of Trustees Meeting  
 February 17, 1994  
 Sno-King Room 103  
 (3:00 - 6:00)

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

**WSR 94-05-087**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—February 14, 1994]

The Washington State Human Rights Commission will hold its March regular commission meeting in Lacey, Washington on March 24, 1994. The meeting will be held at the Administrative Offices of the North Thurston School District, Room 160, 305 College Street N.E., Lacey, WA, and will be a regular business meeting beginning at 9:00 a.m.

**WSR 94-05-090**  
**ATTORNEY GENERAL'S OPINION**  
 [Filed February 16, 1994, 9:31 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
 WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you would like additional information about the Attorney General's opinions process or any opinion request summarized in the register, call the Attorney General's Office at (206) 753-4114, or write to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, WA 98504-0100.

During the period covered by this request there are no opinion requests for which the Attorney General's Office seeks public input.

MISCELLANEOUS

**WSR 94-05-091**  
**DEPARTMENT OF ECOLOGY**  
 [Memorandum—February 16, 1994]

The Washington State Department of Ecology will be conducting a joint public hearing with the Puget Sound Regional Council on March 29, 1994, at 216 First Avenue South, 4th Floor Conference Room, Seattle, WA, at 4:00 p.m. The hearing is being conducted to provide the regional council with public input on two contingency measure options being proposed for the Puget Sound carbon monoxide state implementation plan (SIP). The hearing will also solicit comment for ecology on the adoption of the option to be recommended by the regional council into the SIP and its submission to the Environmental Protection Agency.

Interested persons will be allowed to provide oral comments at the hearings. Written comments are encouraged and will be considered if postmarked no later than March 29, 1994. Comments should be addressed to Gary Idleburg, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600. For more information on the options, please contact Nick Roach, Puget Sound Regional Council, at (206) 464-6843. For information on the SIP submittal prior to the hearings, please contact Gary Idleburg at (206) 407-6868.

Ecology is an equal opportunity and affirmative action employer. If you have special accommodation needs, please call Lydia Blalock, (206) 407-6860 (voice) or (206) 407-6006 (TDD).

**WSR 94-05-098**  
**NOTICE OF PUBLIC MEETINGS**  
**PENINSULA COLLEGE**  
 [Memorandum—February 14, 1994]

The board of trustees of Community College District No. 1, meeting in regular session on February 8, 1994, adopted the revised schedule shown below for the 1994 calendar year.

Note: There is no change in dates, and meetings will continue to begin at 10:30 a.m. New locations for the April and May meetings are shown on the schedule shown below.

Board of Trustees  
 Community College District No. 1  
 1994 Meeting Schedule

Date	Time	Location
January 11, 1994	10:30 a.m.-executive session 1:00 p.m.-open session	Peninsula College, Port Angeles (room A-12)
February 8, 1994	10:30 a.m.-executive session 1:00 p.m.-open session	Peninsula College, Port Angeles (room A-12)
March 8, 1994	10:30 a.m.	Peninsula College, Port Angeles (room A-12)
April 12, 1994	10:30 a.m.	Peninsula College, Port Angeles (room A-12)
May 10, 1994	10:30 a.m.	Sekiu Community Hall Sekiu
June 14, 1994	10:30 a.m.	Peninsula College, Port Angeles (room A-12)
July - no meeting August 9, 1994	10:30 a.m.	Neah Bay High School-library Neah Bay
September 13, 1994	10:30 a.m.	Peninsula College, Port Angeles (room A-12)
October 11, 1994	10:30 a.m.	Peninsula College, Port Angeles (room A-12)

November 8, 1994 10:30 a.m.  
 December 13, 1994 10:30 a.m.

Peninsula College,  
 Port Angeles (room A-12)  
 Peninsula College,  
 Port Angeles (room A-12)

**WSR 94-05-099**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**  
 [Memorandum—February 15, 1994]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, March 24, 1994, and Friday, March 25, 1994, in the Natural Resources Building (NRB) Conference Room 172 beginning at 9:00 a.m.

This meeting is a funding recommendation session for nonhighway and off road vehicle (NOVA) education and enforcement and maintenance and operation programs, as well as for the firearms range program. The funding consideration for the NOVA programs will begin at 11:00 a.m. on Thursday, March 24th.

Other planned agenda items include: Adoption of the state agency boating facilities (I-215) manual revisions, NOVA manual revisions (nonhighway roads and off road vehicles); a Northwest Marine Trade Association slide presentation; and a House Capital Budget Committee report on the Washington wildlife and recreation program.

If you plan to participate or have materials for committee review, please submit information to IAC no later than March 3, 1994. This will allow time for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by Thursday, March 3, at (206) 902-3000, or TDD (206) 902-1996.

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 #
4-25-185	REP	94-02-070	16-403-145	AMD-P	94-05-050	51-04-060	AMD	94-05-058
4-25-186	REP	94-02-070	16-403-150	AMD-P	94-05-050	51-11-0201	AMD	94-05-059
4-25-187	REP	94-02-070	16-403-290	AMD-P	94-05-050	51-11-0402	AMD	94-05-059
4-25-188	REP	94-02-070	16-415-010	REP	94-03-026	51-11-0502	AMD-E	94-05-007
4-25-280	REP	94-02-070	16-415-020	REP	94-03-026	51-11-0502	AMD	94-05-059
4-25-300	REP	94-02-070	16-415-030	REP	94-03-026	51-11-0525	AMD	94-05-059
4-25-320	REP	94-02-070	16-415-040	REP	94-03-026	51-11-0527	AMD	94-05-059
4-25-521	NEW	94-02-068	16-432-010	REP	94-03-025	51-11-0601	AMD	94-05-059
4-25-522	NEW	94-02-068	16-432-020	REP	94-03-025	51-11-0602	AMD	94-05-059
4-25-810	NEW	94-02-072	16-432-030	REP	94-03-025	51-11-0603	AMD	94-05-059
4-25-811	NEW	94-02-072	16-432-040	REP	94-03-025	51-11-0625	AMD	94-05-059
4-25-812	NEW	94-02-072	16-432-050	REP	94-03-025	51-11-0626	AMD	94-05-059
4-25-813	NEW	94-02-072	16-432-060	REP	94-03-025	51-11-0627	AMD	94-05-059
4-25-820	NEW	94-02-071	16-432-070	REP	94-03-025	51-11-0628	AMD	94-05-059
4-25-920	NEW	94-02-069	16-432-080	REP	94-03-025	51-11-0629	AMD	94-05-059
16-38-001	REP	94-05-009	16-432-090	REP	94-03-025	51-11-0630	AMD	94-05-059
16-38-010	REP	94-05-009	16-432-100	REP	94-03-025	51-11-1006	AMD-E	94-05-007
16-38-020	REP	94-05-009	16-432-110	REP	94-03-025	51-11-1006	AMD	94-05-059
16-86-015	AMD	94-05-008	16-432-120	REP	94-03-025	51-11-1011	NEW-E	94-05-007
16-103-001	AMD	94-05-040	16-432-130	REP	94-03-025	131-46-010	AMD	94-04-120
16-108-010	AMD-P	94-05-074	16-514-020	AMD-P	94-05-073	131-46-020	AMD	94-04-120
16-200-805	AMD-P	94-05-060	16-580-040	AMD-P	94-05-066	131-46-025	AMD	94-04-120
16-219-015	AMD-P	94-05-092	16-602-025	NEW	94-05-049	131-46-027	NEW	94-04-120
16-219-017	NEW-P	94-05-092	16-678-001	REP	94-03-022	131-46-029	NEW	94-04-120
16-219-018	NEW-P	94-05-092	16-678-010	REP	94-03-022	131-46-030	AMD	94-04-120
16-219-020	AMD-P	94-05-092	16-680-001	REP	94-03-021	131-46-035	AMD	94-04-120
16-219-022	NEW-P	94-05-092	16-680-010	REP	94-03-021	131-46-040	AMD	94-04-120
16-219-025	AMD-P	94-05-092	16-680-015	REP	94-03-021	131-46-045	AMD	94-04-120
16-219-027	NEW-P	94-05-092	50-60-010	NEW	94-03-009	131-46-050	AMD	94-04-120
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16-219-030	REP-P	94-05-092	50-60-030	NEW	94-03-009	131-46-060	AMD	94-04-120
16-219-031	NEW-P	94-05-092	50-60-040	NEW	94-03-009	131-46-065	AMD	94-04-120
16-219-100	NEW-P	94-05-061	50-60-050	NEW	94-03-009	131-46-070	AMD	94-04-120
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16-221-001	REP	94-03-024	50-60-070	NEW	94-03-009	131-46-077	NEW	94-04-120
16-221-010	REP	94-03-024	50-60-080	NEW	94-03-009	131-46-080	AMD	94-04-120
16-221-020	REP	94-03-024	50-60-090	NEW	94-03-009	131-46-085	AMD	94-04-120
16-221-030	REP	94-03-024	50-60-100	NEW	94-03-009	131-46-090	AMD	94-04-120
16-221-040	REP	94-03-024	50-60-110	NEW	94-03-009	131-46-095	AMD	94-04-120
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16-223-002	REP	94-03-023	50-60-130	NEW	94-03-009	131-46-105	AMD	94-04-120
16-223-004	REP	94-03-023	50-60-140	NEW	94-03-009	131-46-110	AMD	94-04-120
16-223-005	REP	94-03-023	50-60-150	NEW	94-03-009	131-46-115	AMD	94-04-120
16-223-010	REP	94-03-023	50-60-160	NEW	94-03-009	131-46-120	AMD	94-04-120
16-223-020	REP	94-03-023	50-60-170	NEW	94-03-009	131-46-125	NEW	94-04-120
16-223-030	REP	94-03-023	50-60-180	NEW	94-03-009	131-46-130	NEW	94-01-120
16-223-040	REP	94-03-023	51-04-015	AMD	94-05-058	132F-08-001	REP-P	94-05-097A
16-223-050	REP	94-03-023	51-04-018	AMD	94-05-058	132F-08-005	REP-P	94-05-097A
16-223-060	REP	94-03-023	51-04-020	AMD	94-05-058	132F-08-010	REP-P	94-05-097A
16-223-070	REP	94-03-023	51-04-025	AMD	94-05-058	132F-08-080	REP-P	94-05-097A
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132F-08-130	REP-P	94-05-097A	132J-108-050	AMD	94-04-051	162-22-070	AMD-W	94-04-087
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132F-08-230	REP-P	94-05-097A	132J-116-020	REP	94-04-052	162-22-090	AMD-W	94-04-087
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132F-08-350	REP-P	94-05-097A	132J-116-140	AMD	94-04-052	162-26-110	AMD-W	94-04-087
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132F-108-100	NEW-P	94-05-097A	132J-128-210	NEW	94-04-053	173-34-050	REP-P	94-03-071
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132H-160-050	REP	94-04-098	132V-300-020	AMD-W	94-03-082	173-60-050	AMD-P	94-05-037
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132H-160-059	REP	94-04-098	162-12-100	AMD-W	94-04-087	173-70-010	REP-P	94-05-037
132H-160-070	REP	94-04-098	162-12-110	REP-W	94-04-087	173-70-020	REP-P	94-05-037
132H-160-080	REP	94-04-098	162-12-120	AMD-W	94-04-087	173-70-030	REP-P	94-05-037
132H-160-120	REP	94-04-098	162-12-130	AMD-W	94-04-087	173-70-040	REP-P	94-05-037
132H-160-140	REP	94-04-098	162-12-135	AMD-W	94-04-087	173-70-050	REP-P	94-05-037
132H-160-150	REP	94-04-098	162-12-140	AMD-W	94-04-087	173-70-060	REP-P	94-05-037
132H-160-260	REP	94-04-098	162-12-150	AMD-W	94-04-087	173-70-070	REP-P	94-05-037
132H-160-320	REP	94-04-098	162-12-160	AMD-W	94-04-087	173-70-080	REP-P	94-05-037
132H-160-330	REP	94-04-098	162-12-170	AMD-W	94-04-087	173-70-090	REP-P	94-05-037
132H-160-350	REP	94-04-098	162-12-180	AMD-W	94-04-087	173-70-100	REP-P	94-05-037
132H-160-390	REP	94-04-098	162-18-010	REP-W	94-04-087	173-70-110	REP-P	94-05-037
132H-160-400	REP	94-04-098	162-18-020	REP-W	94-04-087	173-70-120	REP-P	94-05-037
132H-160-430	REP	94-04-098	162-18-030	REP-W	94-04-087	173-95-010	REP	94-04-030
132H-160-440	REP	94-04-098	162-18-040	REP-W	94-04-087	173-95-020	REP	94-04-030
132H-160-492	REP	94-04-098	162-18-050	REP-W	94-04-087	173-95-030	REP	94-04-030
132H-160-520	REP	94-04-098	162-18-060	REP-W	94-04-087	173-95-040	REP	94-04-030
132H-160-600	REP	94-04-098	162-18-070	REP-W	94-04-087	173-95-050	REP	94-04-030
132H-160-610	REP	94-04-098	162-18-080	REP-W	94-04-087	173-95-060	REP	94-04-030
132H-160-620	REP	94-04-098	162-18-090	REP-W	94-04-087	173-95-070	REP	94-04-030
132H-160-630	REP	94-04-098	162-18-100	REP-W	94-04-087	173-95-080	REP	94-04-030
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173-95-150	REP	94-04-030	180-96-010	AMD	94-03-101	220-52-010	AMD-P	94-03-106
173-95-160	REP	94-04-030	180-96-015	REP	94-03-101	220-52-018	AMD-P	94-03-106
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173-224-030	AMD-P	94-02-080	180-96-045	AMD	94-03-101	220-52-030	AMD-P	94-03-106
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173-224-070	REP-P	94-02-080	180-96-053	NEW	94-03-101	220-52-046	AMD-P	94-03-106
173-224-090	AMD-P	94-02-080	180-96-055	REP	94-03-101	220-52-050	AMD-P	94-03-106
173-224-100	AMD-P	94-02-080	180-96-058	NEW	94-03-101	220-52-051	AMD-P	94-03-098
173-224-120	REP-P	94-02-080	180-96-060	REP	94-03-101	220-52-051	AMD-P	94-03-106
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173-320-020	REP-P	94-03-071	180-96-070	REP	94-03-101	220-52-063	AMD-P	94-03-106
173-320-030	REP-P	94-03-071	180-96-075	REP	94-03-101	220-52-066	AMD-P	94-03-106
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173-320-060	REP-P	94-03-071	204-24-050	AMD-P	94-02-082	220-52-070	AMD-P	94-03-106
173-320-070	REP-P	94-03-071	204-30-010	REP	94-05-024	220-52-071	AMD-P	94-03-106
173-320-080	REP-P	94-03-071	204-30-020	REP	94-05-024	220-52-073	AMD-P	94-03-106
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173-335-030	REP-P	94-03-071	204-30-050	REP	94-05-024	220-52-07300S	REP-E	94-05-055
173-335-040	REP-P	94-03-071	204-30-060	REP	94-05-024	220-52-07300T	NEW-E	94-05-055
173-335-050	REP-P	94-03-071	204-30-070	REP	94-05-024	220-52-075	AMD-P	94-03-106
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173-400-101	NEW-P	94-04-105	220-16-015	AMD-P	94-03-106	220-56-105	AMD-P	94-03-105
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173-401-531	NEW-P	94-04-104	220-32-05100E	NEW-E	94-04-048	220-56-191	AMD-P	94-03-105
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180-51-105	AMD	94-03-103	220-49-022	REP-P	94-03-106	220-57-285	AMD-P	94-03-105
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220-57-435	AMD-P	94-03-105	232-28-240	NEW-P	94-04-114	240-20-330	NEW-E	94-05-101
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220-57-455	AMD-P	94-03-105	232-28-242	NEW-P	94-04-116	240-20-410	NEW-E	94-05-101
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220-88A-020	NEW-P	94-03-098	240-20-010	NEW-E	94-05-101	245-01-050	NEW	94-04-046
220-88A-030	NEW-P	94-03-098	240-20-015	NEW-P	94-05-100	245-01-060	NEW	94-04-046
220-88A-040	NEW-P	94-03-098	240-20-015	NEW-E	94-05-101	245-01-070	NEW	94-04-046
220-88A-050	NEW-P	94-03-098	240-20-020	NEW-P	94-05-100	245-01-080	NEW	94-04-046
220-88A-060	NEW-P	94-03-098	240-20-020	NEW-E	94-05-101	245-01-090	NEW	94-04-046
220-88A-070	NEW-P	94-03-098	240-20-020	NEW-E	94-05-101	245-01-100	NEW	94-04-046
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222-30-050	AMD-E	94-05-046	240-20-035	NEW-P	94-05-100	245-01-150	NEW	94-04-046
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230-30-103	AMD-P	94-04-024	240-20-058	NEW-P	94-05-100	246-10-402	AMD	94-04-079
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232-28-02205	NEW-P	94-04-059	240-20-075	NEW-P	94-05-100	246-10-604	AMD	94-04-079
232-28-02206	NEW-P	94-04-060	240-20-075	NEW-E	94-05-101	246-10-607	AMD	94-04-079
232-28-02210	NEW-P	94-04-061	240-20-080	NEW-P	94-05-100	246-10-701	AMD	94-04-079
232-28-02220	NEW-P	94-04-062	240-20-080	NEW-E	94-05-101	246-10-702	AMD	94-04-079
232-28-02230	NEW-P	94-04-063	240-20-080	NEW-E	94-05-101	246-10-704	AMD	94-04-079
232-28-02240	NEW-P	94-04-064	240-20-090	NEW-P	94-05-100	246-10-704	AMD	94-04-079
232-28-02250	NEW-P	94-04-065	240-20-090	NEW-E	94-05-101	246-10-705	AMD	94-04-079
232-28-02260	NEW-P	94-04-066	240-20-090	NEW-E	94-05-101	246-10-706	AMD	94-04-079
232-28-02270	NEW-P	94-04-067	240-20-110	NEW-P	94-05-100	246-10-707	AMD	94-04-079
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			240-20-210	NEW-E	94-05-101	246-11-080	AMD	94-04-078
			240-20-210	NEW-E	94-05-101	246-11-090	AMD	94-04-078
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246-11-230	AMD	94-04-078	246-830-030	REP-P	94-05-080	251-23-030	REP-W	94-04-010
246-11-250	AMD	94-04-078	246-830-035	NEW-P	94-05-080	251-23-040	REP-W	94-04-010
246-11-260	AMD	94-04-078	246-830-280	NEW-P	94-05-080	251-23-050	REP-W	94-04-010
246-11-270	AMD	94-04-078	246-830-290	NEW-P	94-05-080	251-23-060	REP-W	94-04-010
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246-11-290	AMD	94-04-078	246-830-465	NEW-P	94-05-080	260-48-322	AMD-P	94-05-077
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246-11-400	AMD	94-04-078	246-838-090	AMD-P	94-05-033	275-55-221	NEW-E	94-03-004
246-11-420	AMD	94-04-078	246-838-110	AMD-P	94-05-033	275-55-221	NEW-P	94-03-005
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246-490-110	NEW	94-04-083	246-915-078	NEW	94-05-014	284-10-120	NEW-W	94-03-085
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284-30-450	PREP	94-05-070	314-60-020	AMD	94-03-060	388-28-457	REP	94-04-043
284-44	PREP	94-05-056	314-60-030	AMD	94-03-060	388-28-458	REP	94-04-043
284-46	PREP	94-05-056	314-60-080	AMD	94-03-060	388-28-459	REP	94-04-043
284-97-010	PREP	94-05-071	314-60-105	AMD	94-03-060	388-28-460	REP	94-04-043
284-97-020	PREP	94-05-071	314-60-110	AMD	94-03-060	388-28-461	REP	94-04-043
284-97-030	PREP	94-05-071	315-02-120	REP	94-03-020	388-28-462	REP	94-04-043
284-97-040	PREP	94-05-071	315-04-180	AMD	94-03-020	388-28-463	REP	94-04-043
284-97-050	PREP	94-05-071	315-04-210	AMD	94-03-020	388-28-464	REP	94-04-043
284-97-060	PREP	94-05-071	315-06-035	AMD	94-03-020	388-28-465	REP	94-04-043
284-97-070	PREP	94-05-071	315-06-140	REP	94-03-020	388-28-470	REP	94-04-043
284-97-080	PREP	94-05-071	315-06-150	REP	94-03-020	388-28-471	REP	94-04-043
284-97-100	PREP	94-05-071	315-06-160	REP	94-03-020	388-28-472	REP	94-04-043
284-97-110	PREP	94-05-071	315-06-170	AMD	94-03-020	388-28-473	REP	94-04-043
284-97-120	PREP	94-05-071	315-06-180	REP	94-03-020	388-28-474	AMD-P	94-05-018
284-97-130	PREP	94-05-071	315-06-190	AMD	94-03-020	388-28-484	AMD-P	94-05-029
284-97-140	PREP	94-05-071	315-10-030	AMD	94-03-020	388-28-530	AMD-P	94-05-016
284-97-150	PREP	94-05-071	315-10-060	AMD	94-03-020	388-28-560	AMD-P	94-05-019
284-97-160	PREP	94-05-071	315-10-080	AMD	94-03-020	388-28-575	AMD-P	94-05-054
296-15-020	AMD-C	94-03-006	315-11A-114	NEW	94-03-019	388-28-600	AMD-P	94-04-042
296-15-020	AMD	94-05-042	315-11A-115	NEW	94-03-019	388-29-295	AMD	94-04-035
296-15-02606	NEW-C	94-03-006	315-11A-116	NEW	94-03-019	388-43-112	NEW-E	94-04-032
296-15-02606	NEW	94-05-042	315-11A-117	NEW	94-03-019	388-43-120	NEW	94-04-037
296-15-030	AMD-C	94-03-006	315-11A-118	NEW-P	94-03-099	388-44-010	REP	94-05-045
296-15-030	AMD	94-05-042	315-11A-119	NEW-P	94-03-099	388-44-020	REP	94-05-045
296-15-170	AMD-C	94-03-006	315-11A-120	NEW-P	94-03-099	388-44-035	REP	94-05-045
296-15-170	AMD	94-05-042	315-11A-121	NEW-P	94-03-099	388-44-046	REP	94-05-045
296-20-135	AMD	94-03-008	315-30-030	AMD	94-03-020	388-44-050	REP	94-05-045
296-20-370	AMD	94-03-073	315-34-040	AMD-P	94-03-099	388-44-110	REP	94-05-045
296-20-380	AMD	94-03-073	326-30-041	AMD	94-03-068	388-44-115	REP	94-05-045
296-20-385	NEW	94-03-073	352-32-010	AMD-P	94-03-097	388-44-120	REP	94-05-045
296-20-680	AMD	94-03-073	352-32-045	AMD-P	94-03-097	388-44-125	REP	94-05-045
296-104-281	NEW-E	94-04-006	352-32-250	AMD-P	94-03-097	388-44-127	REP	94-05-045
296-104-281	NEW-P	94-05-072	352-32-25001	AMD	94-04-075	388-44-140	REP	94-05-045
296-116-185	RESCIND	94-05-005	352-32-252	AMD-P	94-03-097	388-44-145	REP	94-05-045
296-116-185	AMD	94-05-006	352-32-255	AMD-P	94-03-097	388-44-150	REP	94-05-045
296-116-500	NEW-P	94-04-119	352-32-320	NEW-P	94-03-097	388-44-160	REP	94-05-045
308-13-150	AMD	94-04-044	352-65-010	AMD	94-04-076	388-44-250	REP	94-05-045
308-13-160	AMD	94-04-044	352-65-020	AMD	94-04-076	388-44-280	REP	94-05-045
308-62-010	REP-P	94-04-017	352-65-030	AMD	94-04-076	388-44-330	REP	94-05-045
308-62-020	REP-P	94-04-017	352-65-040	AMD	94-04-076	388-49-535	AMD-P	94-03-041
308-62-030	REP-P	94-04-017	352-65-060	AMD	94-04-076	388-49-590	AMD-P	94-03-050
308-72-543	NEW-P	94-02-076	352-74-040	AMD-P	94-03-089	388-53-010	REP	94-04-036
308-72-660	AMD-P	94-02-076	356-05-477	NEW	94-04-011	388-53-050	REP	94-04-036
308-72-665	NEW-P	94-02-076	356-05-479	NEW	94-04-011	388-59-010	REP	94-04-033
308-72-690	AMD-P	94-02-076	356-06-045	NEW	94-04-011	388-59-020	REP	94-04-033
308-77-010	AMD-P	94-02-075	356-09	NEW-C	94-04-086	388-59-030	REP	94-04-033
308-77-060	AMD-P	94-02-075	356-09-010	REP-W	94-04-010	388-59-040	REP	94-04-033
308-77-095	AMD-P	94-02-075	356-09-020	REP-W	94-04-010	388-59-045	REP	94-04-033
308-77-155	NEW-P	94-02-075	356-09-030	REP-W	94-04-010	388-59-048	REP	94-04-033
308-77-250	AMD-P	94-02-075	356-09-040	REP-W	94-04-010	388-59-050	REP	94-04-033
308-93-073	AMD-W	94-03-018	356-09-050	REP-W	94-04-010	388-59-060	REP	94-04-033
308-93-280	AMD-W	94-03-018	356-26-030	AMD-E	94-04-085	388-59-070	REP	94-04-033
308-93-330	AMD-W	94-03-018	356-26-070	AMD-E	94-04-085	388-59-080	REP	94-04-033
308-93-630	REP-W	94-03-018	356-30-285	NEW	94-04-011	388-59-090	REP	94-04-033
308-128A-020	AMD	94-04-050	356-30-315	NEW	94-04-011	388-59-100	REP	94-04-033
308-128A-030	AMD	94-04-050	356-30-328	NEW-W	94-04-009	388-84-115	AMD-P	94-05-026
308-128A-040	AMD	94-04-050	356-37-080	AMD-P	94-04-084	388-86-030	AMD-C	94-04-031
308-128C-040	AMD	94-04-050	356-37-090	AMD-P	94-04-084	388-86-030	AMD-C	94-05-044
308-128C-050	AMD	94-04-050	356-56-015	AMD-E	94-03-069	388-86-040	REP-C	94-05-043
308-128D-010	AMD	94-04-050	356-56-230	AMD-E	94-03-069	388-86-04001	NEW-C	94-05-043
308-128D-030	AMD	94-04-050	388-22-030	AMD-P	94-04-042	388-86-045	AMD	94-03-052
308-128D-040	AMD	94-04-050	388-24-044	AMD-P	94-05-017	388-86-073	AMD-P	94-04-022
308-128D-070	AMD	94-04-050	388-24-111	AMD	94-04-034	388-86-073	AMD-E	94-04-023
308-128E-011	AMD	94-04-050	388-24-250	REP-P	94-03-051	388-86-090	AMD-P	94-04-022
308-128F-020	AMD	94-04-050	388-24-252	REP-P	94-03-051	388-86-090	AMD-E	94-04-023
314-12-185	NEW-P	94-05-094	388-24-253	REP-P	94-03-051	388-86-098	AMD-P	94-04-022
314-16-050	AMD-P	94-05-096	388-24-254	REP-P	94-03-051	388-86-098	AMD-E	94-04-023
314-16-150	AMD-P	94-05-093	388-24-255	REP-P	94-03-051	388-92-041	AMD-E	94-05-027
314-25-010	NEW-P	94-05-095	388-24-260	REP-P	94-03-051	388-92-041	AMD-P	94-05-028
314-25-020	NEW-P	94-05-095	388-24-265	REP-P	94-03-051	388-95-337	AMD-P	94-05-025
314-25-030	NEW-P	94-05-095	388-28-370	REP	94-04-043	388-217-3000	NEW	94-04-043
314-25-040	NEW-P	94-05-095	388-28-390	AMD-P	94-05-069	388-217-3050	NEW	94-04-043
314-60-010	AMD	94-03-060	388-28-439	AMD-P	94-03-055	388-217-3100	NEW	94-04-043

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388-217-3200	NEW	94-04-043	392-127-710	REP	94-04-096	392-157-170	NEW	94-04-097
388-217-3250	NEW	94-04-043	392-127-715	REP	94-04-096	392-157-175	NEW	94-04-097
388-217-3300	NEW	94-04-043	392-127-720	REP	94-04-096	392-157-180	NEW	94-04-097
388-217-3350	NEW	94-04-043	392-127-725	REP	94-04-096	392-163-400	AMD-P	94-04-094
388-225-0010	NEW-P	94-03-051	392-127-730	REP	94-04-096	392-163-405	AMD-P	94-04-094
388-225-0020	NEW-P	94-03-051	392-127-735	REP	94-04-096	392-163-440	AMD-P	94-04-094
388-225-0050	NEW-P	94-03-051	392-127-740	REP	94-04-096	392-163-445	AMD-P	94-04-094
388-225-0060	NEW-P	94-03-051	392-127-745	REP	94-04-096	392-163-530	AMD-P	94-04-094
388-225-0070	NEW-P	94-03-051	392-127-750	REP	94-04-096	392-163-580	AMD-P	94-04-094
388-225-0080	NEW-P	94-03-051	392-127-755	REP	94-04-096	392-169-005	NEW	94-04-095
388-225-0090	NEW-P	94-03-051	392-127-760	REP	94-04-096	392-169-010	NEW	94-04-095
388-225-0100	NEW-P	94-03-051	392-127-765	REP	94-04-096	392-169-015	NEW	94-04-095
388-225-0120	NEW-P	94-03-051	392-127-770	REP	94-04-096	392-169-020	NEW	94-04-095
388-225-0150	NEW-P	94-03-051	392-127-775	REP	94-04-096	392-169-022	NEW	94-04-095
388-225-0160	NEW-P	94-03-051	392-127-780	REP	94-04-096	392-169-023	NEW	94-04-095
388-225-0170	NEW-P	94-03-051	392-127-785	REP	94-04-096	392-169-025	NEW	94-04-095
388-225-0180	NEW-P	94-03-051	392-127-790	REP	94-04-096	392-169-030	NEW	94-04-095
388-225-0190	NEW-P	94-03-051	392-127-795	REP	94-04-096	392-169-035	NEW	94-04-095
388-225-0300	NEW-P	94-03-051	392-127-800	REP	94-04-096	392-169-040	NEW	94-04-095
388-270-1005	NEW	94-05-045	392-127-805	REP	94-04-096	392-169-045	NEW	94-04-095
388-270-1010	NEW	94-05-045	392-127-815	REP	94-04-096	392-169-050	NEW	94-04-095
388-270-1025	NEW	94-05-045	392-127-820	REP	94-04-096	392-169-055	NEW	94-04-095
388-270-1075	NEW	94-05-045	392-127-825	REP	94-04-096	392-169-057	NEW	94-04-095
388-270-1100	NEW	94-05-045	392-127-830	REP	94-04-096	392-169-060	NEW	94-04-095
388-270-1110	NEW	94-05-045	392-140-500	NEW-P	94-04-122	392-169-065	NEW	94-04-095
388-270-1125	NEW	94-05-045	392-140-501	NEW-P	94-04-122	392-169-070	NEW	94-04-095
388-270-1150	NEW	94-05-045	392-140-503	NEW-P	94-04-122	392-169-075	NEW	94-04-095
388-270-1200	NEW	94-05-045	392-140-504	NEW-P	94-04-122	392-169-080	NEW	94-04-095
388-270-1250	NEW	94-05-045	392-140-505	NEW-P	94-04-122	392-169-085	NEW	94-04-095
388-270-1300	NEW	94-05-045	392-140-506	NEW-P	94-04-122	392-169-090	NEW	94-04-095
388-270-1400	NEW	94-05-045	392-140-507	NEW-P	94-04-122	392-169-095	NEW	94-04-095
388-270-1500	NEW	94-05-045	392-140-508	NEW-P	94-04-122	392-169-100	NEW	94-04-095
388-270-1550	NEW	94-05-045	392-140-509	NEW-P	94-04-122	392-169-105	NEW	94-04-095
388-270-1600	NEW	94-05-045	392-140-510	NEW-P	94-04-122	392-169-110	NEW	94-04-095
388-275-0010	NEW	94-04-033	392-140-511	NEW-P	94-04-122	392-169-115	NEW	94-04-095
388-275-0020	NEW	94-04-033	392-140-512	NEW-P	94-04-122	392-169-120	NEW	94-04-095
388-275-0030	NEW	94-04-033	392-140-516	NEW-P	94-04-122	392-169-125	NEW	94-04-095
388-275-0040	NEW	94-04-033	392-140-517	NEW-P	94-04-122	392-320-005	NEW-P	94-04-025
388-275-0050	NEW	94-04-033	392-140-518	NEW-P	94-04-122	392-320-010	NEW-P	94-04-025
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388-275-0070	NEW	94-04-033	392-157-005	NEW	94-04-097	392-320-020	NEW-P	94-04-025
388-275-0080	NEW	94-04-033	392-157-010	NEW	94-04-097	392-320-025	NEW-P	94-04-025
388-275-0090	NEW	94-04-033	392-157-015	NEW	94-04-097	392-320-030	NEW-P	94-04-025
388-538-110	AMD	94-04-038	392-157-020	NEW	94-04-097	392-320-035	NEW-P	94-04-025
390-12-010	AMD	94-05-010	392-157-025	NEW	94-04-097	392-320-040	NEW-P	94-04-025
390-14-040	AMD	94-05-010	392-157-030	NEW	94-04-097	392-320-045	NEW-P	94-04-025
390-16-011	AMD	94-05-011	392-157-035	NEW	94-04-097	392-320-050	NEW-P	94-04-025
390-16-012	AMD	94-05-011	392-157-040	NEW	94-04-097	392-320-055	NEW-P	94-04-025
390-16-031	AMD	94-05-011	392-157-045	NEW	94-04-097	392-320-060	NEW-P	94-04-025
390-16-032	AMD	94-05-011	392-157-050	NEW	94-04-097	415-02-030	AMD-P	94-05-012
390-16-033	AMD	94-05-011	392-157-055	NEW	94-04-097	415-02-110	NEW-P	94-05-012
390-16-041	AMD	94-05-011	392-157-060	NEW	94-04-097	415-104-111	NEW-P	94-05-013
390-16-050	AMD	94-05-011	392-157-065	NEW	94-04-097	415-108-580	NEW-P	94-05-013
390-16-238	NEW-P	94-05-097	392-157-070	NEW	94-04-097	415-112-840	NEW-P	94-05-013
390-16-245	NEW-P	94-05-097	392-157-075	NEW	94-04-097	434-663-001	NEW-W	94-03-081
390-16-300	AMD-P	94-05-097	392-157-080	NEW	94-04-097	434-663-005	NEW-W	94-03-081
390-16-315	AMD-P	94-05-097	392-157-085	NEW	94-04-097	434-663-020	NEW-W	94-03-081
390-16-324	NEW-P	94-03-087	392-157-090	NEW	94-04-097	434-663-030	NEW-W	94-03-081
390-16-324	NEW-W	94-04-121	392-157-095	NEW	94-04-097	434-663-050	NEW-W	94-03-081
390-17-071	NEW	94-05-010	392-157-100	NEW	94-04-097	434-663-060	NEW-W	94-03-081
390-17-300	AMD-P	94-03-087	392-157-105	NEW	94-04-097	434-663-070	NEW-W	94-03-081
390-17-300	AMD-W	94-04-121	392-157-110	NEW	94-04-097	434-663-100	NEW	94-04-102
390-17-315	AMD-P	94-03-087	392-157-115	NEW	94-04-097	434-663-200	NEW	94-04-102
390-17-315	AMD-W	94-04-121	392-157-120	NEW	94-04-097	434-663-210	NEW	94-04-102
390-24-030	REP	94-05-010	392-157-125	NEW	94-04-097	434-663-220	NEW	94-04-102
390-24-031	REP	94-05-010	392-157-130	NEW	94-04-097	434-663-230	NEW	94-04-102
390-24-160	AMD	94-05-010	392-157-135	NEW	94-04-097	434-663-240	NEW	94-04-102
390-37-070	AMD	94-05-010	392-157-140	NEW	94-04-097	434-663-250	NEW	94-04-102
390-37-105	AMD	94-05-010	392-157-145	NEW	94-04-097	434-663-260	NEW	94-04-102
390-37-142	AMD	94-05-010	392-157-150	NEW	94-04-097	434-663-300	NEW	94-04-102
392-127-700	REP	94-04-096	392-157-155	NEW	94-04-097	434-663-310	NEW	94-04-102
392-127-703	REP	94-04-096	392-157-160	NEW	94-04-097	434-663-320	NEW	94-04-102

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434-663-420	NEW	94-04-102	458-61-360	REP	94-04-088
434-663-430	NEW	94-04-102	458-61-370	AMD	94-04-088
434-663-440	NEW	94-04-102	458-61-374	NEW	94-04-088
434-663-450	NEW	94-04-102	458-61-375	NEW	94-04-088
434-663-460	NEW	94-04-102	458-61-376	NEW	94-04-088
434-663-470	NEW	94-04-102	458-61-380	REP	94-04-088
434-663-480	NEW	94-04-102	458-61-390	REP	94-04-088
434-663-490	NEW	94-04-102	458-61-400	AMD	94-04-088
434-663-500	NEW	94-04-102	458-61-410	AMD	94-04-088
434-663-510	NEW	94-04-102	458-61-411	NEW	94-04-088
434-663-520	NEW	94-04-102	458-61-412	NEW	94-04-088
434-663-530	NEW	94-04-102	458-61-420	AMD	94-04-088
434-663-600	NEW	94-04-102	458-61-425	AMD	94-04-088
434-663-610	NEW	94-04-102	458-61-430	AMD	94-04-088
434-663-620	NEW	94-04-102	458-61-440	REP	94-04-088
434-663-630	NEW	94-04-102	458-61-460	REP	94-04-088
446-65	AMD-P	94-05-023	458-61-470	AMD	94-04-088
446-65-005	AMD-P	94-05-023	458-61-480	AMD	94-04-088
456-09-010	AMD-P	94-03-056	458-61-490	REP	94-04-088
456-09-325	AMD-P	94-03-056	458-61-500	REP	94-04-088
456-09-365	AMD-P	94-03-056	458-61-510	AMD	94-04-088
456-10-010	AMD-P	94-03-057	458-61-520	AMD	94-04-088
456-10-325	AMD-P	94-03-057	458-61-530	REP	94-04-088
456-10-360	AMD-P	94-03-057	458-61-540	AMD	94-04-088
458-18-220	AMD	94-05-063	458-61-545	AMD	94-04-088
458-20-102	AMD-E	94-05-083	458-61-550	AMD	94-04-088
458-20-122	AMD-P	94-03-035	458-61-553	NEW	94-04-088
458-20-125	REP-P	94-03-037	458-61-555	AMD	94-04-088
458-20-166	AMD	94-05-001	458-61-560	REP	94-04-088
458-20-167	AMD-P	94-03-047	458-61-570	REP	94-04-088
458-20-168	AMD-E	94-05-084	458-61-590	AMD	94-04-088
458-20-209	AMD-P	94-03-036	458-61-600	AMD	94-04-088
458-20-210	AMD-P	94-03-034	458-61-610	AMD	94-04-088
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458-20-258	AMD-E	94-05-086	458-61-630	REP	94-04-088
458-20-901	NEW-E	94-05-085	458-61-640	AMD	94-04-088
458-30-262	AMD	94-05-062	458-61-650	AMD	94-04-088
458-53-160	AMD	94-05-064	458-61-660	AMD	94-04-088
458-61-010	REP	94-04-088	458-61-670	AMD	94-04-088
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	PROP	94-03-048	escrow officer, responsibilities	PERM	94-04-050
	PROP	94-03-085	organization and operation	PERM	94-04-050
renewability	PROP	94-02-065	meetings	MISC	94-02-018
	PROP	94-03-048	Landscape architects		
	EMER	94-03-084	fees	PROP	94-01-047
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Health maintenance organizations			examination	PROP	94-01-047
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Life insurance			reciprocity and proration	PERM	94-01-082
accelerated benefits	<b>PROP</b>	<b>94-05-071</b>	special fuel, tax exemption and refunds	PROP	94-02-025
reinsurance agreements	<b>PROP</b>	<b>94-05-089</b>		PROP	94-02-075
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Meetings	MISC	94-04-019	Real estate appraisers		
			residential classification	PERM	94-01-002
			Real estate commission		
			meetings	MISC	94-02-018
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Meetings	MISC	94-01-050	fees	PROP	94-03-018
	MISC	94-01-051	registration and certificate of title	PROP	94-03-018
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Crime victims compensation			Licenses		
mental health treatment fees and rules	PERM	94-02-015	fetal alcohol syndrome or fetal alcohol effect	<b>PROP</b>	<b>94-05-094</b>
Electrical board			warning signs	<b>PROP</b>	<b>94-05-096</b>
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Electricians			advertising	PROP	94-02-014
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Fees	PERM	94-01-100	definition	<b>PROP</b>	<b>94-05-095</b>
Medical and mental health treatment			purchase and receipt of beer and wine	<b>PROP</b>	<b>94-05-095</b>
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Prevailing wages			retail sale of wine on premises	PROP	94-02-013
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Workers' compensation			criteria	PERM	94-03-019
general	PROP	94-01-186	definitions	PERM	94-03-019
health care providers' reimbursement	PERM	94-02-045	ticket validation	PERM	94-03-019
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self-insurance			definitions	PERM	94-03-019
certification	PROP	94-03-006	ticket validation	PERM	94-03-019
	<b>PERM</b>	<b>94-05-042</b>	<u>Instant game number 116 - Fortune</u>		
employee rights	PROP	94-03-006	criteria	PERM	94-03-019
	<b>PERM</b>	<b>94-05-042</b>	definitions	PERM	94-03-019
surety	<b>PROP</b>	<b>94-05-006</b>	ticket validation	PERM	94-03-019
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Meetings	MISC	94-01-052	definitions	PERM	94-03-019
	MISC	94-03-016	ticket validation	PERM	94-03-019
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			definitions	PROP	94-03-099
<b>LICENSING, DEPARTMENT OF</b>			ticket validation	PROP	94-03-099
Cemetery board			<u>Instant game number 119 - Big Bucks</u>		
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			definitions	PROP	94-03-099
			ticket validation	PROP	94-03-099

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definitions	PROP	94-03-099		local government programs		PERM	94-04-076
ticket validation	PROP	94-03-099		Camping facilities			
<u>Instant game number 121 - Hog Mania</u>				fees		PROP	94-03-097
criteria	PROP	94-03-099		Day use			
definitions	PROP	94-03-099		fees		PROP	94-03-097
ticket validation	PROP	94-03-099		Film permit application, fee		PROP	94-03-089
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<b>MARINE OVERSIGHT BOARD</b>				<b>PERSONNEL, DEPARTMENT OF</b>			
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<b>MARINE SAFETY, OFFICE OF</b>				transition into Washington management			
Regional marine safety committees				service		PROP	94-01-125
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<b>MARITIME COMMISSION</b>				Rules coordinator		MISC	94-01-160
Meetings	MISC	94-01-027		Washington management service			
<b>MINORITY AND WOMEN'S BUSINESS</b>				career executive program, transition from		PROP	94-01-125
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(See <b>GOVERNOR, OFFICE OF THE</b> )							
<b>NATURAL RESOURCES, DEPARTMENT OF</b>				Higher education institutions and			
Forest practices board				related boards, civil service law			
(see <b>FOREST PRACTICES BOARD</b> )				exemptions		PERM	94-02-031
Natural heritage advisory council				Layoff or separation		PROP	94-02-034
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Fees	PERM	94-01-108		Register designation			
Operating permits	PERM	94-01-108		reduction in force		EMER	94-04-085
				Service of process		PROP	94-02-036
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Meetings	MISC	94-01-122				PROP	94-02-035
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				Washington general service, movement			
				between		PROP	94-04-009
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Rules coordinator	MISC	94-02-062		Meetings		MISC	94-02-017
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	EMER	<b>94-05-005</b>	Refuse burning	PERM	94-01-083
	PERM	<b>94-05-006</b>	Sources		
			registration	PROP	94-02-083
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<b>PUBLIC DISCLOSURE COMMISSION</b>					
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Campaign finance reporting forms	EMER	94-01-039	Meetings	MISC	94-03-017
	PROP	94-01-040	Puget Sound water quality management plan	MISC	94-04-128
	PERM	<b>94-05-011</b>	Rules coordinator	MISC	94-02-019
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Contributions			<b>RENTON TECHNICAL COLLEGE</b>		
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	PROP	94-04-121	plan II members		
	PROP	<b>94-05-097</b>	recomputation following		
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	PROP	<b>94-05-097</b>	<b>REVENUE, DEPARTMENT OF</b>		
Enforcement	PERM	<b>94-05-010</b>	Business and occupation tax		
Exempt activities			agricultural products, sales by		
definition and reporting	MISC	94-01-054	producers	PROP	94-03-034
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			heat or steam sales	PROP	94-01-155
			horticultural services to farmers	PROP	94-03-036
			hospitals, medical care facilities, and		
			adult family homes	PROP	94-01-158
				<b>EMER</b>	<b>94-05-083</b>
<b>PUBLIC EMPLOYEES BENEFITS BOARD</b>			hotels, motels, and boarding houses	PROP	94-01-157
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			laundries and dry cleaners	PROP	94-01-156
			schools and educational institutions		
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practice and procedures	PROP	94-01-137	real estate excise tax		
	PERM	94-04-097	administration and compliance	PERM	94-04-088
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Elementary and Secondary Education			agricultural land valuation	PROP	94-01-166
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	PROP	94-01-136	nonprofit organizations, associations, and	PERM	94-02-046
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	PERM	94-04-096	personal property ratio, computation	PROP	94-01-168
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certificated instructional staff	PERM	94-01-190		PROP	94-01-167
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			Sales tax	PROP	94-01-159
			agricultural products, sales by producers	PROP	94-03-034
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			for farm use	PROP	94-03-035
			heat or steam sales	PROP	94-01-155
			horticultural services to farmers	PROP	94-03-036
			hospitals, medical care facilities, and		
			adult family homes	PROP	94-01-158
				<b>EMER</b>	<b>94-05-084</b>
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			laundries and dry cleaners	<b>PERM</b>	<b>94-05-001</b>
			resale certificates, use and penalties	PROP	94-01-156
			for misuse	<b>EMER</b>	<b>94-05-083</b>
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			tax reporting	PROP	94-03-047
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stumpage values	PERM	94-02-047	<b>DEPARTMENT OF</b>		
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	PROP	94-02-074	entitlements	PROP	94-05-069
	PROP	94-03-086	income allocation	PROP	94-05-019
	PROP	94-04-089	income disregard	PROP	94-05-054
	PROP	94-04-090	mandatory monthly reporting	PROP	94-05-017
			net cash income	PROP	94-05-016
			replacement of exempt property	PROP	94-05-018
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Deferred compensation, committee for	MISC	94-03-058	telecommunications access service (TAS)	PROP	94-01-080
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Health services commission	MISC	94-01-070	family support services	PROP	94-01-062
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Outdoor recreation, interagency committee for	MISC	94-02-062	Disaster relief	PERM	94-04-092
Peninsula College	MISC	94-04-026	Food stamp program	PROP	94-01-011
Personnel, department of	MISC	94-01-160	income budgeting	PROP	94-03-041
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Seattle Community Colleges	MISC	94-01-107	monthly reporting	PROP	94-03-050
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			income allocation	PROP	94-05-019
			income disregard	PROP	94-05-054
			incorrect payments	PROP	94-02-052
			in-kind income	PROP	94-04-042
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			disaster relief	PROP	94-01-011
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			Medical assistance		
			client grievances	PROP	94-01-003
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			discount agreement	PROP	94-01-046
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			eligibility		
			effective date	PROP	94-05-026
			exempt resources	PERM	94-02-007
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				EMER	94-02-044
				PROP	94-04-031
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physical therapy	PERM 94-01-065	<b>TRANSPORTATION, DEPARTMENT OF</b>		
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	EMER 94-04-023	prequalification	PROP	94-01-021
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	EMER 94-04-023	tolls	PROP	94-04-077
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Mental health division		overlength exemptions	EMER	94-02-064
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		definitions	PERM	94-03-003
		tariffs	PERM	94-03-003
		Electric utilities		
		purchases of electricity	PROP	94-01-175
		Log road classification	PERM	94-03-001
		Meetings	MISC	94-02-027
		Motor freight carriers		
		bills of lading	PERM	94-03-002
		Motor vehicles		
		interstate carriers		
		registration	EMER	94-01-041
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		Rules coordinator	MISC	94-02-026
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		mandatory cost changes	PERM	94-01-146
		open network architecture environment	PROP	94-01-191
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		Water companies		
		customer deposits, interest	PERM	94-01-095
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